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Grain Report



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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206-AD44

Pay Under the General Schedule

AGENCY: Office of Personnel Management

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing the "maximum payable rate" rules to allow agencies, under certain conditions, to use a special rate of pay as the employee's "highest previous rate" upon reassignment (within the same agency) to a non-special rate position under the General Schedule. In addition, OPM makes final certain other revisions in the "highest previous rate" provisions of the regulations to clarify and simplify the rules governing Federal agencies' pay-setting actions. These final regulations are part of a continuing effort to simplify and deregulate the Federal personnel system.

EFFECTIVE DATE: May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Robert T. Gatewood, (202) 632-5056.

SUPPLEMENTARY INFORMATION: On March 31, 1989, OPM published proposed regulations (54 FR 13196) to allow agencies to make the determination to use a special rate as an employee's "highest previous rate" when reassigning employees to non-special rate positions within the same agency. In addition, OPM wanted to simplify the "highest previous rate" provisions of the regulations and to make final certain other changes in the regulations to clarify pay-setting determinations for Performance Management and Recognition System (PMRS) employees under the "maximum

payable rate" rule. The 60-day public comment period ended on May 30, 1989. Comments were received from fifteen agencies and one individual. Comments are summarized below, along with certain changes in, or clarifications of, the proposed regulations.

Comments on Definition of "Highest Previous Rate"

Four agencies commented on the proposed changes in the definition of "highest previous rate." One agency suggested that OPM restrict the use of the "highest previous rate" upon an employee's reinstatement to those situations in which the break in service was 5 years or less. This suggestion is not adopted because agencies already have the necessary authority to restrict the use of a former employee's "highest previous rate" as suggested. Another agency suggested that OPM expand the definition to include a list of agencies covered by the definition. OPM finds it would be impractical to include such a list in this definition. In doubtful cases agencies may wish to contact OPM for advice. Two agencies reported that the phrase, "at the discretion of the employing agency," appearing at the end of § 531.202(f)(1), created confusion and suggested that the phrase be deleted from the definition. We agree and have deleted this phrase.

Comments on "Maximum payable rate" Rule for PMRS Employees

Four agencies and one individual commented on the proposed changes in the "maximum payable rate" rule for setting pay upon movement into a PMRS position. One agency expressed confusion about the applicability of the "maximum payable rate" rules in the case of an employee moving to the PMRS from a non-General Schedule pay system. The regulations at § 531.203(c)(2) apply in all movements to a PMRS position—including movement from a non-General Schedule position. Others commenting suggested changes in the proposed regulations to clarify and simplify the method of computing the "highest previous rate." Still others pointed out typographical errors in the regulations. While it is true, as one agency commented, that these rules prevent agencies from paying less than step 1 or more than step 10, the rules themselves are intended to prescribe the limitations on how pay is set in specific

fact situations. For example, an employee whose pay in 1987 was below the 1987 minimum rate for GM-13 would be eligible only for the minimum rate for GM-13 on the current rate range. Similarly, an employee whose former rate was greater than step 10 of the pay range would be eligible for a rate of pay not in excess of the rate for step 10 of the current rate range upon reemployment at the same grade.

One individual suggested an alternative method for calculating the employee's relative position in the former rate range using a shortened procedure. The degree of accuracy required by the method incorporated in the proposed and final regulations is necessary to ensure that merit increases, which depend upon an employee's relative position in the rate range, are properly calculated and paid. This need for exactness in pay-setting for PMRS employees precludes adopting this commenter's shortened method of computation.

One agency suggested that OPM require agencies to calculate the relative position in the rate range to at least seven decimal places. We have adopted this suggestion in order to guarantee uniformly precise pay-setting practices for PMRS employees, since, as stated above, the employee's position in the rate range is critical to the treatment given the employee's pay when merit increases are calculated.

In response to several requests for an illustration of this rule (§ 531.203(c)(2)(i)), consider the following example: In March 1987, a supervisory auditor, GM-511-14, with an annual salary of \$49,752, resigned her position, but was subsequently reinstated by a second agency, in June 1989, to another supervisory auditor position also at GM-14. At the time of the employee's resignation in March 1987, the GM-14 rate range had a minimum rate of \$45,763 and a maximum rate of \$59,488.

First, find the difference between the employee's "highest previous rate" and the minimum rate by subtracting the minimum rate (\$45,763) from the employee's salary (\$49,752). The remainder (\$3,989) is (a) in the formula. Next, find the difference between the maximum rate for the range (\$59,488) and the minimum rate (\$45,763). The remainder (\$13,725) is (b) in the formula. Divide (a)—\$3,989—by (b)—\$13,725. The

quotient (c)—0.2906375—carried to the seventh decimal place (and truncated, rather than rounded), is the factor representing the employee's relative position in the former rate range.

Second, use the pay rates in effect in June 1989 for the grade to which the employee is assigned. The minimum rate for GM-14 is \$48,592, and the maximum rate is \$63,172. Subtract the current minimum rate (\$48,592) from the current maximum rate (\$63,172). The remainder (\$14,580) is (d) in the formula. Multiply (d)—\$14,580—by (c)—0.2906375, and add the product (\$4,237.49) to the minimum rate (\$48,592) for the grade in which pay is being fixed. The result (\$52,829.49) should be rounded up to the next *higher* whole dollar, for a new annual salary of \$52,830. This method allows for placement of the employee once again in the middle third of the rate range.

Comments on Basis for "Highest Previous Rate"

Three agencies and one individual commented on changes proposed in the rules governing the basis for an employee's "highest previous rate." For a variety of reasons, all commenters objected to the proposed 120-day service requirement. In response to these comments, we have revised the regulations to eliminate this requirement. Instead, Federal agencies will continue to be permitted to use a pay rate as an employee's "highest previous rate" without regard to the length of time the employee held the position, as long as the appointment itself was not limited to 90 days or less. However, the final regulations permit agencies to establish specific service requirements at their discretion.

Three agencies and one individual commented on the requirement that an employee must be temporarily promoted for 1 year or more before the employee's pay, on return to the former grade, can be set using the temporary rate as the "highest previous rate." The agencies objected to this requirement, suggesting instead that OPM remain silent on this issue. One individual suggested that OPM establish a service requirement for employees on time-limited promotion of 2 years, instead of 1 year, as we had proposed. The requirement to serve 1 year or more on a time-limited promotion before the employee's pay is set using the temporary rate of pay as the "highest previous rate" is an appropriate way to prevent abuse of this pay-setting authority. To promote an employee temporarily and then set pay at the higher rate at the conclusion of a short-term promotion has the effect of advancing the employee's pay in the permanent rate range at a faster than

usual rate. In the event of outstanding performance by an employee temporarily assigned to a higher level or broader range of duties, the appropriate method of recognizing such performance would be through a one-time performance award or incentive award. OPM is not adopting the suggestion to delete this requirement from the proposed regulations.

Three agencies commented on the rule prohibiting the use of a rate as the "highest previous rate" when that rate was received in a position from which the employee was reassigned after failing to complete satisfactorily a probationary period as a supervisor or a manager. One agency suggested that this prohibition be eliminated, while two other agencies wanted to expand this provision to include a rate earned by any employee reduced in grade for failure to perform satisfactorily or for cause. Failure to complete a probationary period as a first-time supervisor or manager should have the same effect on pay as the return to a permanent position after a temporary promotion. However, it would be administratively difficult to expand this provision to cover employees not serving under a supervisory probationary period when the employee is reduced in grade for performance or cause. An employee in the middle and upper thirds of the rate range may have performed in a fully successful manner for 1 or more years of a waiting period before his or her performance deteriorated to a less than fully successful level. We believe a requirement prohibiting the use of a salary earned during periods of fully successful performance simply because *current* performance is rated less than fully successful would be unfair. Therefore, we have not adopted these suggestions.

Ten agencies commented on the proposal to use an employee's special rate as the "highest previous rate." Nine agencies concurred with OPM's proposal to delegate, without prior approval from OPM, the authority to use a special rate as an employee's "highest previous rate" upon a finding that the employee's contribution to the program of the agency will be greater in the position to which the employee is reassigned. However, these agencies suggested that the proposed rule be expanded to permit the use of special salary rates as the basis for setting pay upon reemployment after a break in service, upon transfer between agencies at the same grade level, or in a voluntary change to lower grade. Expanding the circumstances under

which a special rate may be used as an employee's "highest previous rate" is beyond the scope of OPM's original proposal. Therefore, we are unable to adopt these suggestions with the issuance of final regulations. However, we will continue to consider the suggestions for changes in the future, once OPM has had a chance to evaluate the effect of the changes we are making.

One agency expressed confusion about the use of an employee's special rate as the "highest previous rate" in a reassignment. In response to this comment, we would point out that this pay-setting flexibility is available to agencies on any reassignment—not just management-directed reassignments. However, agencies must make a written determination that the employee's services and contributions to the program of the agency will be greater in the new position.

Five agencies and one individual commented on the proposed 120-day service requirement for employees in special rate positions. Two agencies suggested changing the 120-day service requirement to a 90-day requirement. Three agencies and the individual objected to the proposed service requirement in its entirety. However, two of these agencies stated that, if adopted, the requirement needed clarification. We are modifying the proposal at the suggestion of the commenters by deleting the requirement. This is consistent with the current "highest previous rate" regulations, which do not include a service requirement. We reiterate, however, that when agencies use the special rate as the employee's "highest previous rate," the special rate of pay must be the employee's *current* rate of basic pay.

Two agencies objected to the proposed requirement that agencies make written determinations in support of decisions to base an employee's "highest previous rate" on a special rate of pay. We believe the requirement for a written determination will help maintain the integrity of the special rates program.

In the mistaken belief that the special rate of pay could be retained under the pay retention provisions at 5 CFR 536.104(a)(4) or (b), the individual commenter suggested deleting the proposed requirement for a written determination. Retaining an employee's pay under 5 CFR 536.104(a)(4) is appropriate only when management *directs* the employee's movement from a special rate to a non-special rate position. The regulations at 5 CFR 536.105(a)(3) preclude retaining an employee's pay when the employee's

reassignment from the special rate position is for cause or "at the employee's request." Selection from a merit promotion certificate is considered to be "at the employee's request" in most cases because the employee must apply for consideration under the vacancy announcement. In such cases, however, the final "highest previous rate" regulations will give management discretionary authority to determine for itself whether or not the employee's special rate should be used in setting the employee's pay in the non-special rate position. For information on situations in which pay retention is permissible under 5 CFR 536.104(b) when an employee moves to a non-special rate position, see Federal Personnel Manual bulletin 531-138, June 14, 1989.

One agency pointed out that the reference to § 532.403, cited as the regulation governing special rate provisions under the prevailing rate (wage) system, is incorrect. The reference should be to § 532.231 and has been corrected in the final regulations.

Miscellaneous Comments

Finally, there were a number of comments of a miscellaneous nature. One agency suggested that OPM specify that the "highest previous rate" does not include a cost-of-living allowance (COLA). We find it unnecessary to adopt this suggestion because the "highest previous rate" of pay is based on the definition of "rate of basic pay," which excludes COLA. (See § 531.202(i).) One agency suggested that OPM specify that the special rate is considered the employee's existing rate of pay when the employee is promoted from a special rate position to a non-special rate position. Section 531.204(a)(3) already includes this provision.

In addition, certain editorial changes to correct printing errors and improve the clarity of certain other sections have been made.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, since they apply only to Federal employees and agencies.

List of Subjects in 5 CFR Part 531

Government employees, Wages, Administrative practice and procedure.

U.S. Office of Personnel Management.

Constance Berry Newman,
Director.

Accordingly, OPM is amending part 531 of Title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5338, and Chapter 54; Subpart B also issued under 5 U.S.C. 5305(q), 5333(a), 5334(a), 5402, and section 203 of E.O. 11721, as amended; Subpart C also issued under 5 U.S.C. 5333(b) and section 404 of E.O. 11721, as amended; Subpart D also issued under 5 U.S.C. 5301, 5335, and section 402 of E.O. 11721, as amended; Subpart E also issued under 5 U.S.C. 5336 and section 403 of E.O. 11721, as amended.

2. In § 531.202, paragraph (f) is revised to read as follows:

§ 531.202 Definitions.

* * * * *

(f) "Highest previous rate" means—

(1) The highest actual rate of basic pay previously received by an individual while employed in a position in a branch of the Federal Government (executive, legislative, or judicial); a Government corporation, as defined in 5 U.S.C. 103; the United States Postal Service or the Postal Rate Commission; or the government of the District of Columbia (except as provided in § 531.203(d)(2)(v) of this part); without regard to whether the position was subject to the General Schedule; or

(2) The actual rate of basic pay for the highest grade and step previously held by an individual while employed in a position subject to the General Schedule.

* * * * *

3. In § 531.203, the introductory language in paragraph (c) and paragraphs (c)(2) and (d) are revised to read as follows:

§ 531.203 General provisions.

* * * * *

(c) *Maximum payable rate rules.* In determining an employee's rate of basic pay upon reemployment, transfer, reassignment, promotion, demotion, or change in type of appointment, the following rules apply unless the employee is entitled to a higher rate under the promotion provisions of 5 U.S.C. 5334(b) and 531.204(a) of this part or the grade and pay retention provisions of 5 U.S.C. 5362 and 5363 and part 536 of this chapter:

* * * * *

(2) *For PMRS employees.* The maximum rate of basic pay that may be

paid an employee covered by the Performance Management and Recognition System shall be determined as follows. Compare the employee's highest previous rate (expressed as an annual rate) with the range of rates of basic pay in effect at the time the highest previous rate was earned for the grade in which pay is currently being fixed. If the employee's highest previous rate was less than or equal to the minimum rate for the grade in which pay is being fixed, the maximum rate of basic pay that may be paid the employee is the minimum rate for the grade in which pay is being fixed. If the employee's highest previous rate was equal to or greater than the maximum rate for the grade in which pay is being fixed, the maximum rate of basic pay that may be paid the employee is the maximum rate for that grade. If the employee's highest previous rate was greater than the minimum rate, but less than the maximum rate for the grade in which pay is being fixed, the maximum payable rate shall be determined as follows:

(i) Using the pay rates in effect at the time the highest previous rate was earned for the grade in which pay is being fixed, find the difference between the employee's highest previous rate and the minimum rate for that grade—(a). Find the difference between the maximum rate and the minimum rate for the same grade—(b). Divide (a) by (b); carry the result to the seventh decimal place; and truncate, rather than round, the result. This quotient—(c)—is a factor representing the employee's relative position in the rate range.

(ii) Using current pay rates, find the difference between the maximum rate and the minimum rate for the grade in which pay is being fixed—(d). Multiply (d) times the factor (c). Add the product of this multiplication to the minimum rate for the grade in which pay is being fixed. This figure, rounded to the next higher whole dollar, is the maximum rate of basic pay that may be paid the employee.

(d) *Basis for highest previous rate.* (1) Except as otherwise provided in this paragraph, the highest previous rate may be based on a regular tour of duty at any rate of basic pay received by an individual while serving under an appointment not limited to 90 days or less, or for a continuous period of not less than 90 days under one or more appointments without a break in service.

(2) The highest previous rate may not be based on the following:

(i) A rate received under an appointment as an expert or consultant under 5 U.S.C. 3109;

(ii) A rate received in a position to which the employee was temporarily promoted for less than 1 year, except upon permanent placement in a position at the same or higher grade;

(iii) A rate received in a position from which the employee was reassigned or reduced in grade for failure to complete satisfactorily a probationary period as a supervisor or manager;

(iv) A rate received under a void appointment or a rate otherwise contrary to applicable law or regulation;

(v) A rate received by an employee of the government of the District of Columbia who was first employed by that government on or after October 1, 1987; or

(vi) A special rate established under 5 U.S.C. 5303 and part 530 of this chapter; § 532.231 of this chapter; or other legal authority; unless, in a reassignment to another position in the same agency—

(A) The special rate of pay is the employee's current rate of basic pay; and

(B) An agency official specifically designated to make such determinations finds that the need for the services of the employee, and his or her contribution to the program of the agency, will be greater in the position to which he or she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate.

(3) In the case of an employee who has received or is receiving a special rate established under 5 U.S.C. 5303 and part 530 of this chapter, § 532.231 of this chapter, or other legal authority; who is placed in a position in which a special rate does not apply; and for whom the special rate is *not* used as the highest previous rate under paragraph (d)(2)(vi) of this section; the highest previous rate may be based on the rate of basic pay for the step (or relative position) in the regular rate range that corresponds to the employee's existing step (or relative position) in the special rate range for the employee's current grade or pay level.

[FR Doc. 90-9090 Filed 4-18-90; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; EC-1]

Equal Credit Opportunity; Update to Official Staff Commentary; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation; correction.

SUMMARY: The Board is making a correction to its final official staff interpretation of Regulation B which appeared in the *Federal Register* on April 4, 1990 at 55 FR 12471.

FOR FURTHER INFORMATION CONTACT: In the Division of Consumer and Community Affairs, Adrienne D. Hurt, Senior Attorney, or Jane Ahrens, Staff Attorney, at (202) 452-2412; for the hearing impaired *only*, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Correction

The following correction is made in FR Doc. 90-7706, Equal Credit Opportunity; Update to Official Staff Commentary:

On page 12472, col. 2, second line from the bottom "and keeping records" should be deleted.

Board of Governors of the Federal Reserve System, April 13, 1990.

William W. Wiles,
Secretary of the Board.

[FR Doc. 90-9084 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

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

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 and address from Schering Corp. to Schering-Plough Animal Health Corp.

EFFECTIVE DATE: April 19, 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: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, has informed FDA that it has changed the name and address of the animal health division to Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (2) to reflect the new corporate name and address

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 510—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 "Schering Corp." and alphabetically adding "Schering-Plough Animal Corp." and in the table in paragraph (c)(2) in the entry "000061" by revising the sponsor name and address to read as follows:

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

Firm name and address	Drug labeler code
* * * * *	
(c) * * *	
(1) * * *	
* * * * *	
Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033.....	000061
* * * * *	
(2) * * *	

Drug labeler code	Firm name and address
000061.....	Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033.

Dated: April 12, 1990.

Robert C. Livingston,

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

[FR Doc. 90-9075 Filed 4-18-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 514

Animal Feeds; Availability of Medicated Feed Applications

AGENCY: Food and Drug Administration,
HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for animal feeds bearing or containing new animal drugs to include the address where Form FDA 1900 (medicated feed application) may be obtained.

EFFECTIVE DATE: April 19, 1990.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3390.

SUPPLEMENTARY INFORMATION: In response to requests concerning where to obtain Form FDA 1900 (medicated feed application), the agency is amending its regulations for animal feeds bearing or containing new animal drugs to provide for an appropriate address.

The amendment is ministerial and nonsubstantive in nature. For this reason, FDA finds, for good cause, that notice and public procedure and delayed effective date are unnecessary under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)) and 21 CFR 10.40(c)(4) and (e) of FDA's regulations.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 514 is amended as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

1. The authority citation for 21 CFR Part 514 continues to read as follows:

Authority: Secs. 501, 502, 512, 701, 706, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360b, 371, 376, 381).

2. Section 514.2 is amended by adding new paragraph (d) to read as follows:

§ 514.2 Applications for animal feeds bearing or containing new animal drugs.

(d) Applications (Form FDA 1900) may be obtained from the Public Health Service, Consolidated Forms and Publications Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785.

Dated: April 13, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-9131 Filed 4-18-90; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 3748-6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts Ozone Attainment Plan; Control of Gasoline Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision updates the gasoline volatility regulation that EPA approved on May 4, 1989 to help control summertime ozone. The Commonwealth of Massachusetts promulgated the portion of the volatility regulation requiring EPA's approval of alternative test methods utilizing an expedited temporary emergency regulation authority. This revision makes that requirement for EPA approval permanent and allows the use of the most recent test methods for volatility testing. The intended effect of this action is to make permanent the requirement for EPA approval of any alternative gasoline volatility test procedures and to allow the state the flexibility of using the most recent standard test methods without having to revise its SIP to do so. This action is

being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective June 18, 1990, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, room 2313, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, room 2313, Boston, MA 02203; the Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108;

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 565-3224; FTS 835-3224.

SUPPLEMENTARY INFORMATION: On August 24, and October 16, 1989 the Commonwealth of Massachusetts submitted a formal revision to its State Implementation Plan (SIP). The SIP revision updates the gasoline volatility testing regulation which EPA approved on May 4, 1989.

Summary of SIP Revision

In order to expedite approval of the volatility control SIP revision submitted on July 13, 1989, Massachusetts adopted an emergency regulation, 310 CMR 7.02(12)(e)2.b, which required approval of any alternative test procedures by EPA as well by the Department of Environmental Protection (DEP). EPA approved this regulation as part of the Massachusetts control of gasoline volatility SIP revision which was published in the *Federal Register* at 54 FR 19173 (May 4, 1989). According to state law, any emergency regulation expires 90 days after adoption unless the public hearing requirements are met and the regulation is filed with the Secretary of State. Massachusetts had to take this action to make the regulation enforceable under state law and to maintain it as part of the approved SIP.

In addition, DEP discovered that their ASTM test method citations were inconsistent with other northeast states which were requiring control of

volatility. Moreover DEP determined that including any dates in the references to ASTM methods would require repeated revision of its SIP to update the regulation each time ASTM modified its test methods. Therefore, Massachusetts revised its regulation 310 CMR 7.02(12)(e)2.b, gasoline Reid Vapor Pressure, by removing the date citation for the volatility test methods in order to allow use of the most recent version of the test method. On August 10, 1989 Massachusetts recodified its regulations making 310 CMR 7.02(12)(e)2.b. now 310 CMR 7.24(5)(b)2. This change does not alter the effectiveness or content of the regulation.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective day by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on June 18, 1990.

Final Action: EPA is approving this revision to the Massachusetts Ozone State Implementation Plan to control volatility.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a

substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 18, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

EPA is today approving an amendment to the Massachusetts gasoline volatility control program.

Dated: February 21, 1990.

Julie D. Belaga,
Regional Administrator, Region I.

Subpart W, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

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

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

2. Section 52.1120 is amended by adding paragraph (c)(83) to read as follows:

§ 52.1120 Identification of plan

* * * * *
(c) * * *

(83) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on August 24, 1989 and October 16, 1989 regulating gasoline volatility.

(i) *Incorporation by reference.* (A) Letter from the Massachusetts Department of Environmental Protection dated October 16, 1989 and a revision to the Massachusetts State Implementation Plan containing revised Massachusetts gasoline Reid Vapor Pressure regulation 310 CMR 7.24(5)(b)2, effective September 15, 1989.

3. In § 52.1167 the table is amended by adding in numerical order by state citation the following entry.

§ 52.1167 EPA-approved Massachusetts state regulations

* * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.24(5)(b)2,	Revision to gasoline volatility testing regulation.	October 16, 1989	[Insert date of publication in FR].	[FR citation]	83	

[FR Doc. 90-8793 Filed 4-18-90; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 180 and 185

[PP 7F3470 and FAP 7H5520/R1062; FRL-3710-9]

Pesticide Tolerances for Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for the fungicide metalaxyl

and its metabolites in or on blueberries at 2.0 parts per million (ppm), stonefruit crop group at 1.0 ppm, walnuts at 0.5 ppm, almonds at 0.5 ppm, almond hulls at 10.0 ppm, apricots (dried) at 4.0 ppm, and prunes (dried) at 4.0 ppm. This regulation was requested in petitions submitted by the Ciba-Geigy Corp.

DATES: This regulation becomes effective April 19, 1990.

ADDRESSES: Written objections, identified by the document control number, [PP 7F3470 and FAP 7H5520/R1062], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 29, 1990 (55 FR 2845), EPA issued a proposed rule that gave notice that the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a tolerance petition (PP) 7F3470 and food additive petition (FAP) 7H5520 to EPA requesting the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, propose to establish tolerances for the fungicide metalaxyl [N-(2,6-dimethyl-phenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl) alanine methyl ester in or on blueberries at 2.0 ppm, stonefruit at 1.0 ppm, walnuts at 0.5 ppm, almonds at 0.5 ppm, almond hulls at 10.0 ppm, apricots (dried) at 4.0 ppm, and prunes at 4.0 ppm resulting from application of the pesticide to the growing crop.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180 and 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 28, 1990.

Douglas D. Camp.

Director, Office of Pesticide Programs.

Therefore, 40 CFR parts 180 and 185 are amended as follows:

PART 180—[AMENDED]

1. In part 180:
 - a. The authority citation for part 180 continues to read as follows:
 Authority: 21 U.S.C. 346a and 371.
 - b. Section 180.408(a) is amended in the table therein by adding and alphabetically inserting the following raw agricultural commodities, to read as follows:

§ 180.408 Metalaxyl; tolerance for residues.

(a) * * *

Commodities	Parts per million
Almonds.....	0.5
Almonds, hulls.....	10.0
Blueberries.....	2.0
Stonefruit group.....	1.0
Walnuts.....	0.5

* * * * *

PART 185—[AMENDED]

2. In part 185:
 - a. The authority citation for part 185 continues to read as follows:
 Authority: 21 U.S.C. 348.
 - b. In § 185.4000(a), the table therein is amended by adding and alphabetically

inserting the commodities apricots (dried) and prunes (dried), to read as follows:

§ 185.4000 Metalaxyl.

(a) * * *

Foods	Parts per million
Apricots (dried).....	4.0
Prunes (dried).....	4.0

* * * * *

[FR Doc. 90-9011 Filed 4-18-90; 8:45 am]

BILLING CODE 6560-50-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 90493-0072]

RIN 0648-AC15

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to announce approval of the resubmittal of Amendment 3 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), and to implement the approved amendment. This rule prohibits the use in the exclusive economic zone (EEZ) of drift gillnets for Atlantic migratory group king mackerel and for all other coastal migratory pelagic fish from the Virginia/North Carolina border to the U.S./Mexico border. The rule also establishes a procedure whereby the use of purse seines and run-around gillnets for Atlantic migratory group king mackerel may be prohibited when and if that group is determined to be overfished. This prohibition would take effect only if, in the opinion of the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), the commercial allocation could be harvested by other authorized gear. The intended effects of this rule are (1) to prevent adverse effects on the users of traditional commercial hook-and-line gear, and (2) to prevent adverse effects on other

fishery resources taken as a bycatch of drift gillnets.

EFFECTIVE DATE: April 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the FMP, prepared by the Councils, and its implementing regulations at 50 CFR part 642, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 3 to the FMP was originally submitted to the Secretary of Commerce (Secretary) in March, 1989; its availability was announced in the *Federal Register* on March 17, 1989 (54 FR 11252). The proposed rule to implement Amendment 3 was published in the *Federal Register* April 10, 1989 (54 FR 14256). The Secretary approved portions of Amendment 3 on June 16, 1989, but did not approve (1) the drift gillnet prohibition for Atlantic migratory group king mackerel and for all other coastal migratory pelagic fish, (2) the purse seine and run-around gillnet prohibitions for Atlantic migratory group king mackerel, and (3) the proposed new FMP objective to minimize waste and bycatch in the fishery (54 FR 29561, July 13, 1989). The Councils discussed the disapproved measures during meetings in June, August/September, and November/December, 1989, considered additional public input at those meetings, and decided to resubmit the disapproved measures for approval by the Secretary.

Amendment 3 to the FMP, as resubmitted by the Councils, would still (1) prohibit the use of drift gillnets; (2) prohibit the use of purse seines and run-around gillnets, but only when and if the Atlantic migratory group of king mackerel is determined to be overfished, and, in the opinion of the Councils, the commercial allocation could be harvested by other authorized gear; and (3) add an objective to minimize waste and bycatch in the fishery. These measures, their effects on the fishery and the resource, and the rationale for the Councils' conclusions were summarized in the proposed rule published on February 14, 1990 (55 FR 5242). A more complete analysis is contained in the resubmitted amendment, the availability of which was announced on January 22, 1990 (55 FR 2118).

NOAA has approved the prohibition on use of drift gillnets for Atlantic group king mackerel and other coastal

pelagics. Previous driftnet prohibitions were approved for three overfished mackerel groups, because introduction of this new gear type into these already stressed fisheries would have been unfair to users of traditional gear who were already taking the quotas and experiencing early season closures. The earlier submission of the prohibition for Atlantic group king mackerel was disapproved because that stock is not presently overfished. NOAA has concluded that a more conservative management program should be undertaken, based on (1) new analyses of catch and landings data; (2) information indicating a substantial bycatch in driftnet fisheries, with no apparent similar problem in the traditional hook-and-line fishery; and (3) the documented tendency for heavily fished mackerel groups to become overfished. Prohibiting driftnet gear will conserve pelagic resources and avoid further adverse effects to the fishery resources and possible displacement of traditional hook-and-line fishermen off southeast Florida.

NOAA has also approved the prohibition on use of purse seines and run-around gillnets. This conforms with previous approvals prohibiting purse seines and drift gillnets in the three overfished mackerel groups (the Gulf king and Spanish mackerel groups and the Atlantic Spanish mackerel group). To protect and rebuild these resources, their commercial allocations have been set so low that users of traditional gear can readily take the entire allocation. Under these circumstances, the use of purse seines and run-around gillnets in the Atlantic group king mackerel fishery would unfairly affect traditional hook-and-line fishermen by accelerating closures. Further, the fishing potential of purse seines and run-around gillnets could foster quota overruns before closures could be effected, thus thwarting stock rebuilding programs.

NOAA has approved the revised new FMP objective to "minimize waste and bycatch in the fishery." As revised, the new objective is consistent with national standard 5 and its definition of "efficiency." When this objective was initially submitted for Secretarial review, it was disapproved because the Councils included an "economic wastage" proviso in the definition, which erroneously implied that the lower ex-vessel price for net-caught fish translated into economic losses. That defect has been corrected.

Comments and responses

Forty-six communications were received during the comment period conveying the comments of 60 people.

Supporting the proposed rule were 19 commercial hook-and-line fishermen, 13 recreational fishermen, two sportfishing organizations, one conservation organization, and a state marine fisheries commission. Opponents of the proposed rule included 11 net fishermen and two commercial fishing organizations. A minority report signed by five members of the Gulf of Mexico Council also opposed the proposed rule. The proposed prohibition of drift gillnets was the most contentious issue. Only a few commenters explicitly supported (7) or opposed (3) the proposed ban on purse seines and run-around gillnets. Generally, respondents were either for or against the prohibitions on all nets. A few supporting comments and no opposing comments on the proposed revision of the FMP objective were received.

Prohibition of Nets

Comments. Opposition to the proposed net prohibitions focused on the inappropriateness of eliminating drift gillnet gear from the commercial fishery for Atlantic group king mackerel. Collectively, opponents contended that elimination of driftnets from this fishery (1) prevents the achievement of optimum yield (OY), contrary to national standard 1, because the hook-and-line sector alone cannot take the commercial quota; (2) is unsupported by the best scientific information available, as required by national standard 2; (3) unfairly and without a conservation purpose allocates the available resource to commercial hook-and-line fishermen, contrary to national standard 4; (4) amounts to an unwarranted regulation against efficiency, thereby depriving the public of less expensive fishery products, contrary to national standard 5; (5) eliminates variation in harvesting methods by banning net gear from the commercial fishery, contrary to national standard 6 and the FMP's objectives; and (6) ignores regulatory alternatives that would foster growth in the driftnet fishery, and inflicts an inordinate economic burden on affected net fishermen, fish houses, and coastal communities reliant on that fishery, contrary to national standard 7.

Commenters objected to the prohibition of drift gillnets for all coastal migratory pelagic species managed under the FMP because they felt it inappropriately includes species that are not overfished. They believed it precludes the retention of such species in other driftnet fisheries and would lead to wasteful discard of bycatch.

Some respondents favored the prohibition on use of purse seines and

run-around gillnets in the commercial fishery for Atlantic group king mackerel, even if the resource is not overfished. They contended that the efficient nature of these gears inevitably leads to overfishing; therefore, even under favorable stock conditions, these gears should never have access to the fishery and should be immediately banned. To restore fair competition and minimize waste in the fishery, some respondents recommended stringent regulation of the fishing capacity and efficiency of large net vessels by prohibiting power-assisted devices used to retrieve large nets.

Response. After further analyses of available fisheries information and bycatch data, NOAA agrees with the Councils that the prohibition of drift gillnets is justified. The information indicates that a substantial bycatch is associated with the king mackerel driftnet fishery off southeast Florida and worldwide in other driftnet fisheries. There is also a documented tendency for heavily fished mackerel groups to become overfished. NOAA concludes that a more conservative management program should be undertaken now to preserve the resource and to avoid further adverse effects to the fishery resources and possible displacement of southeast Florida traditional hook-and-line fishermen.

NOAA finds this approval to be consistent with national standards 1, 2, 4, and 6 of the Magnuson Act. NOAA concludes that this prohibition will not reduce the likelihood that optimum yield of the Atlantic migratory group of king mackerel will be harvested. Attainment of OY is not guaranteed even with drift gillnets in the fishery. Available landings data, since drift gillnets were introduced in 1986, do not show a trend of increased landings that might be attributed to this gear. In fact, despite increased drift gillnet fishing effort in 1989, the king mackerel harvest fell 10 percent below the 1980-1989 average. NOAA recognizes that other factors may have, in fact, contributed to this decline, but concludes that attainment of the current OY should not take precedence over a more conservative management approach that may be necessitated by the "overfishing" half of standard 1. NOAA will therefore ask the Councils to consider adjusting the OY for Atlantic group king mackerel in a future amendment.

NOAA also concludes that the best available information, as required by national standard 2, was considered by the Councils in adopting the prohibitions in this amendment.

In considering the requirements of national standard 4, many commenters

stated they had observed disruptions to the schooling patterns of Atlantic group king mackerel when drift gillnets were being used. A significant portion of these commenters stated they either left the fishery or reduced their fishing effort due to this disruption. NOAA accepts that the effect of using drift gillnets unfairly disadvantages hook-and-line fishermen.

Since the drift gillnet vessels may re-rig with run-around gillnets, hooks and lines, or other gear types, NOAA has determined that this action will not remove these vessels from competing in the fishery. Alternatively, the hook-and-line vessels, if forced from this fishery, have few alternatives. Therefore, national standard 4 is not violated by the removal of drift gillnets from this fishery.

The introduction of a more efficient gear type translates to lower retail prices only under the assumption of perfect competition. A perfectly competitive market is comprised of many sellers supplying many buyers. Since only 13 drift gillnet vessels are operating in this fishery, we cannot assume that any efficiency gains will be translated into lower retail prices. Therefore, this amendment does not violate national standard 5 of the Magnuson Act.

National standard 6 does not require maintenance or promotion of many kinds of gear in a fishery. In fact, the guidelines for standard 6 suggest Councils should guard against the uncertainties produced by introduction of new gear into a fishery (50 CFR 602.16(c)).

Although NOAA has determined that there will be significantly adverse effects on drift gillnet operators in the short run, this amendment does not selectively inflict an economic burden on fish houses or coastal communities. To the contrary, we would expect an economic resurgence in fishing-related activities with the reentry of those hook-and-line vessels that have exited the fishery in the recent past.

NOAA concludes that the driftnet prohibition is justified for other coastal migratory pelagic species. This gear, unlike commercial hook-and-line gear, cannot be fished without catching undersized fish regulated under this FMP and under other FMPs. This harvest of undersized fish reduces potential yields.

NOAA also concludes that the prohibition of purse seines and run-around gillnets in the Atlantic group king mackerel fishery is justified when the resource is declared overfished and, in the opinion of the Councils, the commercial allocation can be taken by

other gear. The rationale for the prohibition of purse seines and run-around gillnets in the Atlantic group king mackerel fishery is essentially the same as that supporting the prohibition of purse seines and drift gillnets from the three overfished mackerel resources set forth in Amendment 2 (52 FR 23836, June 25, 1987) and Amendment 3 (54 FR 29561, July 13, 1989).

Other Concerns

Comments. Proponents of the prohibition of drift gillnets cited a number of factors justifying the prohibition: (1) Disruption of schooling behavior and localized overfishing; (2) bycatch waste, particularly of sailfish; (3) bycatch of endangered and threatened species (i.e., sea turtles); (4) ghost net mortality; (5) habitat damage; (6) displacement of less wasteful traditional fishing gear (i.e., hook and line); (7) navigational dangers; (8) gear conflict; (9) lower quality fish product; (10) disproportionate part of the commercial allocation taken by this minor gear component; and (11) unknown mortality and waste related to drop-out and increased predation. Also, a few respondents believe that driftnets impede the southward migration of king mackerel to spawning grounds, presumably with adverse effects on spawning and recruitment.

Certain commenters criticized the NMFS 1987 observer program that monitored catch and bycatch of the southeast Florida king mackerel driftnet fishery. They contend that estimates of discarded bycatch are biased downward because the field data were not collected by a statistically randomized sampling design and the study failed to quantify all sources of potential waste. They also state the study findings are not accurate because no sea turtle, marine mammal, or sea bird mortalities were observed; in other driftnet fisheries, particularly the high seas driftnet fisheries by foreign vessels in international waters of the North Pacific, large bycatches of sea turtles, marine mammals, and sea birds occur. Moreover, one state fisheries commission concluded that the concentration of driftnets in the southeast Florida driftnet fishery is ten times denser than that in the North Pacific.

Response. Sufficient evidence has been presented indicating that driftnets produce a wasteful bycatch of non-targeted species, most of which are discarded. Driftnet bycatch includes some highly prized recreational species whose removal depletes local populations, with potential effects on

local recreational fisheries. Approval of regulations to diminish such bycatch removals is consistent with a conservative management approach, and with the newly approved FMP objective to minimize waste and bycatch in the fishery.

Although the 11 listed concerns are not fully documented, it is the policy of NOAA to take a conservative approach and help alleviate the possibility of these concerns growing into more difficult problems. NOAA concludes, therefore, that the best available information, though not exhaustive, supports the concerns raised by the commenters.

Waiver of Delayed Effectiveness

NOAA has determined that public knowledge of the approval of this amendment would likely contribute to intense increased fishing effort before the rules would ordinarily take effect. This would cause a further increase in undesired bycatch, greater likelihood of lost gear yielding an increase in ghost fishing mortality, and more disruption to the hook-and-line fishery. NOAA has further determined that, in combination, these effects of increased fishing effort would harm the fishery and ecosystem to an extent that is contrary to the public interest. Therefore, "good cause" exists under section 553 (d) (3) of the APA to waive the delayed effectiveness of this final rule.

Changes From the Proposed Rule

The Councils' findings that the Atlantic migratory group of king mackerel is overfished and that the commercial allocation can be harvested by gear other than purse seines and run-around gillnets, will be treated as recommendations to the Regional Director, the same as recommended changes in maximum sustainable yields, TACs, allocations, quotas, bag limits, or permits. In effect, the Secretary is authorized, rather than required, to prohibit purse seines and run-around gillnets in the Atlantic migratory group king mackerel fishery after such findings are made by the Councils. This was a change made by NMFS to the proposed rule as prepared by the Councils, pursuant to section 304(b)(3)(B)(iii) of the Magnuson Act, and was discussed in the proposed rule. To clarify this matter and to specify the status of the regulations in the event of a rejected finding, § 642.27(d) is revised in this final rule.

Classification

The Secretary of Commerce (Secretary) determined that the resubmitted Amendment 3 is necessary

for the conservation and management of the coastal migratory pelagic resources and is consistent with the Magnuson Act and other applicable law.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review (RIR) for the resubmitted portion of Amendment 3. A summary of the economic effects was included in the proposed rule.

A final regulatory flexibility analysis (RFA) was prepared as part of the RIR. The RFA concludes that the rule would have a significant effect on small entities. The operators of an estimated 13 vessels (small entities) would be prohibited from using drift gillnets to take any coastal migratory pelagic fish, but would have some opportunity to use this gear in other fisheries. Income based on use of this gear as driftnets would be lost. The possible future prohibition from using purse seines and run-around gillnets to take Atlantic group king mackerel could result from the stock assessment and regulatory change procedures of 50 CFR 642.27. Those procedures require a proposed action to be consistent with the national standards and other applicable law. Thus, a proposed prohibition on use of purse seines and run-around gillnets would necessitate the preparation of an RIR and, if necessary, an RFA.

The Councils prepared an environmental assessment (EA) that discusses the impact of Amendment 3 on the environment. Based on the EA, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule.

The Councils determined that the initial proposed rule for Amendment 3 would be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. Georgia and Texas do not have approved coastal zone management programs. This determination was

submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. North Carolina, South Carolina, Florida, and Louisiana agreed with this determination. Alabama and Mississippi did not respond within the statutory time period and, therefore, consistency is automatically inferred. All measures implemented in this rule were encompassed within Amendment 3 as originally submitted. Therefore, the Assistant Administrator finds that the determination of consistency remains applicable.

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

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

For the reasons set forth in the preamble, 50 CFR part 642 is amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 642.7, paragraph (x) is revised to read as follows:

§ 642.7 Prohibitions.

* * * * *

(x) Fish with a drift gillnet for coastal migratory pelagic fish or possess any such fish aboard a vessel with a drift gillnet aboard, as specified in § 642.24(a)(3).

3. In § 642.24, paragraph (a)(3) is revised to read as follows:

§ 642.24 Vessel, gear, equipment limitations.

(a) * * *

(3) *Drift gillnets.* The use of a drift gillnet to fish in the EEZ for coastal migratory pelagic fish is prohibited. A vessel in the EEZ or having fished in the EEZ with a drift gillnet aboard may not possess any coastal migratory pelagic fish.

* * * * *

4. In § 642.27, paragraph (d) is revised and a new paragraph (f)(4) is added to read as follows:

§ 642.27 Stock assessment procedures.

(d) The Regional Director will review the Councils' recommendations, and any findings made under paragraphs (f)(4) (i) and (ii) of this section, supporting rationale, public comments, and other relevant information. In the event the Regional Director rejects a recommendation or finding, he will provide written reasons to the Councils for the rejection and existing regulations will remain in effect until the issue is resolved.

(f) * * *

(4) Prohibiting the use of purse seines and run-around gillnets for Atlantic migratory group king mackerel. Such prohibition may be implemented only when the Councils have found:

(i) That the Atlantic migratory group of king mackerel is in an overfished status, based on a conclusion of the Group and verified by the Councils' Scientific and Statistical Committees; and

(ii) That the commercial allocation of Atlantic migratory group king mackerel can be harvested by authorized gear other than purse seines and run-around gillnets.

[FR Doc. 90-9041 Filed 4-13-90; 3:01 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 90515-9115]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of fishery management measures and request for comments.

SUMMARY: NOAA issues this notice to (1) establish a conservation zone in the recreational ocean salmon fishery currently open between Horse Mountain, California, and the U.S.-Mexico border, and (2) rescind the April 15, 1990, scheduled opening of the commercial ocean salmon fishery south of the Oregon-California border. These management measures are intended to conserve Sacramento River winter-run chinook salmon, which is listed as a threatened species under the Endangered Species Act (ESA). This action is necessary to provide consistency between Federal regulations in the exclusive economic zone (EEZ) (3-200 nautical miles) and State regulations in State waters (0-3 nautical miles).

DATES: This notice is effective at 0001 hours local time, April 13, 1990, until modified, superseded, or rescinded. Comments will be accepted until April 30, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115-0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731-7415.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS), 206-526-6140; Rodney R. McInnis (Southwest Region, NMFS), 213-514-6199; or Lawrence D. Six (Pacific Fishery Management Council), 503-221-6352.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries off Washington, Oregon, and California are managed under the Fishery Management Plan for Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP). Regulations at 50 CFR 661.20 specify that the Secretary of Commerce (Secretary) will annually establish or, as necessary, adjust management specifications for the ocean salmon fisheries by publishing a notice in the Federal Register.

The Pacific Fishery Management Council (Council) met on March 6-9, 1990, in Seattle, Washington, to develop proposed management options for ocean salmon fisheries in 1990. During this meeting, the Council identified the immediate need for two management measures affecting ocean salmon fisheries in the EEZ off California. These actions are described below.

The Council met as regularly scheduled on April 3-6, 1990, in Eureka, California, to adopt additional recommendations for the 1990 ocean salmon fisheries. The Secretary is scheduled to publish a notice of the final management measures in the **Federal Register** during the first week of May.

Under the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*, Federal agencies have an obligation to conserve endangered and threatened species and to utilize their authorities in furtherance of the purposes of that Act. Emergency action was taken by NMFS to list Sacramento River winter-run chinook salmon as a threatened species under the ESA (54 FR 32085, August 4, 1989). This emergency listing has been extended through November 28, 1990 (55 FR 12191). The record low return of only 400 adult spawners in 1989 prompted the State of California to list this run as an

endangered species under State law. As stated in the emergency interim rule, NMFS expects consultations under the respective State and Federal laws to produce a State/Federal regulatory regime that will ensure the winter-run population is not adversely affected by recreational or commercial fishing.

Establishment of An Ocean Conservation Zone for Sacramento River Winter-run Chinook Salmon in the Recreational Salmon Fishery

Under the notice of 1989 ocean salmon management measures (54 FR 19798; May 8, 1989; Table 2.A.), the 1990 recreational fishery for all salmon species in the EEZ from Horse Mountain, California, to the U.S.-Mexico border was to have opened on the nearest Saturday to February 15 and continue through the nearest Sunday to November 15. To minimize the incidental take of Sacramento winter-run chinook in this fishery, the State of California established a conservation closure in a portion of this fishery from March 1 through April 30, 1990, and from November 1, 1990, through April 30, 1991. To be effective, this conservation closure should include not only State waters but adjacent waters of the EEZ. The Northwest Regional Director consulted with the Director of the California Department of Fish and Game and with the Council, and based upon their support, has recommended that Federal regulations be promulgated as soon as possible to provide consistency between State and Federal regulations.

The Secretary concurs with the recommended action and establishes the following conservation zone for the recreational salmon fishery from Horse Mountain, California, to the U.S.-Mexico border: The ocean area bounded by a line commencing at Seal Rocks (37°46'46" N. lat., 122°30'57" W. long.); then to a point on the coast a distance of 5 nautical miles 155° True; then along a line at 288° True for 7.4 nautical miles to buoy #2; then along a straight line to buoy #1; then from buoy #1 along a line 12° True to a point on the coast a distance of 5.7 nautical miles north and along a line at 133° True for 5.2 nautical miles to the point of beginning. This area is closed to recreational salmon fishing from March 1 through April 30, 1990, and from November 1, 1990, through April 30, 1991.

All other restrictions affecting this fishery remain in effect (i.e., the bag limit is 2 fish per day; single point, single shank, barbless hooks are required north of Point Conception).

Rescission of April 15 Opening of Commercial Fishery South of the Oregon-California Border

Under the notice of 1989 management measures (54 FR 19798; May 8, 1989; Table 1.C.; Footnote C-10) all waters south of the Oregon-California border were to open April 15, 1990, for commercial ocean salmon fishing, unless the Council recommended that the Secretary modify or rescind the April 15 opening date and areas.

At its March 6-9, 1990, meeting, the Council recommended rescinding the April 15, 1990, scheduled opening of the commercial ocean salmon fishery in all waters south of the Oregon-California border to help avoid any increased adverse impact on Sacramento winter-run chinook salmon by ocean salmon fisheries.

The Regional Director and Secretary concur with the Council's recommendation and rescind the April 15, 1990, scheduled opening of the commercial ocean salmon fishery in all waters of the EEZ south of the Oregon-California border. A new opening date will be announced in the May 1990 notice of the 1990 ocean salmon management measures.

The Secretary finds these recommendations consistent with the

goals of the FMP, the requirements of the resource, and the Magnuson Fishery Conservation and Management Act and other applicable law.

Classification

These management measures are based on the most recent fishery data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see "ADDRESSES") during business hours until the end of the comment period.

These actions are taken under 50 CFR Part 661, are in compliance with Executive Order 12291, and are covered by the Regulatory Flexibility Analysis and Final Supplemental Environmental Impact Statement prepared for the framework amendment to the FMP. These actions impose no information collection requirements under the Paperwork Reduction Act.

Section 661.23 of the ocean salmon regulations states that the Secretary will publish a notice establishing or adjusting management measures each year and will invite public comments prior to its effective date. If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public

comment, comments on the notice will be received by the Secretary for a period of 15 days after the filing of the notice with the **Federal Register**.

Because of the immediate need to avoid any increased adverse impact on Sacramento River winter-run chinook salmon, which is listed as a threatened species under the ESA, the Secretary has determined that time does not permit a comment period prior to the date the management measures must be in effect. Therefore, comments will be accepted for 15 days after the effective date of this notice.

The public has had opportunity to comment on these management measures during the process of their development. The public participated in the March Council, STT, and Salmon Advisory Subpanel meetings, which generated the management actions recommended by the Council and approved by the Secretary.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 13, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 90-9042 Filed 4-13-90; 3:56 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 55, No. 76

Thursday, April 19, 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.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD2-90-02]

Special Local Regulations; Annual Marine Events Within the Second Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will amend the list of annual marine events within the Second Coast Guard District and clarify the permanent special local regulations applicable to such events thereby ensuring the safety of life and property on and adjacent to navigable waters while avoiding the necessity of publishing separate temporary regulations each year for each event.

DATES: Comments must be received on or before May 21, 1990.

ADDRESSES: Comments should be mailed to: Commander (b), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103-2398. All comments will be available for inspection and copying at this address. Normal office hours are between 8 a.m. and 4 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to the above address.

FOR FURTHER INFORMATION CONTACT: LTJG G.W. Wentz, Chief, Boating Affairs Branch, Second Coast Guard District. The telephone number is (314) 425-5971.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD2-90-02), the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-

addressed postcard or envelope is enclosed. The regulations 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. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting information: The drafters of this regulation are LTJG G.W. Wentz, Chief, Boating Affairs Branch, Second Coast Guard District and LT M.A. Suire, USCG, Project Attorney, Second Coast Guard District Legal Office.

Discussion of proposed regulations: Each year various public and private organizations sponsor marine events on navigable waters within the Second Coast Guard District, which include slow-moving boat parades, raft races, high-speed hydroplane races, steamboat races, and fireworks displays. The events are held annually in approximately the same location and during the same general period of time each year. Table 1 to part 100 of title 33 of the Code of Federal Regulations is a listing of these annual events.

The purpose of the proposed regulation is to amend Table 1 to add those events which have become annual and delete those which have been discontinued since § 100.201 was originally published, and to make minor changes to the names, sponsors, location and scheduling of other events listed in Table 1. In addition, the special local regulations under subsection (b) have been clarified to more accurately reflect the scope of the Patrol Commander's authority.

The nature of the events is such that special local regulations are deemed necessary to ensure the safety of life and property on and adjacent to navigable waters. The amended regulation will preclude the necessity of issuing special local regulations separately for each event every year. Once this proposed rule becomes effective, public notice of the particulars of the annual events will be provided in local notices to mariners and specially-issued regatta notices.

Economic assessment and certification: The regulations have been reviewed under the provisions of Executive Order 12291 and have been

determined not to be a major rule. In addition, these regulations are considered to be nonsignificant under the guidelines of DOT Order 2100.5 of 5/22/80, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted as the impact of these regulations is expected to be minimal. The above conclusions follow from the temporary duration of the regulated areas for each annual event. If issued separately, the impact of each temporary regatta regulation would be deemed minimal. There is no reason to believe that compiling the annual events and the attendant regulations into a consolidated list would increase the otherwise minimal economic impact. Pursuant to 5 U.S.C. 601, et seq., the Regulatory Flexibility Act, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities.

Environmental assessment and certification: This action is being reviewed by the Coast Guard. Preliminary analysis indicates this action will qualify for categorical exclusion from further environmental documentation in accordance with 2.b.2.c. of the NEPA Implementing Procedures, COMDTINST M16475.1B. Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments in accordance with the procedures outlined earlier in this preamble. Copies of all documents being reviewed will be available for public review on the docket.

Federalism assessment and certification: This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. As noted above, this rulemaking merely compiles a list of anticipated annual events and outlines the regulations which would be in effect if each rulemaking were accomplished separately.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed regulations: In consideration of the foregoing, the Coast Guard

proposes to amend part 100 of title 33, Code of Federal Regulations, as follows:

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

Authority: 33 U.S.C. 1233; 49 CFR 1.46(b) and 33 CFR 100.35.

PART 100—[AMENDED]

2. Part 100 is amended by revising § 100.201 to read as follows:

§ 100.201 Annual marine events within the Second Coast Guard District.

(a) Permanent special local regulations are hereby established for the marine events listed in Table 1. These regulations will be effective annually, for the duration of each event, on or about the dates indicated in Table 1. Annual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical description of each regulated area, and details concerning the nature of the event and the number of participants and types of vessels involved will be published in local notices to mariners and specially-issued regatta notices. To be placed on the mailing list for such notices, contact: Commander (oan), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103-2398.

(b) Special Local Regulations.

(1) The U.S. Coast Guard and U.S. Coast Guard Auxiliary will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "COAST GUARD PATROL COMMANDER." Vessels desiring to transit the regulated area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels granted permission to transit the regulated area are to do so at "no wake" speed. The above restrictions shall not apply to event participants or patrol vessels performing assigned duties.

(2) The Patrol Commander may direct the anchoring, mooring or movement of any vessel within the regulated area. A succession of sharp, short blasts by whistle or horn from a designated patrol vessel shall be the signal to stop. Failure or refusal to stop or comply with orders of the Patrol Commander may result in expulsion from the area, citation for failure or refusal to comply, or both.

(3) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(6) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of the marine event if earlier than the announced termination time.

(c) *Effective Dates:* The effective dates and times for each regulation will be published and broadcast in local notices to mariners. All times listed will represent local time. The times will represent guidelines for possible intermittent river closures not to exceed THREE (3) hours in duration. Mariners will be afforded enough time between closure periods to transit the area in a timely manner.

TABLE ONE

Kentucky Derby Festival Steamboat Race Sponsor: Kentucky Derby Festival Inc. Date: Early May Location: Ohio River, mile 604.0, near Louisville, KY	Freedom Festival's Thunder on the Ohio Sponsor: Evansville Freedom Festival Date: Early July Location: Ohio River, mile 793.0, near Evansville, OH
Memphis In May Canoe & Kayak Race Sponsor: Outdoors, Inc. Date: Early May Location: Lower Mississippi River, mile 738.5, near Memphis, TN	Stuebenville Regatta Sponsor: Stuebenville Regatta and Racing Association Date: Middle July Location: Ohio River, mile 67.0, near Steubenville, OH
Cape Girardeau Riverfest Sponsor: Cape Girardeau Riverfest Association Date: Early June Location: Upper Mississippi River, mile 52.0, near Cape Girardeau	Ramblin Raft Race Sponsor: American Rafting Association Date: Middle July Location: Upper Mississippi River, mile 856.0, near Minneapolis, MN
Steamboat Days Sponsor: Peoria Convention & Visitors Bureau Date: Middle June Location: Illinois River, mile 162.3, near Peoria, IL	River-Cade Festival & Fireworks Sponsor: Port of Sioux City River-Cade Association, Inc. Date: Late July Location: Missouri River, mile 731.0, near Sioux City, IA
Budweiser Indiana Governor's Cup Sponsor: Madison Regatta, Inc. Date: Late June Location: Ohio River, mile 558.0, near Madison, IN	Hastings Flotilla Frolic Sponsor: Hasting Flotilla Frolic Association Date: Late July Location: Upper Mississippi River, mile 814.0, near Hastings, MN
Riverfest Sponsor: Riverfest, Inc. Date: Late June Location: Upper Mississippi River, mile 699.0, near LaCrosse, WI	Oakmont Yacht Club Regatta Sponsor: Oakmont Yacht Club Date: Late July Location: Allegheny River, mile 12.0, near Oakmont, PA
Riverbend Festival Formula I Outboard Race Sponsor: Friends of the Festival, Inc. Date: Late June Location: Tennessee River, mile 463.5, near Chattanooga, TN	Minneapolis Aquatennial Formula I Grand Prix Sponsor: Minneapolis Aquatennial Association Date: Late July Location: Upper Mississippi River, mile 854.8, near Minneapolis, MN
Great Tennessee River Raft Race Sponsor: Tennessee Jaycee Foundation Date: Early July Location: Tennessee River, mile 470.5, near Chattanooga, TN	Riverfront Regatta Sponsor: The Downtown Council Date: Late July Location: Ohio River, mile 470.8, near Cincinnati, OH
Clinton Riverboat Days Sponsor: Riverboat Days Inc. Date: Early July Location: Upper Mississippi River, mile 520.0, near Clinton, IA	Huntington-Miller Classic Sponsor: Tri-State Fair and Regatta Date: Late July Location: Ohio River, mile 307.5 near Huntington, WV
V.P. Fair Sponsor: V.P. Fair Foundation Date: Early July Location: Upper Mississippi River, mile 179.2, near St. Louis, MO	Keokuk Powerboat Nationals Sponsor: Midwest Power Boat Association Date: Late July Location: Upper Mississippi River, mile 362.5, near Keokuk, IA
	Pittsburgh Three Rivers Regatta Sponsor: Pittsburgh Three Rivers Regatta Date: Early August Location: Ohio, Allegheny & Monongahela Rivers, miles 00.0, near Pittsburgh, PA
	Ohio River Festival Regatta Sponsor: Ohio River Festival Inc. Date: Early August Location: Ohio River, mile 220.0, near Ravenswood, WV
	Beaver County River Regatta Sponsor: Beaver County River Regatta, Inc. Date: Middle August Location: Beaver River, mile 00.0, near Bridgewater, PA
	Lansing Venetian Night Sponsor: Lansing Lions Club, Inc. Date: Middle August Location: Upper Mississippi River, mile 664.0, near Lansing, IA

TABLE ONE—Continued

USDBA/Florence, AL World Finals
Sponsor: City of Florence
Date: Middle August
Location: Tennessee River, mile 257.0, near Florence, AL

Ohio River Championship River Days
Sponsor: River Days Committee
Date: Late August
Location: Ohio River, mile 355.5, near Portsmouth, OH

Annual Charleston Steamwheel Regatta
Sponsor: Charleston Festival Commission, Inc.
Date: Late August
Location: Great Kanawha River, mile 58.0, near Charleston, WV

Boatarama
Sponsor: Marine Retailers of Louisville
Date: Late August
Location: Ohio River, mile 604.3, near Louisville, KY

Armstrong County Chamber of Commerce Regatta
Sponsor: Armstrong County Chamber of Commerce
Date: Late August
Location: Allegheny River, mile 45.0, near Kittanning, PA

New Richmond Riverfest
Sponsor: New Richmond Riverfest, Inc.
Date: Late August
Location: Ohio River, mile 450.6, near New Richmond, OH

TABLE ONE—Continued

The Great Missouri River Raft Regatta
Sponsor: The Great Missouri River Raft Regatta
Date: Early September
Location: Missouri River, mile 627.5, near Omaha, NE

Ohio Sternwheel Festival
Sponsor: Ohio River Sternwheel Festival
Date: Early September
Location: Ohio River, mile 171.9, near Marietta, OH

American Performance Racing Regatta
Sponsor: Heritage Corporation of Louisville & Jefferson County
Date: Early September
Location: Ohio River, mile 604.0, near Louisville, KY

Steamboat Days Airshow
Sponsor: Steamboat Day Festival, Inc.
Date: Early September
Location: Ohio River, mile 603.0, near Louisville, KY

Fort Smith United Way Raft Race
Sponsor: United Way of Fort Smith, Inc.
Date: Early September
Location: Arkansas River, mile 308.5, near Fort Smith, AR

Heartland Thunderfest
Sponsor: Mississippi River Heartland Music Productions Ltd.

TABLE ONE—Continued

Date: Early September
Location: Upper Mississippi River, mile 456.2, near Davenport, IA

Toyota/WEBN Fireworks
Sponsor: WEBN Radio
Date: Early September
Location: Ohio River, mile 470.0, near Cincinnati, OH

Annual Fernbank Regatta
Sponsor: Ohio Valley Motoboat Racing Association
Date: Early September
Location: Ohio River, mile 483.0, near Cincinnati, OH

Hoosier Boy Regatta
Sponsor: Indiana Outboard Association
Date: Middle September
Location: Ohio River, mile 505.5, near Rising Sun, IN

River Heritage Days
Sponsor: American Performance Racing
Date: Middle September
Location: Ohio River, mile 129.5, near New Martinsville, WV

Dated: April 10, 1990.

W.J. Ecker,
*Rear Admiral, U.S. Coast Guard Commander,
Second Coast Guard District.*
[FR Doc. 90-9151 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-14-M

Notices

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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.

organizations; 330 responses; 990 hours; not applicable under 3504(h), Patricia A. Shelton (202) 475-5059.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90-9063 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-01-M

of a sound public policy in this area can best be accomplished by a free and open exchange of information and ideas among Federal, State, and local agencies; the industry; the scientific community; and other interested parties. The complexity of the issues to be addressed assures that more than one meeting will be required to accomplish the Committee's tasks.

Members will be appointed by the Secretary of USDA after consultation with the Secretary of HHS. Because of their interest in the microbiological criteria for foods, advice on membership appointments will be requested from the Department of Commerce's National Marine Fisheries Service, and the Department of Defense's U.S. Army Natick Research and Development Center. Nominations for membership are based primarily on expertise in food science, microbiology, and other relevant disciplines.

For additional information, please contact Ms. Catherine M. DeRoever, Director, Executive Secretariat, USDA, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, telephone (202) 447-9150.

Dated: April 12, 1990.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 90-9064 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-17-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 13, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Extension

- Agricultural Marketing Service, Fruit and Vegetable Market News Reports, FV-29, FV-100, FV-100-1, FV-498-1, FV-498-2, Weekly, Monthly, Daily, Farms; Businesses or other for-profit; 7,523 responses; 463 hours; not applicable under 3504(h), Darrell J. Breed (202) 447-2175.
- Cooperative State Research Service, Small Business Innovation Research Program, Forms CSRS-667 and 668, Annually, Small businesses or

Office of the Secretary

[Docket No. 89-0 N]

National Advisory Committee on Microbiological Criteria for Foods; Renewal

This notice announces the renewal of the National Advisory Committee on Microbiological Criteria for Foods. The Committee is being renewed in cooperation with the Department of Health and Human Services (HHS), and was recommended by a 1985 report of the National Academy of Sciences (NAS) Committee on Food Protection, Subcommittee on Microbiological Criteria, "An Evaluation of the Role of Microbiological Criteria for Foods."

USDA is charged with the enforcement of the Federal Meat and Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the Egg Products Inspection Act (EPIA). Under these Acts, USDA is responsible for the wholesomeness and safety of meat, poultry, egg products and products thereof intended for human consumption. Similarly, the Secretary of HHS is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. Under this Act, HHS is responsible for ensuring the safety of human foods and animal feeds.

In order to continue to meet the responsibilities under the FMIA, PPIA, EPIA, and the FFDC, the National Committee on Microbiological Criteria for Foods is being renewed. The Committee will be tasked with advising and providing recommendations to the Secretaries on the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been processed using good manufacturing practices.

Renewal of this Committee is in the public interest because the development

Animal and Plant Health Inspection Service

[Docket No. 90-048]

Availability of Environmental Assessment and Finding of No Significant Impact Relative To Issuance of a Permit to Field Test Genetically Engineered Tobacco Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the

issuance of a permit to Ciba-Geigy Corporation, to allow the field testing in Franklin County, North Carolina, of tobacco plants genetically engineered to express the delta-endotoxin gene for insect resistance. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tobacco plants will not present a risk of introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:

Dr. Michael Schechtman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Ms. Linda Gordon at this same address. The environmental assessment should be requested under permit number 89-326-03.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

Ciba-Geigy Corporation, Research Triangle Park, North Carolina, has submitted an application for a permit for release into the environment, to field test tobacco plants genetically engineered to express the delta-endotoxin gene for insect resistance. The field trial will take place in Franklin County, North Carolina.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tobacco plants under the conditions described in the Ciba-Geigy Corporation application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Ciba-Geigy Corporation, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for insect resistance, the delta-endotoxin gene, has been inserted into the tobacco chromosome. In nature, chromosomal genetic material from plants can only be transferred to other sexually compatible plants by cross-pollination. In the field test, the introduced gene cannot spread to other plants by cross-pollination because the test plot is located at a sufficient distance from any sexually compatible plants with which the experimental tobacco plants could cross-pollinate.

2. Neither the delta-endotoxin gene itself, nor its gene product, confers on tobacco any plant pest characteristic. The micro-organism from which the delta-endotoxin gene was isolated is not a plant pest and is widely distributed in the environment as a soil inhabitant.

3. The vector used to transfer the delta-endotoxin gene to tobacco plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this field test. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vector has been tested and shown not to be pathogenic to any susceptible plants.

4. The vector agent, the bacterium that was used to deliver the vector DNA and the delta-endotoxin gene into the plant

cells, has been shown to be eliminated and no longer associated with the transformed tobacco plants.

5. Horizontal movement of the introduced gene is not known to be possible. The vector acts by delivering and inserting the gene into the tobacco genome (i.e., chromosomal DNA). The vector does not survive in the transformed plants. No mechanism that can transfer an inserted gene from a chromosome of a transformed plant to a chromosome of another organism has been demonstrated in nature.

6. The delta-endotoxin gene encodes a polypeptide that is toxic, upon ingestion, only to lepidopteran insects. Delta-endotoxin protein is not toxic to most other insects, birds, fish, or mammals. Because of its safety, its topical application on vegetable crops as an insecticide is permitted up to date of harvest.

7. The test will be conducted on a small, rural field site, less than 0.6 acre, on a 2-acre field surrounded by dense pine forest. At the conclusion of the field test, seeds and plant material will be transported intrastate back to Ciba-Geigy laboratories for testing and/or storage. Residual plant material at the test site will be destroyed by cultivation into the soil. The site will be monitored during the next growing season to ensure that no volunteer tobacco plants appear, and will be cultivated as necessary.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality of Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 13th day of April 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-9065 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 90-051]

Scrapie Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The purpose of this notice is to announce the first meeting in a series of sessions of the Scrapie Negotiated Rulemaking Advisory Committee.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held at the offices of The Conservation Foundation, 1250 24th Street NW., Washington, DC 20037, May 8-9, 1990, from 9 a.m. to 5 p.m. each day.

FOR FURTHER INFORMATION CONTACT: David Galbreath, Planning and Risk Analysis Systems, PPD, APHIS, USDA, room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8017.

SUPPLEMENTARY INFORMATION:

In a Federal Register notice published on February 26, 1990 (55 FR 6862-6863, Docket No. 89-139), we announced our intent to establish a Scrapie Negotiated Rulemaking Advisory Committee (Committee), chartered under the Federal Advisory Committee Act (5 U.S.C. App., Pub. L. No. 92-463). The Committee will develop alternatives to the current regulatory program designed to control scrapie in sheep and goats. This notice announces the first meeting in a series of sessions of the Committee.

The purpose of the meeting is to bring together members of the Animal and Plant Health Inspection Service, representatives of the sheep industry, and representatives of other parties with a definable stake in scrapie issues to frame a recommended rulemaking proposal as an alternative to the current regulatory program for the control of scrapie.

The agenda for the first meeting of the Committee is as follows:

First Day

Morning session—9 a.m.

APHIS Opening Remarks
Self-Introductions and Statements of Perspective by Committee Members and Faciliator
The History of Scrapie Regulations

Afternoon session—1:30 p.m.

Current Scrapie Scientific Knowledge and Research
Introduction to Negotiated Rulemaking Procedures
Public Comments

Second Day

Morning session—9 a.m.

Development of Committee Procedures and Protocols

Afternoon session—1:30 p.m.

Review of Substantive Scrapie issues
Discussion of Future Committee Meeting Agendas

The meetings will be open to the public. Public participation at the meetings will be allowed during periods announced at the meeting for this purpose. Anyone who wants to file a written statement with the Committee may do so either at the time of the meeting, or after the meeting by sending the statement on or before May 21, 1990, to Helene Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to the Scrapie Negotiated Rulemaking Advisory Committee.

This notice of meeting is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App., Pub. L. 92-463).

Done in Washington, DC., this 13th day of April 1990.

James W. Glosser,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-9066 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

Larkin Creek Watershed, AR

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize federal funding for the Larkin Creek Watershed project, Lee and St. Francis Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Gene Sullivan, State Conservationist, Soil Conservation Service, 700 West Capitol Avenue, room 5404, Federal Office Building, Little Rock, Arkansas 72201, telephone 501-378-5445.

SUPPLEMENTARY INFORMATION: A determination has been made by Gene Sullivan that the proposed works of improvement for the Larkin Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Gene Sullivan, state conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed

deauthorization will be taken until June 18, 1990.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. The State of Arkansas' procedure for State and local clearinghouse review of Federal and federally assisted programs and projects is applicable).

Dated: April 12, 1990.

Ronnie Murphy,

Deputy State Conservationist.

[FR Doc. 90-9101 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-16-M

Municipality of Franklin Critical Area Treatment RC&D Measure Plan, WV

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR part 1500); and the Soil Conservation Service Guidelines, (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Municipality of Franklin Critical Area Treatment RC&D Measure Plan, Town of Franklin, Pendleton County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, Telephone 304-291-4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The purpose of the measure is critical area treatment. The measure is designed to stabilize by regrading and shaping, and revegetating approximately 4.0 acres of land that has an average erosion rate of 50 tons per acre per year. Conservation practices include subsurface drains, grassed waterway, lined waterway, and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and

interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: April 4, 1990.

Rollin N. Swank,
State Conservationist.

[FR Doc. 90-9069 Filed 4-18-90; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

Agency: Technology Administration.

Title: Nominations for National Technology Medal.

Form Number: OMB Control Number 0608-0052.

Type of Request: Extension of the expiration date.

Burden: 125 responses; 375 reporting hours. Average hours per response is three hours.

Needs and Uses: The information is used to make recommendations to the President for the awarding of the National Technology Medal.

Affected Public: Nominators of individuals or companies for this award.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Robert Veeder, 395-3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Robert Veeder, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: April 16, 1990.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-9114 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

Agency: Patent and Trademark Office.
Title: Admittance to Practice Before the Patent and Trademark Office.

Form Number: PTO-158 OMB Number 0651-0012.

Type of Request: Extension of the expiration date.

Burden: 1600 respondents; 528 reporting hours. Average hours per response is .33 hours.

Needs and Uses: The purpose of the application is to assure that those individuals who will represent those applying for patents are qualified to do so.

Affected Public: Individuals who want to practice before the Patent and Trademark Office.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Robert Veeder, 395-3785.

Copies of the above information collection proposal can be obtained by calling or writing DOD Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Robert Veeder, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: April 16, 1990.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-9115 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

[Docket No. 91157-9257]

Annual Survey of Communication Services

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census is proposing to conduct the 1989 Survey of Communication Services. This new annual survey will be conducted on a sample basis under authority of title 13, United States Code, sections 131, 182, 224, and 225. The Census Bureau will collect 1988 and 1989 revenue and expense data from firms engaged in providing telephone services, radio and television broadcasting, cable and subscription television, and other communication services.

DATES: Comments must be submitted on or before May 25, 1990.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Howard N. Hamilton on (301) 763-7564.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on subjects covered by the major censuses authorized by title 13, United States Code. This new survey will provide continuing and timely national statistical data on communication services for the period between economic censuses. The next economic censuses will be conducted in 1992. The data collected in this survey will be within the general scope and of the type and character of those inquiries covered in the economic censuses.

Preliminary information and recommendations received by the Bureau of the Census indicate that the data have significant application to the information needs of government agencies, the public, and the communication industries, and that the data are not publicly available from other sources on a continuing basis.

The Bureau of the Census needs reports only from a limited sample of communication firms in the United States, with probability of selection based on payroll size. The sample will provide, with measurable reliability, statistics on the above subjects.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: April 12, 1990.

Barbara Everitt Bryant,
Director, Bureau of the Census.

[FR Doc. 90-9086 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-07-M

[Docket No. 900369-0069]

Annual Surveys in Manufacturing Area

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

DETERMINATION: In conformity with title 13, United States Code (sections 131, 182, 224, and 225), I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Gaylord Worden on (301) 763-5850.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by title 13, United States Code. These surveys will provide continuing and timely national statistical data on manufacturing for the period between economic censuses. The next economic census will be conducted in 1992. The data collected in these surveys will be within the general scope and nature of those inquiries covered in the economic census.

Most of the following commodity or product surveys provide data on shipments or production; some provide data on stocks, unfilled orders, orders booked, consumption, and so forth. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys.

These surveys have been approved by the Office of Management and Budget (OMB Control Numbers 0607-0392, 0607-0395, 0607-0476, 0607-0604, 0607-0625, and 0607-0650) in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

Annual Current Industrial Reports

MA20D—Confectionery
 MA22F—Yarn production
 MA22K—Knit fabric production
 MA22Q—Carpets and rugs
 MA23D—Gloves and mittens
 MA23E—Men's and boys' apparel
 MA23F—Women's apparel
 MA23G—Underwear and nightwear
 MA23H—Children's apparel
 MA24F—Plywood and oriented-strand board
 MA24T—Lumber production and mill stocks
 MA26A—Pulp, paper, and board
 MA28A—Inorganic chemicals
 MA28B—Inorganic fertilizer materials and related products

MA28C—Industrial gases
 MA28F—Paint and allied products
 MA28G—Pharmaceutical preparations, except biologicals
 MA30A—Rubber
 MA31A—Footwear
 MA32C—Refractories
 MA32E—Consumer, scientific, technical, and industrial glassware
 MA32J—Fibrous glass
 MA33A—Ferrous castings
 MA33B—Steel mill products
 MA33E—Nonferrous castings
 MA33L—Insulated wire and cable
 MA34N—Selected heating equipment
 MA35A—Farm machinery and lawn and garden equipment
 MA35D—Construction machinery
 MA35F—Mining machinery and mineral processing equipment
 MA35J—Selected industrial air pollution control equipment
 MA35L—Internal combustion engines
 MA35M—Air-conditioning and refrigeration equipment
 MA35N—Fluid power products
 MA35P—Pumps and compressors
 MA35Q—Anti-friction bearings
 MA35R—Computers and office and accounting machines
 MA35X—Robots
 MA36A—Switchgear, switchboard apparatus, relays, and industrial controls
 MA36E—Electric housewares and fans
 MA36F—Major household appliances
 MA36H—Motors and generators
 MA36K—Wiring devices and supplies
 MA36M—Radios, televisions, and phonographs
 MA36P—Communication equipment
 MA36Q—Semiconductors and printed circuit boards
 MA36R—Electromedical equipment
 MA37D—Aerospace orders
 MA38B—Selected instruments and related products

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments that are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

M20A—Flour milling products
 M22D—Consumption on the woolen system and worsted combing
 MQ22T—Broadwoven fabrics (gray)
 MQ23X—Sheets, pillowcases, and towels
 MQ32A—Flat glass
 M32D—Clay construction products
 M32C—Glass containers
 M33D—Aluminum producers and importers
 M33J—Inventories of steel producing mills
 MQ34E—Plumbing fixtures
 MQ34H—Closures for containers
 MQ34K—Steel shipping drums and pails
 MQ35D—Construction machinery
 MQ36B—Electric lamps
 MQ36C—Fluorescent lamp ballasts
 M37G—New complete aircraft and aircraft engines, except military

M37L—Truck trailers

Annual Survey of Manufactures

The annual survey of manufactures collects industry statistics such as total value of shipments, employment, payroll, work hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey, while conducted on a sample basis, covers all manufacturing industries, including data on plants under construction but not yet in operation.

This survey has been approved by the Office of Management and Budget (OMB Control Number 0607-0449) in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

Annual Survey of Research and Development

A survey of research and development (R&D) activities is conducted. The major data obtained in this survey include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D and, for comparative purposes, the total net sales and receipts and the total employment of the company.

This survey has been approved by the Office of Management and Budget (OMB Control Number 3145-0027) in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

Annual Survey of Pollution Abatement Costs and Expenditures

The annual survey of pollution abatement costs and expenditures is designed to collect from manufacturers the total expenditures by industry and geographic area to abate pollutant emissions. The survey covers current operating costs and capital expenditures to abate air and water pollution and solid waste. This survey also will obtain the costs recovered from abatement activities.

This survey has been approved by the Office of Management and Budget (OMB Control Number 0607-0176) in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

Annual Survey of Plant Capacity

The annual survey of plant capacity is revised for this year to collect information such as the amount of time a plant is in operation; operating rates as related to full production and production in a national emergency; the

value of production and the reasons for operating at less than capacity.

This survey has been approved by the Office of Management and Budget (OMB Control Number 0607-0175) in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

The report forms will be furnished to firms included in these surveys. Copies of survey forms are available on request to the Director, Bureau of the Census, Washington, DC 20233.

Conclusion

I have, therefore, directed that these annual surveys be conducted for the purpose of collecting the data as described.

Dated: April 12, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-9087 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 15-90]

Foreign-Trade Zone—Pima County, Arizona; Tucson Customs Port of Entry; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Arizona Technology Foreign-Trade Zone, Inc. (ATFTZ), an Arizona not-for-profit corporation affiliated with the University of Arizona Foundation, requesting authority to establish a general-purpose foreign-trade zone in Pima County, adjacent to the Tucson Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 9, 1990. The applicant is authorized to make the proposal under section 44-6501 of the Arizona Revised Statutes.

The proposed ATFTZ project would be the second zone for the Tucson area. In 1979, the Board approved a foreign-trade zone (23 acres) for the Papago-Tucson Foreign-Trade Zone Corporation. The existing zone is located on privately-owned "allotted" land within the San Xavier District of the Tohono O'odham (Papago) Indian Reservation in Pima County, adjacent to the Tucson International Airport (FTZ 48, Board Order 145, 44 FR 20487).

ATFTZ proposes to establish a general-purpose foreign-trade zone (400 acres) on a site with two parcels in Pima County immediately south of Tucson's

City limits and 5 miles east of the Tucson International Airport. The first parcel (107 acres) is located at the northwest corner of the intersection of Kolb and Valencia Expressways. A portion of the site is owned by McCulloch Corporation, and the remainder, by K.R. Associates, the designated proposed zone operator. The second parcel (293 acres) is located ½ mile south of the first. It is owned by Southpoint II Associates (affiliated with K.R. Associates). Initially, an existing 203,685 square foot warehouse/distribution facility would be activated.

The applicant contends there is a need for additional zone services in the Tucson area. It cites an interest in use of the proposed zone for high technology/research related activity and facilities associated with Mexican maquiladora manufacturing.

Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5650 San Felipe Street, Houston, Texas 77057-3012; and Colonel Charles Thomas, District Engineer, U.S. Army Engineer District, Los Angeles, P.O. Box 2711, Los Angeles, California 90053.

As part of its investigation, the examiners committee will hold a public hearing on May 17, 1990, beginning at 9 a.m. in the Pima County Board of Supervisors Hearing Room (Room 137), 130 West Congress, Tucson, Arizona.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by May 10, 1990. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through June 18, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Port Director, Tucson International Airport, 7150 S. Tucson Boulevard, Tucson, Arizona 85706.

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

Dated: April 13, 1990.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 90-9116 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel Concerning Red Raspberries From Canada

AGENCY: United States-Canada Free-Trade Agreement Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Decision of Panel in the panel review of a final determination made by the International Trade Administration, Import Administration respecting Red Raspberries from Canada filed by Clearbrook Packers, Inc. (Clearbrook), Marco Estates Ltd./Landgrow Packers (Marco), and Mukhtiar & Sons Packers, Ltd. (Mukhtiar).

SUMMARY: In a decision dated April 2, 1990, the Panel found the explanation on remand of the Department of Commerce (Department) for its rejection of home market sales of red raspberries as the basis for determining foreign market value to be legally deficient and further remanded with instructions that the Department calculate foreign market value for Clearbrook Packers, Inc. (Clearbrook) and Mukhtiar & Sons Packers, Ltd. (Mukhtiar) using home market sales. A copy of the complete panel decision may be obtained from the FTA Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review

expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the *Federal Register* on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the *Federal Register* on December 27, 1989 (54 FR 53165). The panel review in this matter was conducted in accordance with these Rules.

On March 15, 1989, a Request for Panel Review of the final determination made by the ITA respecting Red Raspberries from Canada was filed by Clearbrook Packers, Inc., Marco Estates Ltd./Landgrow Packers, and Mukhtiar & Sons Packers, Ltd., pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. A panel was convened in accordance with the Rules and oral arguments were presented on all issues on October 20, 1989.

In a decision dated December 15, 1989 (54 FR 52838) the panel initially affirmed in part and remanded in part the Department's final determination. The panel held defective and remanded the Department's finding that home market sales of Clearbrook and Mukhtiar were not adequate for use as the basis for determining foreign market value. The panel directed the Department to provide explanations of the reasons why Clearbrook's and Mukhtiar's home market sales do not form an adequate basis for calculating foreign market value.

After considering the determination on remand filed by the Department on January 26, 1990, and the comments in opposition filed by complainants on February 9, 1990, the panel ordered the Department to file an amended final determination within 30 days, (by May 2, 1990), using home market sales of Clearbrook and Mukhtiar as the basis for foreign market value.

Dated: April 13, 1990.

James R. Holbein,
United States Secretary, FTA Binational Secretariat.

[FR Doc. 90-9117 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-GT-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Completion of Panel Review Concerning Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of final determination made by the International Trade Administration, Import Administration, in an administrative review respecting Replacement Parts For Self-Propelled Bituminous Paving Equipment from Canada, Secretariat File No. USA-89-1904-03.

SUMMARY: Pursuant to Rule 81 of the *Article 1904 Panel Rules* ("Rules"), the Panel Review of the subject case has been completed, effective April 9, 1990. The Binational Panel in this matter issued a decision dated March 7, 1990 (55 FR 10479) which affirmed the Department of Commerce's determination of March 27, 1989 (54 FR 12467) in the administrative review of the antidumping order, T.D. 77-222, respecting replacement parts for self-propelled bituminous paving equipment from Canada. A copy of the complete Panel decision is available from the FTA Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the *Federal Register* on December 30,

1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the *Federal Register* on December 27, 1989 (54 FR 53165). The panel review in this matter was conducted in accordance with these Rules.

Background

In 1977, the U.S. Department of the Treasury published T.D. 77-222, an antidumping duty order covering parts for self-propelled bituminous paving equipment from Canada. On March 27, 1989, the Department of Commerce published its determination in the administrative review of the order for the period September 1, 1986 through August 31, 1987 (54 FR 12467). On April 11, 1989, Blaw Knox Construction Equipment Corporation, the petitioner in the original antidumping proceeding, filed a Notice of Intent to Commence Judicial Review of that determination. On April 26, 1989, in compliance with the Rules, Allatt Paving Equipment Division of Ingersoll-Rand Canada, Inc. (formerly Fortress Allatt, Ltd.) filed a Request for Panel Review of the determination.

The Binational Panel that reviewed this matter issued a decision dated March 7, 1990 (55 FR 10479), which affirmed the Department of Commerce's determination of March 27, 1989. No request for an extraordinary challenge committee has been filed with the FTA Binational Secretariat. Therefore, pursuant to Rule 81 of the Rules, the Panel Review of the subject case has been completed, effective April 9, 1990.

Dated: April 13, 1990.

James R. Holbein,
United States Secretary, FTA Binational Secretariat.

[FR Doc. 90-9118 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-GT-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Hobonny Plantation From Objection by South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration, DOC.

ACTION: Notice of Dismissal.

On July 31, 1987, Hobonny Plantation ("Appellant") filed with the U.S. Department of Commerce a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and

its implementing regulations, 15 CFR part 930, subpart H. The appeal was taken from an objection by the South Carolina Coastal Council (the "State") to Appellant's certification that its proposal to repair dikes to develop aquaculture ponds in Beaufort County, South Carolina, for which a U.S. Army Corps of Engineers permit is necessary, was consistent with the State coastal zone management program.

Appellant failed to file a mandatory brief due August 30, 1989. On January 8, 1990, the Under Secretary for Oceans and Atmosphere accordingly dismissed the appeal for good cause pursuant to 15 CFR 930.128. The dismissal bars Appellant from filing another appeal from the State's objection to its consistency certification. The dismissal constitutes final agency action for purposes of judicial review.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: April 13, 1990.

Thomas A. Campbell,
General Counsel.

[FR Doc. 90-9085 Filed 4-18-90; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Request for Bilateral Textile Consultations With the Government of the United Arab Emirates

April 13, 1990.

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

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT:

Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

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

On March 31, 1990, under the terms of section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of the United Arab Emirates regarding cotton and man-made fiber nightwear and pajamas in Categories 351/651,

produced or manufactured in the United Arab Emirates.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the United Arab Emirates, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber nightwear and pajamas in Categories 351/651, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on March 31, 1990 and extends through March 30, 1991, or not less than 37,619 dozen.

A summary market statement concerning Categories 351/651 follows this notice.

Anyone wishing to comment or to provide data or information regarding the treatment of Categories 351/651, or to comment on domestic production or availability of products included in these categories, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230, ATTN: Public Comments.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comment regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in consultations with the Government of the United Arab Emirates, further notice will be published in the **Federal Register**.

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).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

MARKET STATEMENT

Cotton and Man-made Fiber
Pajamas and Other Nightwear—Category
351/651
United Arab Emirates
March 1990

Import Situation and Conclusion

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) from the United Arab Emirates reached 50,101 dozen during the year ending January 1990, more than 177 times the 282 dozen imported a year earlier. During 1989, imports of Category 351/651 from the United Arab Emirates reached 37,619 dozen compared to 153 dozen imported during 1988. In the month of January 1990, Category 351/651 imports from the United Arab Emirates were 12,611 dozen, one-third of the United Arab Emirates' total calendar year 1989 level.

The sharp and substantial increase in Category 351/651 imports from the United Arab Emirates is causing disruption in the U.S. market for men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear.

U.S. Production and Market Share

U.S. production of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) declined from 19,244,000 dozen in 1987 to 18,453,000 dozen in 1988, a decline of 4 percent. During the first nine months of 1989, production of Category 351/651 dropped to 11,764,000 dozen, 18 percent below the 14,320,000 dozen produced in the same period of 1988. The domestic manufacturers' share of the men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear market dropped from 78 percent in 1987 to 76 percent in 1988. The domestic manufacturers' share dropped another 7 percentage points, to 69 percent, during the first nine months of 1989.

U.S. Imports and Import Penetration

U.S. imports of men's and boys' and women's and girls' cotton and man-made fiber pajamas and other nightwear (Category 351/651) reached 7,502,000 dozen during the year ending January 1990, 30 percent above the 5,773,000 dozen imported a year earlier. U.S. imports of Category 351/651 increased from 5,360,000 dozen in 1987 to 7,277,000 dozen in 1989, a 36 percent increase. The ratio of imports to domestic production increased 3 percentage points in 1988, increasing from 28 percent in 1987 to 31 percent in 1988. The ratio increased another 14 percentage points in the first nine months of 1989, reaching 45 percent.

Duty-Paid Value and U.S. Producer's Price

Approximately 95 percent of Category 351/651 imports from the United Arab Emirates

during 1989 entered under HTSUSA numbers 6108.31.0010—women's cotton knit nightdresses and pajamas and 6208.21.0020—women's cotton woven nightdresses and pajamas. These garments entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments. [FR Doc. 90-9113 Filed 4-18-90; 8:45 am]
BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSA Docket No. 90-C0010]

Hedstrom Corp., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Hedstrom Corporation, a Corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 4, 1990.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Melvin I. Kramer, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-8626.

Dated: April 13, 1990.

Sheldon D. Butts,
Deputy Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between Hedstrom Corporation, a corporation (hereinafter, "Hedstrom"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

2. The provisions of the Settlement Agreement and Order shall apply to Hedstrom and to each of its successors and assigns.

I. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States of America (hereinafter, "Commission") created by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

4. Hedstrom is a corporation organized and existing under the laws of the State of Illinois, with its principal corporate offices located at Box 432, Bedford, Pennsylvania 15522. It is a wholly-owned subsidiary of the Jepson Corporation, Chicago, Illinois.

5. Hedstrom has manufactured certain outdoor gym sets, identified further in paragraph 7 below, (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. These gym sets are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

6. Hedstrom manufactured and sold the gym sets throughout the United States. Hedstrom, therefore, is a "manufacturer" of a "consumer product" for "distribution in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (4) and (11).

II. The Product

7. Between 1982 and July 31, 1988, Hedstrom manufactured and distributed approximately 370,000 gym sets with 2 3/8 inch top bars incorporating Glide Ride assemblies. The products were sold as Hedstrom brand 4-277, 4-377, 4-677, 4-777, 4-778, 4-877, and Sears brand model numbers 72226, 72026, and 72066.

III. Staff Allegations

8. The subject gym sets are equipped with a glide ride which is attached to the top bar by a bracket. During its swinging motion, an opening is created within the bracket which can be accessed by a child's finger. If a finger is inserted, the bracket will crush, severely lacerate, or amputate the fingertip.

9. Beginning in February 1985 and continuing until the end of 1985, Hedstrom received reports of two such incidents. In 1986 it received two reports, in 1987 it received four reports, and in April, 1988 it learned of an additional two incidents. Hedstrom did not report to the Commission under

section 15(b) of the CPSA, 15 U.S.C. 2064(b) until April 27, 1988.

10. Hedstrom had received sufficient information significantly earlier than April 27, 1988 to reasonably support the conclusion that its gym sets, described in paragraph 7, contained a defect which could create a substantial product hazard, but the company failed to report such information to the Commission in a timely manner, as required by section 15(b) of the CPSA.

11. The staff is now aware of a total of 30 such incidents.

IV. Response by Hedstrom

12. Hedstrom denies each and all of the staff allegations with respect to its products. It further and specifically denies that its products contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a) and further specifically denies any obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to these gym sets.

13. Specifically, and without limitation, on any of the denials set forth above, Hedstrom alleges that there are no design defects within the meaning of the Consumer Product Safety Act and alleges that the incidents described by the Commission staff were caused under highly unusual circumstances or possibly through inappropriate use by the user and does not admit any liability for any accidents or injuries with respect to the incidents described.

V. Agreement of the Parties

14. The Consumer Product Safety Commission has jurisdiction over Hedstrom and the subject matter of this Settlement Agreement and Order pursuant to 15 U.S.C. 2064, 2068, 2069 and 1274(c).

15. Hedstrom agrees to settle the Commission's claim in accordance with the attached Order, by paying a civil penalty in the amount of \$165,000 within 30 days of the final acceptance of this Settlement Agreement by the Commission, and service upon Hedstrom of the Commission's Final Order. This Settlement Agreement constitutes a settlement of any disputed violations of the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064, that may be alleged on the basis of the information that the Commission staff currently possesses concerning the subject gym sets. The Commission specifically waives its right to pursue any further penalty based on the information which the staff currently possesses.

16. Upon final acceptance of this Settlement Agreement by the Commission, Hedstrom knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission whether a violation has occurred, and (4) to a statement of findings of fact and conclusions of law. By making this waiver, Hedstrom does not concede that its gym sets contain a defect which creates or could create a substantial product hazard within the meaning of section 15(b) of the CPSA, 15 U.S.C. 2064(a). Should the Commission decide not to accept and adopt this Settlement Agreement and Order, the Settlement Agreement and Order shall have no force and effect.

17. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a Complaint had issued and the Settlement Agreement and Order will be made available to the public.

18. The Commission does not make any determination that such gym sets described in paragraph 7 hereof contain a defect which could create a substantial product hazard, or that a violation of the CPSA or Federal Hazardous Substances Act (FHSA) has occurred. This Agreement shall not constitute evidence or an admission with respect to any allegation of the staff, or of any wrongdoing, misconduct, or violation of any statute or rule on the part of Hedstrom. The Commission and Hedstrom agree that this Agreement is entered into for the purposes of settlement only.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and the provisional acceptance of the Agreement shall be announced in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission receives no written requests not to accept the Agreement within 15 days after publication in the **Federal Register**, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. The requirements of the Settlement Agreement and the Order resolve all issues that have arisen or could arise under section 15(b) of the Consumer Product Safety Act, with respect to the allegations contained in paragraph 8-11, *supra*, and are in addition to and not to

the exclusion of other remedies under the Consumer Product Safety Act.

21. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Hedstrom to appropriate legal action.

22. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

23. Nothing in this Agreement should be construed as limiting Hedstrom's obligation to report pursuant to section 15(b) of the CPSA.

Dated: February 1, 1990.

Hedstrom Corporation.

Thomas E. Mutchler,

President and Chief Executive Officer.

The Consumer Product Safety Commission.

David Schmeltzer,

Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,

Director, Division of Administrative Litigation.

Dated: February 28, 1990.

Melvin I. Kramer,

Trial Attorney, Directorate for Compliance and Administrative Litigation.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered, that Hedstrom Corporation shall pay within 30 days of final acceptance of this final Settlement Agreement and entry of this Order, a civil penalty in the sum of \$165,000 to the Consumer Product Safety Commission for transference to the U.S. Treasury.

Provisionally accepted on the 13th day of April, 1990.

By Order of the Commission.

Sheldon D. Butts,

Deputy Secretary, Office of the Secretary.

[FR Doc. 90-9111 Filed 4-18-90; 8:45 am]

BILLING CODE 6355-01-M

[CPSC Docket No. 90-C0011]

Scotsman Group, Inc., a Corporation; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of consent order agreement under the Lead Contamination Control Act of 1988 (Pub. L. 100-572) (LCCA).

SUMMARY: The Lead Contamination Control Act of 1988 requires the Commission to issue an order requiring

manufacturers of drinking water coolers that have been identified by the Environmental Protection Agency (EPA) as having lead-lined tanks to repair, replace or recall and provide a refund for such coolers. On January 18, 1990, EPA published a **Federal Register** notice listing six models of water coolers manufactured by Respondent and proposed listing several others. (55 FR 1772). The staff has negotiated the Consent Order Agreement that follows to provide a replacement or refund program that addresses the Respondent's coolers. The Commission has provisionally accepted the Consent Order Agreement. If the Commission receives a timely request not to accept the Consent Order Agreement, it will consider such request and vote on its acceptability. If the Commission does not receive a timely request not to accept the Consent Order Agreement, it shall become final on May 21, 1990.

DATES: Any interested person may ask the Commission not to accept this Consent Order Agreement by filing a written request with the Office of the Secretary by May 19, 1990.

ADDRESSES: Persons wishing to comment on this Consent Order Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Trial Attorney, or Eric L. Stone, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

Dated: April 13, 1990.

Sheldon D. Butts,

Deputy Secretary.

Consent Order Agreement

This Consent Order Agreement is made by and between Scotsman Group, Inc., a corporation (hereinafter, "Respondent") and the staff of the Consumer Product Safety Commission (hereinafter, "Staff") in resolution of this matter.

Respondent and the Staff stipulate and agree as follows:

I

1. The United States Consumer Product Safety Commission has jurisdiction over Respondent and over the subject matter of this Consent Order Agreement pursuant to 42 U.S.C. 300j-22.

2. This Consent Order Agreement is issued under the above-referenced statutory provision.

3. As provided at 42 U.S.C. 300j-22, for purposes of enforcement, this Consent Order Agreement shall be treated as an Order under 15 U.S.C. 2064(d). Respondent acknowledges that a violation of this Consent Order Agreement is a prohibited act within the meaning of 15 U.S.C. 2068(a) (5) and may subject a violator to a civil or criminal penalty under 15 U.S.C. 2069 and 2070.

II

4. Respondent is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located at 775 Corporate Woods Parkway, Vernon Hills, Illinois 60061. Respondent, through its Halsey Taylor Division, was during the time period in question a manufacturer of drinking water coolers as that term is defined at 42 U.S.C. 300j-21(1). Whenever this Consent Order Agreement refers to drinking water coolers "manufactured" by Respondent, that reference includes all coolers manufactured by Scotsman Group, Inc., the Halsey Taylor division of Scotsman or its predecessor companies or business organizations.

5. The "Staff" is the staff of the United States Consumer Product Safety Commission (hereinafter "Commission"), an independent regulatory Commission of the United States of America created pursuant to 15 U.S.C. 2053.

III

6. On October 31, 1988, the United States Congress enacted the Lead Contamination Control Act of 1988, Public Law 100-572 (hereinafter, "LCCA"). The LCCA amends the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, and requires the Environmental Protection Agency (hereinafter, "EPA"), among other things, to publish a list (hereinafter, the "EPA list") identifying each brand and model of drinking water cooler which has a lead-lined tank. 42 U.S.C. 300j-23(a).

7. The LCCA states that, for purposes of the Consumer Product Safety Act (CPSA), all drinking water coolers identified on the EPA list as having a lead-lined tank shall be considered to be "imminently hazardous consumer products" within the meaning of 15 U.S.C. 2061. The LCCA further provides that the Commission shall issue an order requiring the manufacturers of such drinking water coolers to repair, replace, or recall and provide a refund for those coolers. 42 U.S.C. 300j-22.

8. On April 10, 1989, EPA published a proposed list of drinking water coolers which may contain lead-lined tanks and here manufactured by Respondent. 54

FR 14320. The proposal listed the WM8A, WT8A, GC10ACR, GC10A, CC5A, and RWM13A models. On January 18, 1990, the EPA published its final list, listing the same six water cooler models and proposing the addition of a number of other models in the future. 55 FR 1772.

9. The Staff alleges that all tank-type models of drinking water coolers manufactured by the Respondent before April 1, 1979, include units with lead-lined tanks, as that term is defined in the LCCA. 42 U.S.C. 300j-21(7).

10. Although it denies and contests the staff's allegations, Respondent has entered into this Consent Order Agreement for the purpose of resolving this matter without resorting to protracted administrative and judicial proceedings.

IV

11. The provisions of this Consent Order Agreement shall apply to all tank-type models of drinking water coolers manufactured by Respondent, whether or not those models are included on the present or on a future EPA list.

12. Respondent shall undertake certain corrective actions, specified in the Order incorporated herein, regarding all tank-type drinking water cooler models manufactured by Respondent before April 1, 1979.

13. This Consent Order Agreement resolves all claims that now exist, or may exist in the future, under the LCCA, CPSA or Federal Hazardous Substances Act for repair, replacement, or recall and refund of the purchase price, or public notice requirements, for any of Respondent's tank-type drinking water coolers manufactured with lead. This Consent Order Agreement also resolves any claims that Respondent violated 15 U.S.C. 2064(b) by failing to report to the Commission the presence of lead in drinking water coolers manufactured before April 1, 1979.

14. Upon provisional acceptance by the Commission of this Consent Order Agreement, it shall disclose the terms of this document to the public and shall publish it in the **Federal Register**. If the Commission does not receive any written requests not to accept the Consent Order Agreement within 30 days, it shall be deemed finally accepted on the 31st day after the date it is published in the **Federal Register**. If the Commission does receive a timely request not to accept the Consent Order Agreement, it will consider such request and vote on the acceptability of such Consent Order Agreement or the desirability of further action.

15. Respondent knowingly, voluntarily and completely waives any rights it may

have to issuance of a complaint setting forth the staff's allegations, and agrees that the staff allegations set forth in the Consent Order Agreement shall serve as a substitute for a complaint. Respondent also waives any right it may have to a hearing pursuant to 42 U.S.C. 300j-22 or any other statutory provision, and to judicial review or other challenge or contest of the validity of the Commission's action in this matter.

16. The provisions of this Consent Order Agreement shall apply to the Respondent and its successors and assigns.

17. Upon final Commission acceptance, the Commission shall publicize the terms of this Consent Order Agreement and make it available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207.

18. No agreement, understanding, or representation not contained in this Consent Order Agreement may be used to vary or contradict its terms.

19. In the event the Commission does not finally accept this Consent Order Agreement in its current form, the provisions of this Consent Order Agreement shall be null and void and Respondent shall be entitled to notice and opportunity for comment, including a public hearing, as required by 42 U.S.C. 300j-22.

The foregoing Agreement, incorporated by reference in the attached Order, is hereby respectfully submitted to the Commission by the parties named above, and each consents to the entry of said Order by the Commission.

Order

Upon consideration of the foregoing Agreement between the parties, the terms of which are hereby incorporated by reference into the Commission Order, it is hereby Ordered that:

1. This Order shall apply to all models of tank-type drinking water coolers manufactured by Respondent before April 1, 1979.

2. Respondent shall take the following corrective actions:

Notice

(a) Within 30 days of service upon Respondent of this final Order, Respondent shall send by first class mail, the notice specified in Appendix 1, to all responsible officials of parochial and private schools, colleges and universities, and day care centers with 10 or more children in the United States, identified in the most recent, complete Quality Education Data mailing lists for

those groups, notifying them of the terms of Respondent's replacement and refund effort.

(b) Within 30 days of service upon Respondent of this final Order, Respondent shall send by first class mail, the notice specified in Appendix 2, to all public school superintendents in the United States, identified in the most recent, complete Quality Education Data mailing list, notifying them of the terms of Respondent's replacement and refund effort.

(c) Within 30 days of service upon Respondent of this final Order, Respondent shall send by first class mail, the notice specified in Appendix 3, to all LCCA state coordinators notifying them of the terms of Respondent's replacement and refund effort.

(d) Within 30 days of service upon Respondent of this final Order, Respondent shall send by first class mail, the notice specified in Appendix 4 to headquarters offices for 219 religious denominations, identified in The Yearbook of American and Canadian Churches and the notice specified in Appendix 5 to approximately 1000 YMCA and YWCA regional corporate headquarters, and approximately 525 central and administrative centers for boys and girls clubs across the country.

(e) Within 15 days of service upon Respondent of this final Order, Respondent shall submit full page paid advertisements for placement in the next available issues, in the following publications targeted at facility and property management professionals: *Building Operating Management*, *Industrial Maintenance and Plant Operations*, *Public Works*, and *Skylines*. Advertisements shall be placed in two consecutive issues of each publication, and shall be in the form set forth at Appendix 6.

(f) Within 24 hours of entry of this final Order, Respondent shall establish and maintain an 800 telephone number manned by trained operators who are able to clarify the scope of the replacement and refund program and provide further information to cooler owners.

Replacement or Refund

(g) Respondent shall, at the election of the owner of a drinking water cooler subject to this Order, provide a comparable replacement cooler as specified in section (j) and Appendix 7 to this Order, or a refund of the purchase price if that person submits the following documentation:

(1) The cooler's identification tag (from the exterior of the cooler or the interior of the cooler), or a photograph of the tag. If all identification tags are

missing, the cooler owner must submit a photograph of the cooler and substitute documentation (such as a receipt or repair order) that shows that the cooler is a tank-type water cooler manufactured before April 1, 1979;

(2) A completed Water Cooler Identification Chart in the form attached at Appendix 8;

(3) A completed Affidavit in the form attached at Appendix 9 or 10, as appropriate;

(4) Water test results showing net lead levels contributed by the water cooler in excess of 20 ppb from a state-certified laboratory using EPA approved methods conducted in conformity with the procedures set forth in Appendix 11, except that if the water coolers were tested prior to the public announcement of this corrective action program, the owner may submit water test results from a qualified laboratory that used reliable testing procedures with sampling conducted in a manner consistent with the procedures set forth in Appendix 11.

Under usual circumstances, the foregoing documentation shall be required. However, Respondent shall accept reasonable substitutes when circumstances warrant.

These procedures do not govern "special refunds," as that term is defined in sections (m) through (o), below. Such special refunds are governed by the rules set forth in those sections.

(h) Upon receipt of a request for a replacement cooler or refund, Respondent will review the documentation provided by the cooler owner to confirm the cooler's eligibility for a replacement or refund. Respondent may decline to process a request for replacement or refund where:

(1) Some of the documentation required by subparagraph (g), above, is not submitted, is incomplete or is otherwise inadequate;

(2) The cooler in question was not manufactured by Respondent prior to April 1, 1979; or

(3) The water test results do not demonstrate net lead levels above 20 ppb or were not developed using the required sampling and testing protocol. Where the documentation submitted by the cooler owner does not meet these requirements, Respondent shall send the owner a letter identifying the deficiencies and asking the owner to correct them.

(i) If the cooler owner's documentation is complete and adequate, Respondent shall send the owner a confirmatory letter indicating that a replacement cooler or refund will

be forthcoming as soon as possible. The letter will remind the owner of his or her obligation to remove from service and scrap the old cooler and will provide a sticker to be placed on the old water cooler. The sticker shall contain the following message: "This cooler contributes more than 20 parts per billion lead to the water. Do not use or resell."

(j) If the cooler owner chooses to receive a replacement cooler, Respondent shall, within a reasonable time after receipt of the required documentation, ship, at its cost, a brand new water cooler model comparable to the cooler it is replacing, to the owner in accordance with the list set forth in Appendix 7.

(k) If the cooler owner chooses to receive a refund the amount of the refund provided shall be the amount on the schedule attached as Appendix 12, to this Order or, if the owner can provide reasonable documentation of the purchase price of the cooler (such as the invoice or sales receipt), such purchase price shall be refunded.

(l) Respondent previously offered a 60 percent discount on a new cooler to replace coolers which had been shown to be contributing net lead levels to drinking water above 50 ppb. Respondent shall contact any owners who participated in that program if their former coolers would have qualified for corrective action under the program set forth in this Agreement and shall provide a refund of the amount the owner paid to obtain a new cooler.

Special Refund

(m) Respondent shall provide a special refund to any water cooler owner who is a college, university, school or day care facility and can show that (1) between April 10, 1989 and January 18, 1990, it owned a tank-type drinking water cooler manufactured by Respondent before April 1, 1979, (2) such cooler was listed in the April 10, 1989 EPA proposed list (54 FR 14320) as having a lead-lined tank, (3) such cooler was not water tested, (4) such cooler was removed as the result of having been included in the proposed EPA list, (5) such cooler was disposed of, or damaged upon removal, prior to January 18, 1990 and, therefore, (6) cannot be hooked up to a water source for water testing.

(n) The amount of such special refund shall be determined based on the date of manufacture of the water cooler. For all drinking water coolers manufactured on or before December 31, 1966, Respondent shall provide a special refund of 100 percent of the amount

listed in Appendix 12. For all coolers manufactured from January 1, 1967 through March 31, 1979, Respondent shall provide a special refund of 20 percent of the amounts listed in Appendix 12 for each such cooler.

(o) In order to qualify for such special refund, the water cooler owner must submit the following documentation:

(1) A receipt, bill, invoice or other document(s) reflecting work performed, which document was generated at the time such work was performed in removing and, where appropriate, disposing of, such cooler, which shows the date of removal and/or disposal of the cooler;

(2) Documentation generated prior to the cooler's removal (such as invoices, photographs, repair sheets, cooler inventory lists) showing the model and serial number for each cooler for which a special refund is claimed; and

(3) A completed affidavit in the form attached at Appendix 13.

Under usual circumstances, the foregoing documentation shall be required. However, Respondent shall accept reasonable substitutes when circumstances warrant.

Recordkeeping and Reporting

(p) Respondent shall use its best efforts to inquire of all persons contacting it on its 800 telephone line about the reason for the call, and if the call is about Respondent's replacement and refund program shall inquire as to how the caller learned about the program. Respondent shall maintain records of all such responses as well as records regarding any necessary follow-up actions (such as information mailed to the caller) required as a result of the call.

(q) For a period of five years after the date of service upon Respondent of this final Order, Respondent shall maintain records of all mailings, all advertisements placed, and all inquiries received, about the replacement and refund program that required follow-up action. Respondent shall also maintain copies of any documentation received from cooler owners seeking a replacement or refund, records of replacement coolers shipped, and refunds given, and records of any documents regarding why such replacements and refunds were not given. These documents shall be made available for inspection by the Commission staff upon its request during normal business hours.

(r) Respondent shall provide on a monthly basis (for a period of one year), and on a quarterly basis (for two years thereafter), reports to the Commission staff on its notice, replacement and

refund efforts. These reports shall start one month after the date of service upon Respondent of the final Order. Such reports shall summarize the status of the mailings described in paragraphs (a) to (c) above, the placement and publication of the advertisements described in paragraph (d) above, and the manner in which consumers contacting the 800 phone line learned about the replacement and refund program. Furthermore, each report shall at minimum state for the preceding period, the number of coolers identified that are subject to replacement or refund, the number of replacement water coolers actually shipped, and the number of refunds mailed. Each report shall also include cumulative totals for each of these categories, and be in the form set forth at Appendix 14. Respondent's obligation to maintain the 800 phone line shall expire at the end of the three year period.

(s) For a period of three years after the date of service upon Respondent of this final Order, Respondent shall notify the Commission at least 30 days prior to any change in its business (such as incorporation, dissolution, assignment, sale, merger, or filing for bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change which might affect compliance obligations arising out of this Order. If it is not possible to provide such 30 days notice, Respondent shall provide such notice as soon as it is possible to do so.

Dated: April 2, 1990.

Consented to on behalf of the Respondent by:

Richard C. Osborne,
President & CEO, Scotsman Group, Inc.

Consented to on behalf of the Commission Staff by:

David Schmeltzer,
Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,
Director, Division of Administrative Litigation.

Dated: April 4, 1990.

By:
Ronald G. Yelenik,

Trial Attorney.

Eric L. Stone,

Trial Attorney.

The Consumer Product Safety Commission hereby provisionally accepts the foregoing Consent Order

Agreement. By order of the Commission this 13th day of April 1990.

Sheldon D. Butts,
Deputy Secretary, Office of the Secretary.

[FR Doc. 90-9112 Filed 4-18-90; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form and Applicable OMB Control Number: POW Medal Application/Information; DD Form 2510, and proposed DD Form 2510-1; and OMB Control Number 0704-0288.

Type of Request: Proposed revision of currently approved collection.

Average Burden Hours/Minutes Per Response: 10 minutes.

Frequency of Response: One time.

Number of Respondents: 140,000.

Annual Burden Hours: 23,333.

Annual Responses: 140,000.

Needs and Uses: The POW Medal Application/Information form may be used by eligible U.S. or Filipino former POWs or their next of kin to request issue of the POW Medal authorized by Public Law 99-145.

Affected Public: Individuals of households.

Frequency: On occasion.

Respondent's Obligation: Voluntary, required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sphehe.

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

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, (202) 746-0933.

Dated: April 13, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison,
Department of Defense.

[FR Doc. 90-9050 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Acquisition Streamlining; Meeting

ACTION: Change in Status from Open to Closed of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Acquisition Streamlining scheduled for May 17-18, 1990, as published in the Federal Register (Vol. 55, No. 62, Page 11996, Friday, March 30, 1990, FR Doc. 90-7261) will be closed.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on the differences between "black program" acquisition processes and those of normal systems acquisition processes.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. app. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: April 13, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 90-9053 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

DIA Defense Intelligence College Board of Visitors; Meeting

AGENCY: Defense Intelligence Agency
Defense Intelligence College, DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College Board of Visitors has been scheduled as follows:

DATES: Tuesday, 22 May 1990, and Wednesday, 23 May 1990, from 0900 to

1600, and Thursday, 24 May 1990, from 0900 to 1130.

ADDRESSES: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert L. De Gross, Provost and Deputy Commandant, DIA Defense Intelligence College, Washington, DC 20340-5485 (202/373-3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S.C. and therefore will be closed several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Defense Intelligence College.

Dated: April 13, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 90-9052 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Chemical Warfare; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Chemical Warfare Policy will meet in closed session on April 30, 1990, at the Science Applications International Corporation (SAIC) Building, 1710 Goodridge Drive, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technological matters as they affect the perceived needs of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. app. II, (1982)), it has been determined that this DSB Task Force Meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: April 13, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 90-9054 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on SDIO Technology Assessment; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on SDIO Technology Assessment will meet in closed session on 3 May 1990 at The Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will develop final conclusions and recommendations on a classified study for future presentation to the Secretary of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. app. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: April 13, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 90-9055 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Board; Meeting

AGENCY: Defense Intelligence Agency
Advisory Board, DOD.

ACTION: Notice of Closed Meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a committee of the DIA Advisory Board has been scheduled as follows:

DATES: Tuesday, May 15, 1990 (9 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatfield, USAF, Chief, DIA Advisory Board Office, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be

closed to the public. Subject matter will be used in a special study on Intelligence Support to the U&S Commands.

Dated: April 13, 1990.

L. M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 90-9051 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Exclusive Patent License; Dekk-Tec, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Intent to Grant Partially Exclusive Patent License; Dekk-Tec, Inc.

SUMMARY: The Department of the Navy hereby gives notice of intent to grant to Dekk-Tec, Incorporated a revocable, nonassignable, exclusive license to practice the Government-owned invention described in U.S. Patent No. 4,799,230 entitled, "Laser Dyes Derived from Bimanes," issued January 17, 1989; Inventors: Theodore G. Paviopoulos and Joseph H. Boyer.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCIP), Arlington, Virginia 22217-5000.

DATES: April 19, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCIP), 800 North Quincy Street, Arlington, VA 22217-5000 telephone (202) 696-4001.

Dated: April 10, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90-9056 Filed 4-18-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 21, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos, (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: April 13, 1990.

George P. Sotos,

Acting Director, for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of review: Extension.

Title: Performance Report EHA-B as amended, and State Operated Programs for Handicapped Children (Chapter 1, ESEA).

Frequency: Annually.

Affected public: State or local governments.

Reporting burden:

Burden hours: 261.

Responses: 58.

Recordkeeping burden:

Burden hours: 0.

Recordkeepers: 0.

Abstract: This performance report will collect information from State educational agencies that receive federal funding for special education services to handicapped children. The information is to be used by the Department to evaluate the State programs for their effectiveness.

Office of Postsecondary Education

Type of review: Revision.

Title: Guarantee Agency Quarterly/Annual Report.

Frequency: Annually.

Affected public: State or local governments; Non-profit institutions.

Reporting Burden:

Burden Hours: 3584.

Responses: 275.

Recordkeeping Burden:

Burden Hours: 83.

Recordkeepers: 55.

Abstract: This form is submitted by guarantee agencies to assist the Department in evaluating the proper administration of the Guaranteed Student Loan programs. The Department uses this information to evaluate agency operations, to determine the amount of payments and to make reports to Congress.

[FR Doc. 90-9049 Filed 4-18-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90-56-002, et al.]

Minnesota Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 12, 1990.

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

1. Minnesota Power & Light Co., et al.

[Docket Nos. ER90-56-002, et al.]

Take notice that on April 4, 1990, Minnesota Power & Light Company (MP&L) tendered for filing a revised distribution/wheeling service agreement between MP&L and United Power Association (UPA) which will enable UPA to serve Arrowhead Municipal Power Agency (AMPA). MP&L states that the revision replaces the agreement

filed under ER90-56-000. MP&L further states that the parties have settled a dispute which arose on the initial submittal.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Co.

[Docket No. ER90-305-000]

Take notice that Florida Power & Light Company (FPL), on April 2, 1990, tendered for filing a Special Short Term Agreement to Provide Power and Scheduled Incremental Energy By Florida Power & Light Company To City of Lake Worth (Short Term Agreement) and Cost Support Schedules C, D, E, F and G (together with Cost Support Schedule F Supplements) which support the rates for sales under this Short Term Agreements.

The new rate schedule provides for the sale of power and energy from FPL to the City of Lake Worth, Florida for a specified term commencing on April 1, 1990 and ending May 31, 1990. FPL respectfully requests that the proposed Short Term Agreement and Cost Support Schedules C, D, E, F and G (together with Cost Support F Supplements) be made effective on April 1, 1990. A copy of this filing was served upon the City of Lake Worth, Florida and the Florida Service Commission.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Electric Power Co.

[Docket No. ER90-306-000]

Take notice that on March 30, 1990, Southwestern Electric Power Company (SWEPCO) tendered for filing for informational purposes, the estimated return on common equity (Estimated ROE)—9.53%—that will be used to calculate estimated formula rates for wholesale service in the 1990 Contract Year to Northeast Texas Electric Cooperative, Inc. (NTEC), FERC Rate Schedule No. 84; the City of Bentonville, Arkansas (Bentonville), FERC Rate Schedule No. 69; the City of Hope, Arkansas (Hope), FERC Rate Schedule No. 86; the Oklahoma Municipal Power Authority (OMPA), FERC Rate Schedule No. 95; Rayburn Country Electric Cooperative, Inc. (Rayburn), FERC Rate Schedule No. 99; Cajun Electric Cooperative, Inc. (Cajun), FERC Rate Schedule No. 100; and TEX-LA Electric Cooperative of Texas, Inc. (Tex-La)

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Minnesota Power & Light Co.

[Docket No. ER90-307-000]

Take notice that on April 2, 1990, Minnesota Power & Light Company tendered for filing a Firm Power Interchange Transaction Agreement between Minnesota Power & Light Company and Interstate Power Company. Under this Agreement, Minnesota Power & Light Company will sell 30 MW of firm power in accordance with Service Schedule J of the Mid-Continent Area Power Pool Agreement. This Agreement provides for firm power sales during the period from May 1, 1990 through October 31, 1990 inclusive. The parties request a waiver of the Commission's 60 day filing period for this Agreement and an effective date of May 1, 1990 for such Agreement.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Washington Water Power Co.

[Docket No. ER90-311-000]

Take notice that on April 2, 1990, the Washington Water Power Company (WWP) tendered for filing a Notice of Termination of a Capacity Exchange Agreement with the Southern California Edison Company. WWP requests the effective date of the filing be March 1, 1990.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp, Doing Business as Pacific Power & Light and Utah Power & Light

[Docket No. ER90-308-000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light (PacifiCorp), on April 4, 1990, tendered for filing, in accordance with § 35.50 of the Commission's Regulations, PacifiCorp's Utah Division Abbreviated Revised appendix 1 for the state of Idaho and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Idaho (Bonneville's Docket No. 8-A3-8905) dated March 14, 1990. The Abbreviated Revised appendix 1 calculates the ASC for the state of Idaho applicable to the exchange of power between Bonneville and PacifiCorp's Utah Division.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate scheduled to become effective August 17, 1989, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utilities Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Electric Power Co.

[Docket No. ER90-309-000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on April 2, 1990, tendered for filing a Letter Agreement between itself and Wisconsin Power and Light Company (WP&L). The Agreement provides for a continuation of firm transmission service to be rendered by Wisconsin Electric to WP&L under Rate Schedule No. 64, beyond the original June 15, 1990 termination date, subject to a ninety day written notice of termination by either party. All other terms and conditions of service remain unchanged.

Wisconsin Electric respectfully requests an effective date of June 16, 1990, in order to provide continuity of service. Wisconsin Electric is authorized to state that WP&L joins in the requested effective date.

Copies of the filing have been served on WP&L, the City of Elkhorn Wisconsin, and the Public Service Commission of Wisconsin.

Comment date: April 27, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Fort Howard Corp.

[Docket No. QF90-127-000]

On April 4, 1990, Fort Howard Corporation (Applicant), of P.O. Box 19130, 1919 South Broadway, Green Bay, Wisconsin 54307-9130, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at Applicant's Green Bay Mill in Green Bay, Wisconsin. The facility consist of six coal-fired boilers, eight extraction/condensing steam turbine generators and one condensing steam turbine generator. Thermal energy recovered from the facility is used in the production of disposable paper products. The primary energy source of the facility is coal. The net electric power production capacity of the facility is 82 MW.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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

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

Lois D. Cashell,
Secretary.

[FR Doc. 90-9057 Filed 4-8-90; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ECAO-CD-86-073; FRL-3752-7]

Draft Criteria Document for Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of external review draft.

SUMMARY: This notice announces the availability of an external review draft of a revised air quality criteria document for carbon monoxide. This draft was prepared by the Environmental Criteria and Assessment Office (ECAO) of EPA's Office of Health and Environmental Assessment, a part of the Office of Research and Development.

DATES: The Agency will make the external review draft available for public review and comment on or about April 30, 1990. Comments must be in writing and postmarked by July 31, 1990.

ADDRESSES: To obtain a copy of the external review draft document, interested parties should contact the ORD Publications Center, CERL-FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, (513) 569-7647 or FTS 684-7647, and request the external review draft of the revised Air Quality Criteria for Carbon Monoxide. Please provide your name, mailing address, and the EPA document number, EPA/600/8-90/045A.

The draft document will also be available for public inspection and copying at the EPA library, EPA Headquarters, Waterside Mall, 401 M Street SW., Washington, DC.

Comments on the draft should be sent to the Project Manager for Carbon Monoxide, U.S. Environmental Protection Agency, MD-52, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Ray, U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office, MD-52, Research Triangle Park, NC 27711, (919) 541-3637 or FTS 629-3637.

SUPPLEMENTARY INFORMATION: Section 109(d)(1) of the Clean Air Act, 42 U.S.C. 57409(d)(1), requires periodic review and, as appropriate, revision of air quality criteria documents in connection with review and possible revision of existing national ambient air quality standards. EPA is revising the existing air quality criteria document for carbon monoxide as announced in the *Federal Register* on July 22, 1987 (52 FR 27580). To help assure the accuracy and completeness of the revised document, an external review draft is being released for public review and comment.

Dated: March 29, 1990.
Erich Bretthauer,
Assistant Administrator for Research and Development.

[FR Doc. 90-9100 Filed 4-18-90; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[GEN Docket No. 89-608; DA 90-549]

Nebraska Region Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The FCC is accepting the Nebraska area's (Region 26's) plan for public safety. By accepting this plan, the FCC enables the licensing of the 821-824/866-869 MHz spectrum for public safety to begin.

EFFECTIVE DATE: April 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, Policy and Planning Branch, Washington, DC 20554, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

1. On December 11, 1989, the Nebraska Area (Region 26) submitted its public safety plan to the Commission for review. The plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of

the public safety and special emergency entities operating in its region.

2. The Region 26 plan was placed on Public Notice for comments on December 27, 1989, 54 FR 52995 (Dec. 26, 1989). The Commission received comments from the Region 7 Planning Committee (Colorado) and reply comments from the Region 26 Planning Committee (Nebraska).

3. Colorado had two concerns.¹ First, it was concerned that use of tone coded squelch frequencies, other than 156.7 Hz on the mutual aid channels, would prohibit out of region units from communicating in Region 26. Second, it stated that the loading standards proposed in Region 26 were not in compliance with the Commission's National Public Safety Plan as specified in the Report and Order in Gen. Docket No. 87-112, 3 FCC Rcd 905 (1987). In its reply comments, Nebraska states that it is requiring that all equipment be capable of operating on the national tone squelch of 156.7 Hz. With regard to loading, it notes that the National Plan provides some flexibility to accommodate different needs and asks that the Commission consider its proposed loading standards.

4. The Commission's intent with regard to the mutual aid channels is to provide the capability for all public safety agencies to be able to communicate with one another. Therefore, it is essential that all equipment operating in this band be equipped with the same tone squelch frequency. The Nebraska Plan satisfies this requirement. We are not opposed to Nebraska's desire to put additional controls on specific repeaters by using additional tone squelch frequencies as long as units from other regions can communicate with agencies in Region 26 on the mutual aid channels.

5. With regard to loading, the Nebraska plan states that a trunked system must be loaded with a minimum of 70 mobiles per channel. As the number of channels increases, the loading requirements increase, up to 95 mobiles per channel on a 16-20 channel system. In the Report and Order in Gen. Docket No. 87-112, the Commission adopted the existing 800 MHz standards for both trunked and conventional systems. Section 90.631(b) of the Commission's Rules, 47 CFR 90.631(b), provides that as of the five-year

¹ The Colorado Planning Committee was also concerned that the frequency allotment used by Region 26 resulted in some adjacent region frequency conflicts. These conflicts have been resolved. See February 12, 1990, letter from Mr. Douglas C. Noe, Chairman Region 7 Planning Committee.

anniversary date of its initial license grant, a trunked system that received its initial license grant before June 1, 1993, must be loaded to a minimum of 70 mobiles for each channel authorized. If it is not, § 90.631(b) provides that licenses for all channels not loaded to 100 mobile stations per channel cancel automatically if the trunked system is in a geographic area where all channels are assigned in the licensee's category. In the Report and Order in Gen. Docket No. 87-112, however, the Commission provide some flexibility to accommodate different perceived public safety needs in different parts of the country, stating that it would waive its loading standards when a compelling case for waiver is made. Therefore, the existing Commission standards will apply unless a specific standard is requested by a regional plan; in those cases, each standard will be considered on its own merit.

6. In the case of the Nebraska Plan, the proposed standards require greater loading than the Commission's rules. It is clear, however, from the context of the plan that both the Nebraska and Colorado regions believe that the Nebraska plan's standards are lower than the Commission's rules and thus easier to meet. It would in fact be more burdensome on the Nebraska Region to conform to its plan's proposed loading standards than to conform to the Commission's rules. Therefore, we are accepting the plan subject to § 4.3 being revised to state that trunked systems in Region 26 must comply with the loading standards outlined in the Commission's rule, § 90.631.

7. We have reviewed the plan submitted for Region 26 and find that, other than as stated above, it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87-112, and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Nebraska.

8. Accordingly, it is ordered that the Public Safety Radio Plan for Region 26 is accepted, as amended. Furthermore, licensing of the 821-824/866-869 MHz band in Region 26 may commence immediately.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 90-9068 Filed 4-18-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Request for Comment on Availability of Real Property Sales and Financing Information

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Request for comments.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") is issuing a request for comments to develop data for a study on the availability of sales and financing information in real property sales transactions.

This request for comments affords all interested parties an opportunity to provide substantive comments and data on the availability and sufficiency of sales and financing information for real property transactions in federally related transactions. The Appraisal Subcommittee will carefully review and consider the comments received within the context of completing its study on the availability of such information.

DATES: Comments must be received on or before May 31, 1990.

ADDRESSES: All comments should be sent to the Appraisal Subcommittee, Attention: Keith Todd, Federal Financial Institutions Examination Council, 1776 G Street, NW., suite 850B, Washington, DC 20006 or delivered to the same address between the hours of 9 a.m. and 5 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Appraisal Subcommittee Staff at (202) 357-0181.

SUPPLEMENTARY INFORMATION: Section 1122 of title XI of the Financial Institutions Reform, Recovery, Enforcement Act of 1989 directs the Appraisal Subcommittee of the Federal Financial Institutions Examination Council to conduct a study to determine whether real estate sales and financing information data that is available to appraisers is sufficient to permit appraisers to properly estimate the value of real property in connection with federally related transactions. The study is to focus on the sufficiency of sales and financing information, and other data that are available to appraisers. The Appraisal Subcommittee is to report its findings to the Congress no later than August 9, 1990.

As part of this study the Appraisal Subcommittee is seeking, from all interested parties, substantive comments on issues surrounding the availability and sufficiency of real

property sales and financing information used when rendering value estimates for real property in federally related transactions. The following questions raise significant issues on which comment is sought, but are not intended to be limiting in nature. Comments are invited on any substantive issue relating to such information and its availability to appraisers in a timely fashion. The Subcommittee welcomes any supporting information that serves as a basis for comments. In particular, information presented in the form of lists, charts, graphs, and tables, which details specific data by state, county, and property type would be beneficial.

1. What information is needed by appraisers to develop accurate and timely comparable sales and financing data for appraisals of real property? (For example, grantor, grantee, date of sale, sales price, legal description of the property, terms of financing, and physical characteristics.)

2. Does the information and availability of information needed by appraisers to develop comparable sales and financing data vary by property type? If so, please describe the variations.

3. Of the information needed by appraisers to develop comparable sales and financing data, what data is available as a matter of public record, or is readily available from private sources? Please specify the types of information available by source, geographical area covered, and/or legal jurisdiction.

4. What are the impediments to appraisers in readily accessing comparable sales and financing data from both public and private sources?

Information generated from the comments received will be used to augment other sources of data available to the Appraisal Subcommittee, and ensures that its findings on information availability reflect the broadest range of possibilities.

Dated: April 16, 1990.

Kevin M. Blakely,

Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council.

[FR Doc. 90-9077 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 13, 1990.

Background

Notice is hereby given of the submission of proposed information

collection to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (title 44 U.S.C. chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR part 1320). A copy of the proposed information collection and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least 10 working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Frederick J. Schroeder—
Division of Research and Statistics,
Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Gary Waxman—
Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Request for OMB approval to extend without revision

1. *Report title:* Foreign Branch Report of Condition

Agency form number: FFIEC 030

OMB Docket number: 7100-0071

Frequency: Annual

Reporters: State member banks that have foreign branches

Annual reporting hours: 444

Estimated average hours per response: 3.7

Number of respondents: 120

Small businesses are not affected.

General description of report:

This information collection is mandatory [12 U.S.C. 321, 324 and 602] and is given confidential treatment [5 U.S.C. 552(b)(8)].

This report contains detailed asset and liability information for foreign branches of insured U.S. commercial banks and is required for regulatory and supervisory purposes. The information is used to analyze foreign operations of U.S. commercial banks.

Board of Governors of the Federal Reserve System, April 13, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-9078 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

The Bank of Tokyo Ltd., Tokyo, Japan; Proposal To Engage in Certain Securities-Related, Foreign Exchange, and Investment and Financial Advisory Activities

The Bank of Tokyo, Ltd., Tokyo, Japan ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly owned subsidiary, BOT Securities, Inc., New York, New York ("BOTS"), in the following activities:

(1) Providing brokerage services to institutional customers and BOTS' affiliates pursuant to § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15));

(2) Providing investment advisory services to institutional customers and BOTS' affiliates pursuant to section 225.25(b)(4) of Regulation Y (12 CFR 225.25(b)(4));

(3) Furnishing general economic information and advice, general economic statistical forecasting services and industry studies to institutional customers and BOTS' affiliates pursuant to § 225.25(b)(4) of Regulation Y (12 CFR 225.25(b)(4));

(4) Providing advice in connection with certain domestic and international financial transactions, including interest rate swaps, interest rate caps and floors, loan syndications and similar transactions, for affiliated and nonaffiliated financial and nonfinancial institutions;

(5) Engaging in the activities of trading as a principal in certain foreign exchange spot, forward, futures, and options transactions;

(6) Providing advisory services with respect to certain foreign exchange spot, forward, futures, and options transactions to institutional investors as permitted under §§ 225.25(b)(17) and (b)(19) of Regulation Y (12 CFR 225.25(b)(17) and (b)(19)); and

(7) Providing financial advice to the Japanese national and municipal governments and their agencies such as with respect to the issuance of their securities in the United States.

Applicant proposes to provide investment advisory and brokerage activities separately and on a combined basis subject to all of the conditions of 12 CFR 225.25(b)(4), (b)(15), and *PNC Financial Corporation*, 75 Federal Reserve Bulletin 396 (1989).

Applicant has also applied to provide financial advisory services of the type approved in *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987). The Board has previously

approved providing advice to affiliated and unaffiliated financial and nonfinancial institutions. *Canadian Imperial Bank of Commerce*, 74 Federal Reserve Bulletin 571 (1988).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 Federal Register 806 (1984).

The Board has permitted bank holding companies under section 4(c)(8) of the BHC Act to engage in foreign exchange forward, futures, options, and options on futures transactions for the account of others or for hedging purposes. See 12 CFR 225.25(b)(18). The Board has also previously determined that trading in foreign exchange spot contracts for a company's own account is a permissible nonbanking activity. *The Long-Term Credit Bank of Japan, Ltd.*, 74 Federal Reserve Bulletin 573 (1988). See also *European-American Bancorp.*, 63 Federal Reserve Bulletin 595 (1977); *Standard and Chartered Group, Ltd.*, 38 Federal Register 27,552 (1973). The Board has permitted a bank holding company to act as principal in foreign exchange forward, futures, options, and options on futures transactions in limited circumstances. *The Hongkong and Shanghai Banking Corporation ("Hongkong")*, 75 Federal Reserve Bulletin 217 (1989). In that case, the applicant did not propose to provide investment advice relating to foreign exchange instruments. The Board's current regulations also do not authorize a bank holding company to trade in foreign exchange instruments as a principal and serve at the same time as

an advisor to clients regarding these instruments.

Applicant states that the combination of providing investment advice with respect to the above-mentioned foreign exchange instruments and trading as a principal in these instruments is so closely related to banking or controlling banks as to be a proper incident thereto on the basis of the Board's statement that "[b]anks have traditionally engaged in foreign exchange trading, including, more recently, trading in the options and futures markets." *Hongkong*, 75 Federal Reserve Bulletin at 218. Applicant believes the proposal would not result in adverse effects.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company 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 interest, or unsound banking practices. Applicant indicates that BOTS is registered as a government securities broker-dealer with the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 and has previously received Board approval to engage in underwriting and dealing in government obligations, pursuant to § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)). Applicant believes that the proposal will provide it with a valuable risk management tool and additional flexibility in its activities. Applicant further believes that permitting BOTS to engage in the proposed activities would be procompetitive and would enable Applicant to provide greater convenience and increased services to customers. For example, BOTS could accept payment for a U.S. government security in a currency other than U.S. dollars and thereafter itself convert the money received into U.S. dollars.

Applicant states that the proposed foreign exchange activity would be conducted at all times in accordance with the statement of policy concerning bank holding companies engaging in futures, forwards and options contracts on U.S. government and agency securities and money market instruments adopted pursuant to § 225.142 of Regulation Y (12 CFR 225.142), except to the extent that this section is inconsistent with engaging in foreign exchange trading as a principal for speculative purposes. Applicant also

states that it will conduct the proposed activity pursuant to the limitations set forth in *Hong Kong*.

Applicant has also applied to provide financial advice to the Japanese national and municipal governments and their agencies. By regulation, the Board has previously approved the provision of financial advice to state and local governments. 12 CFR 225.25(b)(v). The Board has also previously approved providing financial advice to Canadian federal, provincial and municipal governments. *The Royal Bank of Canada*, 74 Federal Reserve Bulletin 334 (1988). Accordingly, Applicant argues that the provision of advice to the Japanese national and municipal governments is closely related to banking. With regard to the public benefits of Applicant's proposal, Applicant states that it has long provided financial advice to the Japanese national and municipal governments with respect to the issuance of these governments' securities outside of the United States. Applicant contends that the provision of such financial advice by BOTS, including advice in connection with the issuance in the United States of securities of these governments, will provide these governments with valuable market information from a daily participant in the market, thereby enhancing competition and promoting efficiency.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Comments are requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole 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 these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of

a hearing, identifying specifically and 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.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 18, 1990.

Board of Governors of the Federal Reserve System, April 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9083 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

John Allen Calkins, et al.; 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 bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 10, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *John Allen Calkins*, Raymondville, Texas; to acquire 21.29 percent of the voting shares of Raymondville State Bancshares, Inc., Raymondville, Texas, and thereby indirectly acquire Raymondville State Bank, Raymondville, Texas.

2. *James Robert Ratliff*, Lubbock, Texas; to acquire an additional 11.7 percent (totalling 29 percent on a pro forma basis) of the voting shares of Independent Financial, Inc., Lubbock, Texas, and thereby indirectly acquire Whisperwood National Bank, Lubbock, Texas.

3. *Bobby Lynn Walker and Billy Joe Walker*, El Paso, Texas, to each acquire 4.08 percent of the voting shares of Continental National Bancshares, Inc., El Paso, Texas, and thereby indirectly acquire Continental National Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, April 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9079 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

Compagnie Financiere de Suez; 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, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 7, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President), 33

Liberty Street, New York, New York 10045:

1. *Compagnie Financiere de Suez and Banque Indosuez*, both of Paris, France, to engage *de novo* through its subsidiary Indosuez International Investment Services, Paris, France, in serving as the investment adviser to, and the manager of, a closed-end investment company registered under the 1940 Act, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9080 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

Steuben Trust Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and, summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 11, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Steuben Trust Corporation*, Hornell, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Steuben Trust Company, Hornell, New York.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pikeville National Corporation*, Pikeville, Kentucky; to acquire 100 percent of the voting shares of F. Deposit Corporation, Flemingsburg, Kentucky, and thereby indirectly acquire F. Deposit Bank, Flemingsburg, Kentucky.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Barrett Holding Company*, Watonga, Oklahoma; to become a bank holding company by acquiring 25.69 percent of the voting shares of Watonga Bancshares, Inc., Watonga, Oklahoma, and thereby indirectly acquire Watonga State Bank, Watonga, Oklahoma.

2. *Wilber Co.*, Wilber, Nebraska; to acquire 100 percent of the voting shares of Hallam Bancorp, Inc., Hallam, Nebraska, and thereby indirectly acquire Hallam Bank, Hallam, Nebraska.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Valley-Hi Investment Company*, San Antonio, Texas; to acquire 94 percent of the voting shares of First State Bank, Bandera, Texas. Comments on this application must be received by May 3, 1990.

Board of Governors of the Federal Reserve System, April 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9081 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

West Suburban Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation 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 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, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 11, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *West Suburban Bancorp Inc.*, Lombard, Illinois; to acquire Aurora Federal Savings Bank, F.S.B., Aurora, Illinois, and thereby engage in owning and operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-9082 Filed 4-18-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Evaluation of Commercial Portable Mass-Spectrometer or Fourier Transform Infrared Spectrometer for Industrial Hygiene Applications; Peer Review Meeting

Name: Evaluation of a Commercial Portable Mass-Spectrometer or Fourier Transform Infrared Spectrometer for Industrial Hygiene Applications.

Time and date: 1 p.m.-4 p.m., May 10, 1990.

Place: Alice Hamilton Laboratory, Conference Room B, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for the peer review of a project titled "Evaluation of a Commercial Portable

Mass-Spectrometer or Fourier Transform Infrared Spectrometer for Industrial Hygiene Applications." This project is based on laboratory and field evaluations of an instrument to determine if it meets its stated specifications, as well as other characteristics of the instrument pertinent to its intended application. The project will also attempt to determine what the utility of the instrument may be in a variety of field industrial hygiene applications.

Contact person for additional information: Harley V. Piltingsrud, NIOSH, CDC, 4676 Columbia Parkway, R-8, Cincinnati, Ohio 45226, telephone (513) 841-4280 or FTS 684-4280.

Dated: April 13, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-9067 Filed 4-18-90; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 86D-0067]

Revised Draft CGMP Guideline for the Manufacture of In Vitro Diagnostic Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its revised second draft of the "Guideline for the Manufacture of In Vitro Diagnostic Products—February 1990" that has been prepared by FDA's Center for Devices and Radiological Health (CDRH). The revised draft guideline contains quality assurance and production practices that are acceptable to FDA for assuring the safety and effectiveness of in vitro diagnostic devices.

DATES: Comments by July 18, 1990.

ADDRESSES: Submit written requests for single copies of the revised draft guideline to the Division of Small Manufacturers Assistance (HFZ-220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6597, or 800-638-2041. Written requests should include two self-addressed adhesive labels to assist the Division in processing your requests. Submit written comments on the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Z. Frank Twardochleb, Center for Devices and Radiological Health (HFZ-332), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1128.

SUPPLEMENTARY INFORMATION: FDA

often formulates and disseminates guidelines about products subject to regulation under the laws administered by the agency. Accordingly, under 21 CFR 10.90(b), FDA is making available a CDRH-revised second draft of the "Guideline for the Manufacture of In Vitro Diagnostic Products—February 1990." The revised draft guideline contains production practices which are acceptable to FDA for assuring the safety and effectiveness of in vitro diagnostic products but do not constitute additional legal requirements. This guideline is intended to advise the in vitro diagnostic industry of practices which, if followed, would be deemed acceptable to FDA. When different procedures are chosen, a person may, but is not required to, discuss the matter in advance with FDA to avoid the expenditure of money and effort on activities that may later be determined to be unacceptable.

FDA announced the availability of the draft guideline on April 7, 1988 (53 FR 11561), and it was discussed at the May 4 and 5, 1988, open meeting of the Device Good Manufacturing Practices Advisory Committee (the committee). Based on the recommendations received from the committee, the comment period, which was to close June 6, 1988, was extended to July 15, 1988.

Written comments were received from 2 industry trade associations, 14 individual manufacturers, and 1 law firm representing a manufacturer. FDA representatives met with two trade associations to discuss changes to the document. The draft guideline was also circulated within FDA for comment. Changes incorporated in the February 1990, second draft now being made available reflect comments received as a result of recommendations of the committee, the written comments, meetings with industry, and comments within FDA.

Interested persons may, on or before July 18, 1990, submit to the Dockets Management Branch (address above)

written comments regarding this draft guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Dated: April 12, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-9076 Filed 4-18-90; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meetings of the National Advisory Allergy and Infectious Diseases Council and Subcommittees

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 21-22, 1990, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on May 21 from approximately 8:30 a.m. to 8:45 a.m. for opening remarks of the Institute Director and from 10:15 a.m. to recess for meetings of the Council subcommittees. On May 22 the meeting will be open to the public from approximately 8:30 a.m. until 12 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program will include a discussion of special grant policy issues; an update on the Council Biennial Report; and a report from each of the Council subcommittees.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:45 a.m. until approximately 10:15 a.m. on May 21, in conference rooms 6, 7 and 8 respectively. The meeting of the full Council will be closed from approximately 12 p.m. until adjournment on May 22 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential

trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301-496-7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855 Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health).

Dated: April 10, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-9120 Filed 4-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of the Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Epidemiology and Technology Transfer Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, July 11-13, 1990, in Conference Room 9, Building 31C, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on July 11 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on July 11, from 8:30 a.m. until recess on July 12, and from 8:30 a.m. until adjournment on July 13. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property

such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Responses, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Dianne E. Tingley, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301-496-0818), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: April 10, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-9121 Filed 4-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on May 21, 22 and 23, 1990. The meeting will be held in the 11th floor solarium, Building 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on May 21 from 9 a.m. to 12 p.m. and from 1:15 p.m. to 1:45 p.m. On May 22 the meeting will be open from 8 a.m. until 9:30 a.m. During the open sessions, the permanent staff of the Laboratory of Clinical Investigation and the Microbiology Service, Clinical Center will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on May 21 from 8:30 a.m. until 9 a.m., from 12 p.m. until 1:15 p.m., and from 1:45 p.m. until recess, on May 22 from 9:30 a.m. until recess and on May 23 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of

individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John I. Gallin, Executive Secretary, Board of Scientific Counselors, NIAID, National Institutes of Health, Building 10, Room 11C103, telephone (301-496-3006), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health.)

Dated: April 10, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-9122 Filed 8-18-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research (NIDR), on June 4-5, 1990, in the H. Trendley Dean Conference Room, Building 30, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9 a.m. to recess on June 4. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 9 a.m. to adjournment on June 5 for the review, discussion, and evaluation of individual programs and projects conducted by the NIDR, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Abner Notkins, Director of Intramural Research, NIDR, NIH, Building 30, Room 132, Bethesda, Maryland 20892 (telephone 301-496-

1483) will provide a summary of the meeting, roster of committee members and substantive program information.

Dated: April 10, 1990.

Betty J. Beveridge,

Committee Management Officer NIH.

[FR Doc. 90-9123 Filed 4-16-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Advisory Committee on Food and Drug Administration; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Advisory Committee on the Food and Drug Administration (FDA) will hold its first meeting on May 17, 1990 from 9 a.m. to 5 p.m. and May 18, 1990 from 9 a.m. to 4 p.m. The meeting is open to the public and will be held in the Rav East and Center rooms at the Hyatt Arlington at Washington's Key Bridge, 1325 Wilson Boulevard, Arlington, Virginia 22209.

The Advisory Committee on the FDA was established to examine the mission, responsibilities, and structure of the FDA according to its legislative mandate and make recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on how the Agency can be strengthened to fulfill its mission.

The first meeting of the committee will address the mission of the FDA, the current activities of the Agency, and administrative matters related to the Committee's process.

Dated: April 13, 1990.

Eric M. Katz,

Executive Secretary, Advisory Committee on the FDA.

[FR Doc. 90-9043 Filed 4-18-90; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 90-3060]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 12, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Schedule of Pooled Mortgages—Single Family Loans, Graduated Payment Loans, and Growing Equity Loans.

Office: Government National Mortgage Association (GNMA).

Description of the Need for the Information and its Proposed Use: The form provides a means of identifying specific single family mortgages in the

pool and assures that all required mortgage and related documents have been delivered to a document custodian. This information is necessary to assure

GNMA's interest in the pooled mortgages in the event of a default.
 Form Number: HUD-11706.
 Respondents: Businesses Or Other For-Profit.

Frequency of Submission: On Occasion.
 Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
HUD-11706.....	1,250		17.65		0.25		5,517

Total Estimated Burden Hours: 5,517.
 Status: Reinstatement.
 Contact: Charles Clark, HUD, (202) 755-5535. John Allison, OMB, (202) 395-6880.
 Dated: April 12, 1990.
Notice of Submission of Proposed Information Collection to OMB
 Proposal: Electricity, Gas, Water, and Sewage Disposal Data.

Office: Public and Indian Housing.
 Description of the Need for the Information and Its Proposed Use: The forms will be used by PHAs for compiling, by housing project and utility service, utility consumptions and costs for a calendar year. HUD will use the information in reviewing PHAs utility operation and in determining if PHAs are controlling utility costs.

Form Number: HUD-51466A, 51466B, and 51466C.
 Respondents: State or Local Governments and Non-Profit Institutions.
 Frequency of Submission: On Occasion.
 Reporting Burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Annual Reporting.....	3,000		8		00.5		012,000

Total Estimated Burden Hours: 12,000.
 Status: Reinstatement.
 Contact: Charles Ashmore, HUD, (202) 755-6640. John Allison, OMB, (202) 395-6880.
 Dated: April 12, 1990.
 [FR Doc. 90-9037 Filed 4-18-90; 8:45 am]
 BILLING CODE 4210-01-M

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

(9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 11, 1990.
 John T. Murphy,
 Director, Information Policy and Management Division.

Proposal: State Agency Amendments—Prohibited Leases Terms, FR-1997.

Office: Housing.
 Description of the Need for the Information and its Proposed Use: The State Agency Amendments—Prohibited Leases Terms requires that state agencies prohibit the inclusion of unreasonable terms and conditions in their leases. It also requires the removal of prohibited clauses from future leases or occupancy agreements as well as deletion from existing documents.

Form Number: None.
 Respondents: Individuals Or Households, State Or Local Governments, and Businesses Or Other For-Profit.

Frequency of Submission: One Time Only.
 Reporting Burden:

[Docket No. N-90-3061]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
 ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

	Number of respondents	X	Frequency of Response	X	House per response	=	Burden hours
Information Collection.....	94,000		1		0.1		9,400

*Total Estimated Burden Hours: 9,400.
Status: New.*

Contact: Michelle McLaurin, HUD, (202) 426-3944. John Allison, OMB, (202) 395-6880.

Dated: April 11, 1990.

[FR Doc. 90-9038 Filed 4-18-90; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT080-90-4830-12]

Utah Vernal District; Vernal District Council: Tour and Business Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Vernal District Advisory Council will meet jointly with the Uintah Basin Riparian Coalition for a riparian workshop and riparian area tours on Thursday, June 21, and Friday, June 22. The Uintah Basin Riparian Coalition is comprised of local ranchers and farmers, water users, environmental organizations, and federal, state, and county agencies. The joint activities will commence at 8 a.m. on Thursday, the 21st at the Vernal Junior High School, 161 North 1000 West, Vernal, Utah, with a workshop which will last until noon. After a sack lunch, the group will depart for Hickerson Park, an Ashley National Forest Riparian Demonstration Area. A cookout at Summit Springs on the Flaming Gorge Ranger District is planned for 5:30 p.m.

Activities on Friday, June 22, will commence at 8 a.m. where participants will gather in front of the BLM Vernal District Office at 170 South 500 East, Vernal, Utah. From there, participants will tour the Cliff Creek and Cub Creek Riparian Areas. After lunch, the group will visit Spring Creek (a deeply incised arroyo-type drainage) to brainstorm what measures could be undertaken to significantly improve this riparian zone. The group is expected to return to Vernal by approximately 3:30 p.m. The workshop and tour are open to the public. Transportation will be provided by the Uintah Basin Riparian Coalition, but there will be a \$10.00 fee for meals.

At the end of the tour, the Vernal District Advisory Council will hold its business meeting in the District Conference Room. Agenda items for the Advisory Council Business Meeting will include the following:

- Riparian Management.
- Animal Damage Control.
- Vegetative Management.
- Implementation of the Decisions of Off-Road Vehicle Use.
- Book Cliffs Conservation Initiative.
- Ouray to Cisco Highway Environmental Impact Statement Scoping Issues.
- Items-at-Large from the Council or General Public.

The Advisory Council Business Meeting is open to the public. Any person desiring to address the Advisory Council concerning any District issues, including agenda items, may do so by contacting District Manager David E. Little prior to June 19, 1990.

In the event of extreme or inclement weather, the District Manager may opt to cancel part or all Council activities addressed in this notice and reschedule as appropriate.

For further information, phone R. Ray Tate, Advisory Council Coordinator, at (801) 789-1362.

Dated: April 13, 1990.

David E. Little,

Vernal District Manager.

[FR Doc. 90-9102 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-920-00-4111-15; WYW108473]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW108473 for lands in Hot Springs County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of \$5 per acre, or fraction thereof, per year and 16% percent, respectively.

The lessee has paid the required \$500 administrative fee and \$125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for

reinstatement of the lease as set out in sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW108473 effective November 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 90-9103 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-22-M

[NM-010-4212-13-GPO-0107; NM NM 71405]

Issuance of Exchange Conveyance Document and Order Providing for Opening of Public Land in Rio Arriba County; NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 9.77 acres of public land out of Federal ownership. This action will also open the 604.274 acres of reconveyed land to the operation of the public land laws.

FOR FURTHER INFORMATION CONTACT: Taos Resource Area Manager, 224 Montevideo Plaza Bldg., Taos, New Mexico 87571.

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to Bruce Donnell on September 29, 1989, for the following described land in Santa Fe County, New Mexico, pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

New Mexico Principal Meridian

T. 18 N., R. 9 E.,

Sec. 26, lot 5.

Containing 9.77 acres.

In exchange for the land described above, Bruce Donnell reconveyed to the United States the following described land located in Rio Arriba County, New Mexico:

New Mexico Principal Meridian

T. 30 N., R. 8 E.,

Sec. 35, all except SE¼SE¼ (metes and bounds description).

Containing 604.274 acres.

The purpose of the exchange was to acquire private land offering high value for wildlife habitat. The acquired land will automatically become part of the Pot Mountain-San Antonio Mountain Habitat Management Plan (HMP) and the Pot Mountain-San Antonio Special Management Area (SMA), as outlined in the Taos Resource Area Management Plan (October 1988), without further action by the Bureau of Land Management. The subject land shall be managed in accordance with all laws, rules, and regulations applicable to the HMP and SMA identified above.

The exchange was consistent with the Bureau's land use plans in both areas. The public interest was served through the completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were each appraised at \$100,000.

At 9 a.m. on May 10, 1990, the land reconveyed to the United States shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on May 10, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: April 10, 1990.

Monte G. Jordan,
Acting State Director.

[FR Doc. 90-9071 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-FB-M

[CA-010-00-4212-13, CA-25913]

Realty Actions; Sales, Leases, etc.; California

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The following described public land is being considered for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

SELECTED PUBLIC LAND

Sacramento County, California.

All that portion of section 7, Township 8 North, Range 7 East, Mount Diablo Base and Meridian described as follows:

Commencing at the Southeast corner of said Section 7; thence North 00°46'37" West 1773.22 feet along the East line of said section to the South boundary of the Rancho Rio de los Americanos; thence along said South boundary North 89°36'32" West 1213.85 feet to the point of beginning; thence from said point of beginning and leaving said South

boundary south 00°23'28" West 938.60 feet; thence North 46°44'05" West 447.37 feet; thence North 72°39'30" West 326.30 feet; thence North 62°10'23" West 317.39 feet; thence North 75°41'52" West 738.92 feet; thence North 21°05'20" West 145.36 feet; thence North 00°23'28" East 80.00 feet to a point in the said South boundary of the Rancho Rio de los Americanos; thence along said South boundary South 89°36'32" East 1692.15 feet the point of beginning, containing an area of 18.32 acres, more or less, including that portion presently being used as public road.

Subject to an easement and reservation to the County of Sacramento for a right-of-way for public road purposes over the North 80 feet of the parcel.

Subject to existing rights of way in favor of the public or third parties for highways, roads, railroads, telegraph, telephone and electrical transmission lines and canals, laterals, ditches, flumes, siphons and pipelines on, over and across said premises.

This parcel was declared surplus property by the Bureau of Reclamation and has been transferred to the Bureau of Land Management to enhance and improve our natural resource management program.

The subject parcel will be used by the Bureau of Land Management in its exchange program to acquire wetlands in the Central Valley, California consistent with the North American Waterfowl Management Plan, the Central Valley Habitat Joint Venture and BLM's Wildlife 2000 Program. Such a transfer through conservation groups like The Nature Conservancy, Ducks Unlimited, and Trust for Public Lands, would serve the public interest by protecting or creating additional wetlands, riparian areas, and other sensitive habitat.

SUPPLEMENTARY INFORMATION: The Federal lands will be transferred subject to a reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

Authorized rights-of-way and any other authorized land uses will be identified as prior existing rights.

All necessary clearances including clearances for archaeology, rare plants and animals, will be completed prior to any conveyance of title by the U.S.

Publication of this notice in the Federal Register segregates the public land described herein from all forms of appropriation under the public land laws, including the mineral leasing laws, for a period of two years from the date of publication of this notice in the Federal Register.

FOR ADDITIONAL INFORMATION: Contact Kay Miller, (916) 985-4474, or at the address listed below.

ADDRESSES: For a period of 45 days from publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

Dated: April 10, 1990.

D.K. Swickard,
Area Manager.

[FR Doc. 90-9070 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-84-M

[ID-030-00-4212-14; I-27218]

Amended Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice correction of sale of public land to city of Arco/Butte County.

SUMMARY: Correction of notice of realty action published in the January 22, 1990, Federal Register (Vol. 55, No. 14, Page 2157, Column 3).

The legal description published in the above Federal Register notice is corrected to read:

T. 3 N., R. 26 E., Boise Meridian,
Sec. 10, Lot 2.

Containing 1.48 acres.

All other information in the original notice remains unchanged.

Dated: April 11, 1990.

Lloyd H Ferguson,
District Manager.

[FR Doc. 90-9104 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Land Management [ID-942-00-4730-12]

Filing of Plats of Survey; Idaho

The plats of survey of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., April 11, 1990.

The plat representing the dependent resurvey of a portion of the Boise Base Line, the west boundary and portions of the subdivisional lines, and the subdivision of certain sections, T. 1 S., R. 21 E., Boise Meridian, Idaho, Group No. 700, was accepted April 6, 1990.

The plat representing the dependent resurvey of portions of the south, west, and north boundaries, and subdivisional

lines, and the subdivision of certain sections, T. 2 S., R. 21 E., Boise Meridian, Idaho, Group No. 701, was accepted April 6, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 11, 1990.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 90-9105 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-GG-M

[NM-940-00-4730-12]

Filing of Plats of Survey; New Mexico

April 12, 1990.

The plats of survey described below are on open file in the New Mexico State Office, Bureau of Land Management (BLM), Santa Fe, New Mexico, pending official filing. Effective at 10 a.m. on May 21, 1990, these plats will be officially filed.

A dependent resurvey of a portion of the South boundary of the Isleta Pueblo Grant, and the retracement of a portion of the South boundary, Township 8 North, Range 2 East, New Mexico Principal Meridian, New Mexico, for Group 804 NM. This survey was requested by the Area Manager, Albuquerque Area Office, Bureau of Indian Affairs (BIA), Albuquerque, New Mexico.

A dependent resurvey of portions of the East boundary of Tract 1 of the Guterrez and Sedillo Grant, the North boundary of the Peralta tract, and the East township boundary, and the survey of parcels A, B, and C, Township 7 North, Range 2 East, New Mexico Principal Meridian, for Group 804 NM. This survey was requested by the Area Manager, Albuquerque Area Office, BIA, Albuquerque, New Mexico.

The supplemental plat showing a subdivision of lots 3 and 4, section 23, Township 23 South, Range 2 East, New Mexico Principal Meridian, New Mexico. This plat was requested by the District Manager, Las Cruces District Office, Las Cruces, New Mexico.

The supplemental plat of a portion of the line between Ranges 2 and 3 East, through Township 7 North, New Mexico Principal Meridian, New Mexico, was prepared to amend distances along that line which were inadvertently misrepresented on the plat approved August 31, 1989, and is based upon the survey by H.R. Warner in 1881 (unplatted) and approved July 8, 1881,

and the plat approved August 31, 1989. This plat was requested by BLM records.

The dependent resurvey of a portion of the Seminole and Creek Nations' boundary in section 32, a portion of the South boundary and a portion of the subdivisional lines, the subdivision of section 32, the survey of parcel A in section 20, and the survey of parcels A, B, and C, in section 32, Township 8 North, Range 8 East, Group 54 OK. This survey was requested by the Area Manager, Muskogee Area Office, BIA, Muskogee, Oklahoma.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504-1449. Copies may be obtained from this office upon payment of \$2.50 per sheet.

James T. Meek,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 90-9106 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-FB-M

Bureau of Land Management

[OR-942-00-4730-12; GPO-198]

Filing of Plats of Survey; Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, May 21, 1990.

Willamette Meridian

Oregon

T. 12 S., R. 33 E., accepted 3/30/90 (Sheets 1 and 2)

If protests against a survey, as shown on any of the above plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plats will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plats may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official

filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: April 12, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-9107 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-00-4214-11; GPO-195; ORE-012008 et al.]

Proposed Continuation of Withdrawals; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that all or portions of eleven separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described lands and projects are involved.

Malheur National Forest

1. ORE-012008, Public Land Order No. 2974 dated March 18, 1963. Canyon Meadows Recreation Area, 400 acres located in Secs. 28 and 29, T. 15 S., R. 33 E., W.M., in Grant County, approximately 13 miles southeast of Canyon City.

Big Creek Campground, 20 acres located in Sec. 14, T. 16 S., R. 33½ E., W.M., in Grant County, approximately 22 miles southeast of Canyon City.

Murray Campground, 10 acres located in Sec. 3, T. 16 S., R. 33½ E., W.M., in

Grant County, approximately 20 miles southeast of Canyon City.

Lake Creek Guard Station, 20 acres located in Sec. 3, T. 16 S., R. 33½ E., W.M., in Grant County, approximately 20 miles southeast of Canyon City.

Strawberry Campground, 7 acres located in Secs. 30 and 31, T. 14 S., R. 34 E., W.M., Grant County, approximately 10 miles south of Prairie City.

Trout Farm Campground, 15 acres located in Sec. 6, T. 15 S., R. 35 E., W.M., Grant County, approximately 14 miles southeast of Prairie City.

North Fork Malheur Campground, 20 acres located in Sec. 2, T. 16 S., R. 35 E., W.M., Grant County, approximately 24 miles southeast of Prairie City.

Crane Creek Campground, 30 acres located in Sec. 23, T. 16 S., R. 35 E., W.M., Grant County, approximately 26 miles southeast of Prairie City.

Antelope Mountain Lookout, 10 acres located in Sec. 23, T. 17 S., R. 35 E., W.M., Grant County, approximately 34 miles southeast of Prairie City.

Sheep Creek Campground, 10 acres located in Sec. 27, T. 15 S., R. 35½ E., W.M., Grant County, approximately 21 miles southeast of Prairie City.

2. ORE-03587-B, Public Land Order No. 1144 dated May 4, 1955. Beech Creek Recreation Area, 10 acres located in Sec. 33, T. 11 S., R. 30 E., W.M., Grant County, approximately 4 miles southeast of the town of Beech Creek.

3. ORE-04881, Public Land Order No. 1349 dated October 19, 1956. Deer Creek Administrative Site, 20 acres located in Sec. 14, T. 16 S., R. 28 E., W.M., Grant County, approximately 10 miles west of Logdell.

4. OR-6992, Public Land Order No. 5361 dated July 24, 1973. Watershed Area, 257.84 acres located in Sec. 18, T. 14 S., R. 32 E., W.M., Grant County, approximately 3 miles south of Canyon City.

5. OR-19243, Secretarial Order dated January 7, 1908. Murderer's Creek Ranger Station, 20 acres located in Sec. 19, T. 15 S., R. 29 E., W.M., Grant County, approximately 8 miles northwest of Logdell.

6. OR-19322, Secretarial Order dated October 24, 1908. Crane Prairie Work Center, 20 acres located in Sec. 24, T. 16 S., R. 34 E., W.M., Grant County, approximately 28 miles southeast of Canyon City.

7. OR-21310, Secretarial Order dated November 13, 1908. Lake Creek Ranger Station, 20 acres located in Sec. 10, T. 16 S., R. 33½ E., W.M., Grant County, approximately 21 miles southeast of Canyon City.

8. OR-21954, Secretarial Order dated November 4, 1907. Bear Valley Ranger Station, 20 acres located in Sec. 12, T. 16

S., R. 29 E., W.M., Grant County, approximately 3 miles southwest of Logdell.

Umatilla National Forest

9. ORE-012974, Public Land Order No. 3271 dated November 20, 1963. Clear Creek and Granite Creek Anadromous Fish Spawning (Habitat Improvement Area), 75.15 acres located in Sec. 35, T. 8 S., R. 35 E., and Secs. 2, 10, 11, 14, and 15, T. 9 S., R. 35 E., W.M., Grant County, approximately 2 miles northwest of Granite.

Northfork John Day Campground, 10 acres located in Sec. 34, T. 7 S., R. 35½ E., W.M., Grant County, approximately 8 miles north of Granite.

10. ORE-016434, Public Land Order No. 3897 dated December 1, 1965. Orient Campground, 10 acres located in Sec. 10, T. 7 S., R. 33 E., W.M., Grant County, approximately 14 miles northwest of Granite.

11. ORE-017843, Public Land Order No. 4477 dated July 2, 1968. Clear Creek and Granite Creek Anadromous Fish Spawning (Habitat Improvement Area), 58.18 acres located in Secs. 28, 29, and 30, T. 8 S., R. 35 E., W.M., Grant County, approximately 6 miles northwest of Granite.

Fairview Campground, 20 acres located in Sec. 14, T. 7 S., R. 25 E., W.M., Wheeler County, approximately 12 miles northeast of Spray.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing

withdrawals will continue until such final determination is made.

Dated: April 12, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-9108 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-00-4214-11; GPO-196; WASH-01483-D, et al.]

Proposed Continuation of Withdrawals, Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposed that all or portions of nine separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described lands and projects are involved.

Okanogan National Forest

1. WASH-01483-D, Public Land Order No. 2434 dated July 13, 1961. Harts Pass Campgrounds, 40 acres located in Sec. 7, T. 37 N., R. 18 E., W.M., in Okanogan and Whatcom Counties, approximately 15 miles northwest of Mazama.

2. WASH-01220-C, Public Land Order No. 1710 dated August 6, 1958. Bonaparte Recreation Area, 232.85 acres located in Secs. 9 and 17, T. 38 N., R. 30 E., W.M., Okanogan County, approximately 16 miles east of Ellisford.

3. OR-2796(WASH), Public Land Order No. 4538 dated November 20, 1968. Beth-Beaver Lake Complex Campground and Recreation Area, 145.14 acres located in Secs. 23, 24, and 25, T. 39 N., R. 30 E., W.M., Okanogan County, approximately 9 miles north of Wauconda.

4. WASH-04896, Public Land Order No. 3380 dated April 8, 1964. Aeneas Hunter Springs Campground, 10 acres located in Sec. 12, T. 35 N., R. 29 E., W.M., Okanogan County, approximately 7 miles west of the town of Aeneas.

San Poil Campground, 10 acres located in Sec. 24, T. 35 N., R. 31 E., W.M., Okanogan County, approximately 2 miles southeast of Aeneas.

Buttermilk Butte Observation Site, 10 acres located in Sec. 2, T. 32 N., R. 20 E., W.M., Okanogan County, approximately 9 miles southwest of Twisp.

Early Winters Administrative Site, 75 acres located in Secs. 23 and 26, T. 36 N., R. 19 E., W.M., Okanogan County, approximately 5 miles west of Mazama.

Falls Creek Campground Addition, 7.3 acres located in Sec. 12, T. 36 N., R. 21 E., W.M., Okanogan County, approximately 11 miles north of Winthrop.

Andrews Trail Campground, 10 acres located in Sec. 20, T. 38 N., R. 22 E., W.M., Okanogan County, approximately 22 miles north of Winthrop.

5. WASH-05829, North Creek Campground, 30 acres located in Sec. 11, T. 34 N., R. 18 E., W.M., Okanogan County, approximately 18 miles west of Winthrop.

Meadows Campground, 10 acres located in Sec. 13, T. 37 N., R. 17 E., W.M., Okanogan and Whatcom Counties, approximately 16 miles northwest of Mazama.

6. OR-22357(WASH), Secretarial Order dated November 22, 1907. Culbertson Ranger Station Administration Site, 50 acres located in Secs. 10 and 14, T. 33 N., R. 20 E., W.M., Okanogan County, approximately 10 miles west of Twisp.

7. OR-22375(WASH), Secretarial Order dated October 26, 1906. Eighthmile Creek Administrative Site, 120 acres located in Secs. 23 and 27, T. 36 N., R. 21 E., W.M., Okanogan County, approximately 9 miles north of Winthrop.

Umatilla National Forest

8. WASH-04938, Public Land Order No. 3380 dated April 8, 1964. Godman Guard Station, 20 acres located in Sec. 10, T. 7 N., R. 40 E., W.M., Columbia County, approximately 18 miles east of Dixie.

Clearwater Lookout, 10 acres located in Sec. 5, T. 8 N., R. 42 E., W.M., Garfield County, approximately 9 miles southwest of Peola.

9. OR-22315(WASH), Secretarial Order dated January 21, 1908. Tucannon Guard Station, 20 acres located in Sec. 21, T. 9 N., R. 41 E., W.M., Columbia County, approximately 11 miles southwest of Peola.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests

no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the *Federal Register*. The existing withdrawals will continue until such final determination is made.

Dated: April 12, 1990.

Robert E. Mollohan,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 90-9109 Filed 4-18-90; 8:45 am]

BILLING CODE 4310-33-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 33]

Central States Motor Freight Bureau, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and opportunity for comment.

SUMMARY: Central States Motor Freight Bureau, Inc. (Central States) has filed a minor amendment to its ratemaking agreement approved under 49 U.S.C. 10706(b). The Commission has issued a decision proposing to approve the amendment. The amendment would add a new section 6 to article XII ("Publication of Tariffs") of its bylaws to permit Central States to enter into joint agency agreements with similar organizations or with motor common carriers of property, including joint tariff publishing arrangements with other publishing agents or common carriers of property.

DATES: Comments from interested persons are due May 21, 1990. Replies are due 15 days thereafter. If no timely

filed adverse comments are received, the sought relief will automatically become effective at the close of the comment period. If opposition comments are filed, the comments and any reply will be considered, and the Commission will issue a final decision.

ADDRESSES: An original and 10 copies, if possible, of comments referring to section 5a Application No. 33 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any comments filed with the Commission must also be served on applicant's representative.

FOR FURTHER INFORMATION CONTACT:

Jane Udovic, (202) 275-7982

or

Richard Felder, (202) 275-7271

[TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: Copies of Central States' approved agreement and the amendment are available for public inspection and copying at the Public Docket Room (Room 1227) of the Commission in Washington, DC, and from Central States' representative: Ronald C. Nesmith, 8120 South Madison Street, Burr Ridge, IL 60521.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 533.

Decided: April 12, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-9091 Filed 4-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-No. 1]

Intrastate Rail Rate Authority; Alabama

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional certification.

SUMMARY: The State of Alabama has filed its application for recertification with the Commission. Pursuant to *State Intrastate Rail Rate Authority*, 5 I.C.C. 2d 680, 685 (1989), the Commission

provisionally recertifies the State of Alabama to regulate intrastate railroad rates, practices, and procedures. After completing its review, the Commission will issue a decision approving recertification or taking other appropriate action.

DATES: This provisional recertification will be effective on April 19, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

Decided: April 13, 1990.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-9092 Filed 4-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-290 (Sub-No. 84X)]

**Norfolk and Western Railway Co.;
Discontinuance Exemption in Fayette
County, WV**

Applicant has filed a notice of exemption under 49 CFR part 1152, subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 3.2-mile line of railroad between milepost BF-0.0, at Beards Fork Junction, and milepost BF-3.2, at Beards Fork, Fayette County, WV.

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 discontinuance 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 May 19, 1990 (unless stayed pending reconsideration). Petitions to stay that

do not involve environmental issues¹ and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)² must be filed by April 30, 1990. Petitions for reconsideration must be filed by May 9, 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: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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 discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 24, 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 conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 12, 1990.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-9093 Filed 4-18-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-290 (Sub-No. 90X)]

**Norfolk and Western Railway Co.
Abandonment Exemption in Raleigh
County, WV**

Applicant has filed a notice of exemption under 49 CFR 1152 subpart

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).

F—*Exempt Abandonments* to abandon its 4.6-mile line of railroad between milepost ST-4.5, at Mead, and milepost ST-9.1, at Lillybrook, Raleigh County, WV.

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 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 May 19, 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 April 30, 1990.³ Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by May 9, 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: Richard W. Kienle, Norfolk Southern Corporation,

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.

Three Commercial Place, Norfolk, VA 23510.

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 April 24, 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: April 12, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 90-9094 Filed 4-18-90; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-290 (Sub-No. 94X)]

**Norfolk and Western Railway Co.;
Discontinuance Exemption in Mingo
County, WV**

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 2.0-mile line of railroad between milepost FG-0.5, at Williamson, and milepost FG-2.5, at Cinderella, Mingo County, WV.

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 discontinuance 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 May 19, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues¹ and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)² must be filed by April 30, 1990. Petitions for reconsideration must be filed by May 9, 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: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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 discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 24, 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 conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 12, 1990.

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).

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 90-9095 Filed 4-18-90; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-290 (Sub-No. 96X)]

**Norfolk and Western Railway Co.;
Abandonment Exemption in Wyoming
County, WV**

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 1.6-mile line of railroad between milepost AC-0.0, at Allen Junction, and milepost AC-1.6, at Lane, Wyoming County, WV.

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 May 19, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹

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.

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 April 30, 1990.³ Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by May 9, 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: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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 April 24, 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: April 12, 1990.

By the Commission, Jane F. Mackall, Director, Office Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 90-9096 Filed 4-18-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Transwestern Pipeline Co.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint was filed on April 12, 1990, in *United States v. Transwestern Pipeline Company*, Civil Action No. CIV 90-0355M, in the United States District

Court for the District of New Mexico, and, simultaneously, a proposed consent decree between the United States and the Transwestern Pipeline Company ("Transwestern") was lodged with the court. This consent decree settles the claims alleged in the complaint pursuant to the Toxic Substances Control Act, 5 U.S.C. 2601 *et seq.* ("TSCA"), for injunctive relief for violations of TSCA and the Environmental Protection Agency's ("EPA") regulations at 40 CFR part 761 in connection with the storage and disposal of polychlorinated biphenyls ("PCBs") at various sites along Transwestern's natural gas pipeline in the State of New Mexico.

Under the terms of the proposed consent decree, Transwestern has agreed to fund and implement cleanup of PCBs at its pipeline compressor stations at Corona, Mountain-air, Laguna and Thoreau, New Mexico; at its Belen pig receiver station; and at associated pipeline facilities. In addition, Transwestern has agreed to pay a civil penalty of \$375,000.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530. All comments should refer to *United States v. Transwestern Pipeline Company*, D.J. Ref. 90-5-1-1-3213.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Pamela Travis, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-2129.

United States Attorney's Office

Assistant United States Attorney, U.S. Courthouse, Room 12020, 500 Gold Avenue SW., Albuquerque, New Mexico 87103, (505) 766-3341.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section,

Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs (\$0.10/page) in the amount of \$17.20 payable to Treasurer of the United States.

George W. Van Cleve,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-9072 Filed 4-18-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States v. Baker Hughes Inc., Hughes Tool Co., Norton Co., and Eastman Christensen Co.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Baker Hughes Incorporated, Hughes Tool Company, Norton Company, and Eastman Christensen Company*, Civil No. 90-0825.

The Complaint in this case alleges that the merger of Baker Hughes Incorporated ("BHI") and Eastman Christensen Company ("EC") may substantially lessen competition in the United States in the manufacture for sale of three types of diamond drill bits in violation of section 7 of the Clayton Act.

Diamond drill bits are used in drilling for oil and gas. The bits are attached to the end of a drill string, consisting of long sections of pipe, and rotated at high speeds to cut through rock and other formations during drilling operations. The three types of diamond drill bits are (1) natural diamond bits; (2) synthetic diamond bits called polycrystalline diamond compact ("PDC") bits; and (3) thermally stable synthetic polycrystalline diamond ("TSP") bits. The three types of bits are used in different drilling applications, and are not generally interchangeable. In 1989, total sales of the three types of diamond drill bits in the United States were over \$30 million, with BHI accounting for about 15% of domestic sales and EC accounting for about 25%.

The proposed Final Judgment requires BHI to divest its diamond bit business, including manufacturing facilities in Houston, Texas, Aberdeen, Scotland, and Escobar, Argentina, by August 6, 1990. If BHI does not sell its diamond drill bit business by then, a trustee will be appointed to conduct the divestiture.

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.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Mark C. Schechter, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, Room 9403, Judiciary Center Building, 555 4th Street NW., Washington, DC 20001 (202/724-6349), within the statutory 60-day comment period.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[Civil Action No. 90-0825, Judge Royce C. Lamberth.]

Filed: April 10, 1990.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the District of Columbia;

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court;

3. The parties shall abide by and comply with the provisions of the Final Judgment pending its entry, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions thereof as though the same were in full force and effect as an order of the Court;

4. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: April 10, 1990

For Plaintiff United States of America:

James F. Rill

Assistant Attorney General

Judy Whalley

John W. Clark

Mark C. Schechter

Roger W. Fones

Attorneys, U.S. Department of Justice, Antitrust Division.

Donald A. Kaplan

Susan L. Edelheit

Reginald K. Tom

Attorneys, U.S. Department of Justice, Antitrust Division, Judiciary Center Building, Room 9622, 555 Fourth Street, NW., Washington, DC, 20001, (202) 724-6464.

For Defendants Baker Hughes Incorporated and Hughes Tool Company:

Arnold & Porter

By:

A Member of The Firm

1200 New Hampshire Avenue NW., Washington, DC 20036, (202) 872-6700.

For Defendants Norton Company and Eastman Christensen Company:

Squire, Sanders & Dempsey

By:

A Member of The Firm

1201 Pennsylvania Avenue NW., Washington, DC 20004, (202) 626-6600.

Stipulation Approved for Filing

Done this 10th day of April, 1990.

/s/ **Judge Royce C. Lamberth**

United States District Judge

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16 (b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of Baker Hughes Incorporated, Hughes Tool Company, Norton Company and Eastman Christensen Company in this civil antitrust proceeding.

I—Nature and Purpose of the Proceeding

On April 10, 1990, United States filed a Complaint alleging that the proposed merger of Baker Hughes Incorporated (hereinafter "BHI") and Eastman Christensen Company (hereinafter "EC") would violate section 7 of the Clayton Act (15 U.S.C. 18). The

Complaint alleges that the effect of the merger may be substantially to lessen competition in the manufacture for sale in the United States of three types of diamond drill bits (hereinafter "diamond bits")—polycrystalline diamond compact (hereinafter "PDC") bits, natural diamond bits and thermally stable polycrystalline (hereinafter "TSP") bits—which both BHI, through its wholly owned subsidiary Hughes Tool Company (hereinafter "HTC"), and EC manufacture and sell. These three types of diamond bits are used by energy exploration companies to drill oil and gas wells. The Complaint seeks, among other relief, a permanent injunction preventing defendants from, in any manner, combining their PDC, natural diamond, and TSP bit businesses.

On April 10, 1990, the United States and defendants filed a stipulation by which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the merger. Under the proposed Final Judgment, as explained more fully below, BHI would be required to sell, by August 6, 1990, its diamond bit business. If it should fail to do so, a trustee appointed by the Court would be empowered to sell this business.

The United States, BHI, HTC, EC, and the Norton Company (hereinafter "Norton") have agreed that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, and enforce the Final Judgment, and to punish violations of the Final Judgment.

II—Events Giving Rise to the Alleged Violation

On December 19, 1989, BHI, Norton, and Norton's wholly-owned subsidiaries ECC Texas Holdings I, Inc. and ECC Texas Holdings II, Inc. entered into a purchase agreement under which Norton would cause full ownership of the business of EC to pass to BHI. This acquisition would, if unchallenged, effectively merge all of the businesses of BHI and EC, including their PDC, natural diamond and TSP bit businesses. The purchase price to be paid by BHI to Norton for the business of EC is approximately \$550 million.

BHI and EC are both large, diversified oil field services companies that provide a wide variety of the tools and services necessary for the exploration and production of oil and gas reserves. BHI reported total 1989 sales of about \$2.3 billion, and EC reported total 1989 sales of about \$211 million. BHI, through its

subsidiary HTC, produces PDC, natural diamond and TSP bits at manufacturing facilities located in Houston, Texas, Aberdeen, Scotland, and Escobar, Argentina.¹ BHI's total 1989 worldwide sales of PDC bits, natural diamond bits and TSP bits were, respectively, about \$17 million, \$700,000 and \$300,000. EC produces its PDC, natural diamond and TSP bits at manufacturing facilities located in Salt Lake City, Utah and Celle, West Germany. EC's 1989 worldwide sales of PDC bits, natural diamond and TSP bits totaled, respectively, about \$19 million, \$2.7 million and \$11.6 million.

The Complaint alleges that the manufacture for sale of PDC bits, natural diamond bits and TSP bits are each relevant product markets for antitrust purposes. The primary use of drill bits is to cut through rock and other formations during drilling operations. To accomplish such penetration, bits are attached at the end of a drill string, consisting of long sections of pipe, and are rotated at high speeds. The primary technological distinction between the three types of diamond bits is the nature of the cutting elements, or cutters, that are embedded in the bottom and sides of the bits.² Due to the difference in cutting elements and other design variations, each type of diamond bit achieves maximum drilling efficiency in different geological applications. PDC bits are most effective in drilling soft to medium hard formations, natural diamond bits are most effective in deep, hard formations and TSP bits are most effective in drilling formations that require heightened abrasion resistance and higher levels of heat generated during the drilling process. Because customers tend to select particular types of bits to drill particular types of geological formations, they generally do not view the three categories of diamond bits identified in the Complaint as substitute for one another, and would not be likely to switch from one to another in the event of a small nontransitory price increase. Similarly, a small nontransitory increase in the price of any of the three types of diamond bits

¹ BHI and EC both typically use the same facilities, equipment and personnel to manufacture and sell all three types of diamond bit products. BHI, through HTC, is also a significant producer and seller of tricone drill bits, a product which EC does not manufacture and sell. In contrast to diamond bits, which have no moving parts, tricone bits contain three steel cones that rotate while the bit is drilling.

² PDC bits contain cutters made of synthetic diamond material called polycrystalline diamond compact, natural diamond bits contain cutters made of natural diamond and TSP bits contain cutters made of synthetic polycrystalline diamond that is thermally stable.

is not likely to cause a significant number of customers to switch to tricone bits.³ Firms that produce and sell each type of diamond bits in the United States tend to compete with each other for sales throughout the country. As alleged in the Complaint, the United States is a relevant geographic market, within the meaning of section 7 of the Clayton Act, for all three diamond bits product markets.

The Complaint alleges that the manufacture for sale in the United States of PDC, natural diamond and TSP bits is highly concentrated. Based on 1989 sales data, EC was the third largest firm in the PDC bit market, accounting for about 19 percent of sales, while BHI, the fourth largest firm, also accounted for about 19 percent. The merger of BHI and EC would result in a competitor that is the dominant firm in the PDC bit market, with about 38 percent of sales, and would increase the Herfindahl-Hirschman Index by about 720 to 2,580. With respect to the natural diamond bit market, EC was, in 1989, the second largest firm with about 28 percent of sales, and BHI was the fifth largest firm, with about 7 percent. The merger of BHI and EC would result in a competitor that is the dominant firm in the natural diamond bit market, with about 35 percent of sales, and would increase the Herfindahl-Hirschman Index by about 400 to 2,750. Based on 1989 sales, EC was the largest firm in the TSP bit market, accounting for about 60 percent of sales, and BHI was the fourth largest firm, accounting for about 6 percent. The merger of BHI and EC would result in a competitor that is the dominant firm in the TSP bit market, with about 67 percent of sales, and would increase the Herfindahl-Hirschman Index by about 770 to 4,950.

Entry into the United States markets for all three types of diamond bits is difficult, expensive and time consuming. To enter any of the three diamond bit markets and gain a significant market share, among other things, a firm must establish a reputation for the efficiency, durability and reliability of its product under actual drilling conditions in a wide variety of different geographic and geological conditions. Because the performance of a bit is critical to assuring the lowest possible drilling costs, and the risk of financial loss due to bit failure is substantial, customers

³ Diamond bits typically cost between three and eight times as much as tricone bits, but last longer and usually drill faster. Where daily drilling costs are high and the geological conditions are suitable, customers prefer to use diamond bits over tricone bits in order to reduce drilling time and, thereby, lower overall costs.

are generally very reluctant to purchase bits from a new supplier that lacks a proven performance record. A new supplier, therefore, would face difficulty obtaining the sales and runs of its bits that are necessary to establish such a recognized performance record. In addition, to obtain significant market share, a new firm must establish and maintain a substantial research and development capability, an expert technical service capability, and a sales and service force deployed at locations convenient to drilling sites.

III—Explanation of the Proposed Final Judgment

The United States brought this action because the effect of the proposed merger of BHI and EC may be substantially to lessen competition, in violation of section 7 of the Clayton Act, in the United States markets for the manufacture for sale of PDC, natural diamond and TSP bits. The risk to competition posed by this transaction, however, substantially would be eliminated were BHI's diamond bit business to be sold to a purchaser that would operate the business as an active, independent and financially viable United States competitor in each of the three relevant diamond bit markets. To this end, the provisions of the proposed Final Judgment are designed to accomplish sale of BHI's bit business to such a purchaser and prevent the anticompetitive effects of the proposed acquisition.

Section IV of the proposed Final Judgment requires defendants, by August 6, 1990, to divest BHI's diamond bit business to a purchaser that has the intent and capability to compete promptly and effectively in the manufacture for sale of PDC, natural diamond and TSP bits in the United States. BHI's diamond bit business, as defined in the proposed Final Judgment, consists of all assets of BHI, in particular those of HTC, necessary or predominately used to research, develop, test, manufacture, service, finance or market, domestically and internationally, BHI's diamond bit products. The assets to be divested include all of BHI's existing diamond bit patents, technology, inventories, supplies and equipment, as well as its manufacturing plants in Houston, Texas and Aberdeen, Scotland, and all manufacturing equipment from its plant in Escobar, Argentina, which is primarily a tricone bit production facility. The business divested will also include a research and development center containing the equipment needed to design, test and introduce new

diamond bits into the marketplace, and a copy of all data recording diamond bit performance in the possession of either BHI or EC at the date of divestiture. Excluded from the assets to be invested is the right to use the tradename of "Hughes Tool Company", which HTC will continue to use to market its tricone bits.

The proposed Final Judgment also contains provisions designed to ensure that the purchaser of the divested assets will have the opportunity to hire a work force sufficient to maintain BHI's diamond bit business as an effective competitor in the United States. Under Section X of the proposed Final Judgment, defendants are required to encourage and facilitate employment by the purchaser of all BHI employees whose current duties primarily relate to its diamond bit business, and will be prohibited from employing these individuals for one year after the divestiture. In addition, defendants shall assist the purchaser in hiring such other HTC sales, marketing and research and development employees that it needs by providing information and consultation regarding the employees' relative job duties and performance.

Under the proposed Final Judgment, defendants must take all reasonable steps necessary to accomplish quickly the divestiture of BHI's diamond bit business, and shall cooperate with bona fide prospective purchasers by supplying all information relevant to the proposed sale. Should BHI fail to complete its divestiture by August 6, 1990, the Court will appoint, pursuant to Section V, a trustee to accomplish the divestiture. The United States will have the discretion to delay the appointment of the trustee for up to an additional three months should it appear that the defendants are engaged in negotiations likely to result in the required divestiture.

Following the trustee's appointment, only the trustee will have the right to sell BHI's diamond bit business, and defendants will be required to pay for all of the trustee's sale-related expenses. When the trustee's appointment becomes effective, BHI's diamond bit business will include a five year exclusive license to use the tradename of "Hughes Diamond Bit Products." The trustee shall also have the authority to select, in addition to HTC's diamond bit employees, thirty-nine sales and marketing and three research and development employees of HTC, who

the defendants must encourage to accept employment with the purchaser of the divested assets and will be prohibited from employing for one year after the divestiture.

Section VI of the proposed Final Judgment would assure the United States an opportunity to review any proposed sale, whether by the defendants or by the trustee, before it occurs. Under this provision, the United States is entitled to receive complete information regarding any proposed sale or any prospective purchasers prior to consummation. Upon objection by the United States to a sale of BHI's diamond bit business by the defendants, a proposed divestiture may not be completed. Should the United States object to a sale of the divested assets by the trustee, such sale shall not be consummated unless approved by the Court.

Under section IX of the proposed Final Judgment, defendants must take certain steps to ensure that, until the required divestiture has been completed, both HTC and BHI's diamond bit business will be held separate and apart from EC. Until such divestiture, the defendants must also preserve and maintain BHI's diamond bit business as a saleable and economically viable ongoing business.

Pursuant to section V, should the trustee not accomplish the divestiture within six months of appointment, the trustee and the parties will make recommendations to the Court, which shall enter such orders as it deems appropriate to carry out the purpose of the trust, which may include extending the trust or the term of the trustee's appointment. Section XIII provides that the proposed Final Judgment will expire on the fifth anniversary of its entry by the Court.

IV—Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the

proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V—Procedure Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to:

Mark C. Schechter, Chief,
Transportation, Energy & Agriculture
Section, Antitrust Division, Judiciary
Center Building, 555 4th Street NW.,
Room 9403, Washington, DC 20001.

VI—Alternatives to the Proposed Final Judgment

The proposed Final Judgment requires that BHI's diamond bit business be sold to a purchaser that would use the business promptly to become a viable competitor in each of the diamond bit markets alleged in the Complaint. Thus, compliance with the proposed Final Judgment and the completion of the sale required by the judgment would resolve the competitive concerns raised by the proposed transaction, and assure that BHI's diamond bit business would remain an independent and active competitor to EC's diamond bit business in the United States.

One alternative to the proposed Final Judgment considered by the United States related to the assets that the trustee is authorized to sell in the event that defendants have not accomplished

divestiture by August 6, 1990. The United States considered giving the trustee the authority to sell either BHI's diamond bit business or EC's diamond bit business in lieu of the current provisions, which allow the trustee to sell an additional asset—exclusive use of Hughes' diamond bit tradename for five years—and include the additional right to employ 42 sales, marketing and research and development personnel of HTC. The United States concluded that, rather than giving the trustee authority to sell an alternate business in an attempt to assure the creation of a viable independent competitor, the current provisions would provide sufficient assurance should BHI fail to effect the required divestiture, and should a trustee thus be empowered to make the sale.

Litigation is, of course, always an alternative to a consent decree in a section 7 case. The United States rejected this alternative because the sale required under the proposed Final Judgment should prevent the merger of BHI and EC from having a significant anticompetitive effect in any of the three relevant diamond bit markets alleged, and will provide substantially all the relief requested in the Complaint. The United States believes that in the hands of an appropriate purchaser, BHI's diamond bit business will likely maintain its present market share in the United States.

The United States is satisfied that the proposed Final Judgment fully resolves the anticompetitive effects of the proposed merger alleged in the Complaint. Although the proposed Final Judgment may not be entered until the criteria established by the APPA (15 U.S.C. 15 (b)-(h)) have been satisfied, the public will benefit immediately from the safeguards in the proposed Final Judgment because the defendants have stipulated to comply with the terms of the Judgment pending its entry by the Court.

VII—Determinative Materials and Documents

There are no materials or documents that the United States considered to be determinative in formulating this proposed Final Judgment. Accordingly, none are being filed with this Competitive Impact Statement.

Dated: April 10, 1990.
Respectfully submitted,

Donald A. Kaplan

Susan L. Edelheit

Reginald K. Tom

Attorneys, U.S. Department of Justice,
Antitrust Division, Judiciary Center Building,
Room 9822, 555 Fourth Street, NW.,
Washington, DC 20001 (202) 724-6464.

Final Judgment

Whereas, plaintiff, United States of America, having filed its Complaint herein on April 10, 1990, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestiture is the essence of this agreement, and defendants have represented to plaintiff that the divestiture required below can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I—Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II—Definitions

As used in this Final Judgment:

A. "BHI" means defendant Baker Hughes Incorporated; each division, subsidiary, or affiliate thereof, and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

B. "EC" means defendant Eastman Christensen Company; each division, subsidiary, or affiliate thereof, and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

C. "HTC" means Hughes Tool Company, which is a wholly-owned subsidiary of BHI; each division, subsidiary, or affiliate thereof, and each

officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them.

D. "BHI's Diamond Bit Business" means all assets owned or controlled by BHI, including all assets owned or controlled by HTC, that are either necessary or predominately used to research, develop, test, manufacture, service, finance or market, domestically and internationally, its diamond bit products. Whether an asset not designated by defendants as within BHI's diamond bit business is necessary or predominately used by BHI to research, develop, test, manufacture, service, finance or market, domestically and internationally, its diamond bit products shall be determined by plaintiff in its sole discretion. BHI's diamond bit business includes all real property, material, equipment, supplies, customer lists, contracts and accounts, patents, copyrights, copyright registrations and applications, trademarks, trademark registrations and applications, trade names or commercial names, computer software programs, and all other tangible and intangible assets, rights, and other benefits presently owned, licensed, possessed, or used by BHI in the research, development, testing, manufacture, servicing, financing, or marketing of any diamond bit products that BHI has in the past manufactured or sold, currently manufactures or sells, or is considering manufacturing or selling. BHI's diamond bit business shall include a Diamond Technology Center containing equipment necessary to research, develop and test BHI's diamond bit products. This equipment includes, but is not limited to each of the following items or the functional equivalent thereof: Boring Mill; EDM; EWAG; Scanning Electron Microscope; X-Ray Diffraction; X-Ray Fluorescence; Light Microscope; DEC Station 3100; Stereo Microscope; Tukon MicroHardness; Surface Grinder; Engineering PC. BHI's diamond bit business shall also include access without charge for two years following the date of divestiture to HTC's Bottom Hole Simulator and High Pressure Rig for up to 30 percent of their total available time. Also included in BHI's diamond bit business is a copy of all data in the possession of BHI or EC at any time between April 6, 1990 and the date of divestiture, such as bit records or off-set well information, which record the performance of any diamond bits manufactured or sold by BHI, EC, or any other producer of diamond bits. BHI's diamond bit business shall also include its diamond bit manufacturing facilities, and all equipment, supplies, data,

documents and inventories contained within, used to research, develop, test or manufacture diamond bit products. BHI's diamond bit business shall not include any rights, including trademarks and service marks, associated with the use of the tradenames or commercial names of "Baker Hughes Incorporated" and "Hughes Tool Company"; provided, however, that in the marketing of its diamond bit products the purchaser of BHI's diamond bit business will possess the right for one year following the date of divestiture to identify its diamond bit products as formerly having been sold under the tradename "Hughes Diamond Bit Products." BHI's diamond bit business also shall not include any real property owned by BHI in Argentina or any obligations assumed by BHI under the May 8, 1980 Agreement between HTC and the China National Machinery Import and Export Corporation, or any addenda thereto; provided, however, that nothing herein shall imply that BHI retains any right to use the patents or technology of the BHI diamond bit business to satisfy its obligations under said Agreement without the express permission of the purchaser of the divested assets and the consent of plaintiff.

E. "Diamond bits" means natural diamond drill bits, polycrystalline diamond compact drill bits and thermally stable polycrystalline drill bits.

F. "Person" means any natural person, corporation, association, firm, partnership, or other business or legal entity.

III—Applicability

A. The provisions of this Final Judgment shall apply to the defendants, to their successors and assigns, to their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or stock, that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. Nothing herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV—Divestiture of Assets

A. Defendants are hereby ordered and directed to divest to a purchaser prior to

August 6, 1990, all of their direct and indirect ownership and control of BHI's diamond bit business. The obligations to divest shall be satisfied if, by August 6, 1990, defendants enter into a binding contract for sale of BHI's diamond bit business to a purchaser according to terms approved by plaintiff that is contingent only upon compliance with the terms of this Final Judgment and that specifies a prompt and reasonable closing date no later than October 5, 1990, and if sale is completed pursuant to the contract.

B. If defendants have not accomplished the required divestiture prior to August 6, 1990, plaintiff may, in its sole discretion, extend this time period for an additional period of time not to exceed three months, if defendants request such an extension and demonstrate to plaintiff's satisfaction that they are then engaged in negotiations with a prospective purchaser that are likely to result in the required divestiture but that the divestiture cannot be completed prior to August 6, 1990.

C. Defendants agree to take all reasonable steps to accomplish quickly said divestiture. In carrying out their obligation to divest BHI's diamond bit business, defendants may divest these operations alone, or may divest along with these operations any other assets of BHI or EC.

D. In accomplishing the divestiture ordered by this Final Judgment, the defendants promptly shall make known in the United States and in other major countries, by usual and customary means, the availability of BHI's diamond bit business, for sale as an ongoing business. The defendants shall notify any person making an inquiry regarding the possible purchase of this operation that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. The defendants shall also offer to furnish to all bona fide prospective purchasers of BHI's diamond bit business, subject to customary confidentiality assurances, all pertinent information regarding BHI's diamond bit business. Defendants shall provide such information to the plaintiff no later than the time they furnish such information to any person. Defendants shall permit prospective purchasers of BHI's diamond bit business to have access to personnel at BHI's diamond bit business and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of BHI's diamond bit business. Defendants shall not be required to permit prospective

purchasers to have access to any documents or information relevant to EC's diamond bit business, except to the extent included in BHI's diamond bit business.

E. Divestiture required by section IV of the Final Judgment shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that BHI's diamond bit business can and will be operated by the purchaser as a viable, ongoing business engaged in the manufacture and sale of diamond bits in the United States. Divestiture shall be made to a purchaser for whom it is demonstrated to plaintiff's satisfaction that (1) the purchase is for the purpose of competing effectively in the manufacture and sale of diamond bits in the United States, and (2) the purchaser has the managerial, operational, and financial capability to compete effectively in the manufacture and sale of diamond bits in the United States.

F. Divestiture required by section IV of the Final Judgment shall not be made to Diamant Boart Stratabit, Camco, Inc., or Smith International, Inc., or any of their affiliates or subsidiaries.

G. Except to the extent otherwise approved by plaintiff, any assets divested pursuant to this Final Judgment shall be divested free and clear of (1) all mortgages, encumbrances and liens to BHI or EC, and (2) any contractual commitments or obligations (such as patent or technology license agreements or supply contracts) to BHI or EC existing as of the date of divestiture, unless plaintiff is satisfied that the purchaser of the divested operations wishes to voluntarily assume the future performance of any such existing contracts, and plaintiff consents thereto.

V—Appointment of Trustee

A. If defendants have not accomplished the divestiture required by section IV of the Final Judgment by July 6, 1990, defendants shall notify plaintiff of that fact. Within ten (10) days of that date, or twenty (20) days prior to the expiration of any extension granted pursuant to section IV(B), whichever is later, plaintiff shall provide defendants with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. Defendants shall notify plaintiff within ten (10) days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to defendants, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such

nominees is acceptable to defendants, they shall furnish to plaintiff, within ten (10) days after plaintiff provides the names of its nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. If either or both of such nominees are acceptable to plaintiff, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to plaintiff, it shall furnish the Court the names and qualifications of its proposed nominees and the names and qualifications of the nominees proposed by defendants. The Court may hear the parties as to the qualification of the nominees and shall appoint one of the nominees as the trustee.

B. If defendants have not accomplished the divestiture required by section IV of this Final Judgment at the expiration of the time period specified in section IV(A) or IV(B) of this Final Judgment, as applicable, the appointment by the Court of the trustee shall become effective. The trustee shall then take steps to effect divestiture of BHI's diamond bit business: *Provided, however,* That the appointment of the trustee shall not become effective if, prior to expiration of the applicable time period, defendants have notified plaintiff pursuant to section VI of this Final Judgment of a proposed divestiture of BHI's diamond bit business and plaintiff has not filed a written notice that it objects to said proposed divestiture. When the appointment of the trustee becomes effective, BHI's diamond bit business will include for five years following the date of divestiture exclusive use of the tradename "Hughes Diamond Bit Products" and any and all rights specified in section X(C) of the Final Judgment.

C. After the trustee's appointment has become effective, only the trustee shall have the right to sell any business as to which it has been designated to effect divestiture. The trustee shall have the power and authority to accomplish divestiture to a purchaser acceptable to plaintiff at such price and on such terms as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of section VI of this Final Judgment, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale of BHI's diamond bit business by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be

conveyed in writing to plaintiff and the trustee within fifteen (15) days after the trustee has notified defendants of the proposed sale in accordance with section VI of this Final Judgment.

D. The trustee shall serve at the cost and expense of defendants, shall receive compensation based on a fee arrangement providing an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, and shall serve on such other terms and conditions as the Court may prescribe: *Provided, however,* That the trustee shall receive no compensation, nor incur any costs or expenses, prior to the effective date of his or her appointment. The trustee shall account for all monies derived from a sale of BHI's diamond bit business and all costs and expenses incurred in connection therewith. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

E. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestiture and shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee shall have full and complete access to the personnel, books, records, and facilities of the business the trustee is designated to divest, and defendants shall develop such financial or other information relevant to the business to be divested as the trustee may request.

F. After its appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment: *Provided, however,* That to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in BHI's diamond bit business, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest these operations.

G. Within six months after its appointment has become effective, if the trustee has not accomplished the divestiture required by section V of this

Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why any required divestiture has not been accomplished, and (3) the trustee's recommendations: *Provided, however,* That to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include extending the trust and the term of the trustee's appointment.

VI—Notification

Immediately following entry of a binding contract, contingent upon compliance with the terms of this Final Judgment, to effect any proposed divestiture pursuant to section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in BHI's diamond bit business, together with full details of same. Within fifteen (15) days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture and the proposed purchaser. Defendants and/or the trustee shall furnish any additional information requested within twenty (20) days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested (including any additional information requested of persons other than defendants or the trustee), whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice of defendants and/or the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right

to object to the sale under the proviso in section V(C). Upon objection by plaintiff, a divestiture proposed under section IV shall not be consummated. Upon objection by plaintiff, or by defendants under the proviso in section V(C), a divestiture proposed under section V shall not be consummated unless approved by the Court.

VII—Affidavits

Upon filing of this Final Judgment and every thirty (30) days thereafter until the divestiture has been completed or authority to effect divestiture passes to the trustee pursuant to section V of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with section IV of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in BHI's diamond bit business, and shall describe in detail each contact with any such person during that period. Defendants shall maintain full records of all efforts made to divest these operations.

VIII—Financing

Defendants shall not finance all or any part of any purchase made pursuant to sections IV or V of this Final Judgment without plaintiff's prior consent.

IX—Preservation of Assets

Until the divestiture required by the Final Judgment has been accomplished:

A. The defendants shall take all steps necessary to assure that HTC will be maintained as a separate and independent, economically viable, ongoing business with its assets (including proprietary technology, management, operations, and books and records) separate, distinct and apart from those of EC. The defendants shall use all reasonable efforts on behalf of HTC to maintain and increase sales of diamond bits, continue its current plans for development and testing of diamond bits, and otherwise maintain the business as a viable and active competitor in the United States.

B. The defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans (except such loans as are currently outstanding or replacements or substitutes therefore), assets required to be divested pursuant to sections IV(A) and V(B), except that any component of such

assets as is replaced in the ordinary course of business with a newly purchased component may be sold or otherwise disposed of, provided the newly purchased component is so identified as a replacement component for one to be divested.

C. The defendants shall provide capital and provide and maintain sufficient working capital to maintain HTC, including BHI's diamond bit business, as a viable, ongoing business consistent with the requirements of section IX(A).

D. The defendants shall preserve the assets required to be divested pursuant to section IV(A) and V(B), except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date of this Final Judgment, ordinary wear and tear excepted. Defendants shall preserve the documents, books and records of HTC and of BHI's diamond bit business until the date of divestiture.

E. Except in the ordinary course of business, or as is otherwise consistent with the requirements of section X, the defendants shall refrain from terminating or altering one or more current employment, salary, or benefit agreements for one or more executive, managerial, sales, marketing, engineering, or other technical personnel of HTC, and shall refrain from transferring any employee so employed without the prior approval of plaintiff.

F. Defendants shall refrain from taking any action that would jeopardize the sale of BHI's diamond bit business.

X—Employment Offers

A. Defendants are hereby enjoined and restrained until one year following the date of divestiture from employment of, or making offers of employment to, any person who currently is an executive, managerial, sales, marketing, engineering, research and development, or other technical employee of BHI, the preponderance of whose duties relate to BHI's diamond bit business ("BHI diamond bit employees"). This provision, however, does not apply to any employee who is terminated by the purchaser of the divested assets. Defendants shall encourage and facilitate employment by the purchaser of such employees, and shall remove any impediments that exist which may deter such employees from accepting employment with the purchaser of BHI's diamond bit business, including, but not limited to, the payment of all bonuses to which such employees would otherwise have been entitled had they remained in the employment of BHI until the end of fiscal year 1990.

B. The purchaser of the divested assets, whether from the defendants or the trustee, shall also have the right to hire any person who is currently a sales, marketing, or research and development employee of HTC, the preponderance of whose duties do not relate to BHI's diamond bit business. Any persons so hired shall be paid by BHI any bonuses to which such employees would otherwise have been entitled had they remained in the employment of BHI until the end of fiscal year 1990. Such offers of employment and acceptances thereof, contingent upon the consummation of the purchase of the assets, may be made prior to the consummation of the divestiture. Defendants shall provide any prospective purchaser with cooperation and assistance in its efforts to determine which, if any, such HTC employees it seeks to hire. Such cooperation and assistance shall include making available for consultation purposes to any prospective purchasers of BHI's diamond bit business all BHI diamond bit employees, and providing information sufficient to enable a prospective purchaser to assess the relative performance of all HTC sales, marketing and research and development employees. The defendants may, prior to the time the appointment of the trustee becomes effective pursuant to section V, take any lawful steps they deem appropriate to retain the services of any HTC employees the preponderance of whose duties do not relate to BHI's diamond bit business.

C. Should the appointment of a trustee become effective pursuant to section (V), the trustee shall, in its sole discretion, following consultation with plaintiff, select such sales, marketing and research and development employees of HTC as are necessary to fill the positions listed in Attachment A hereto, who thereafter shall be included as BHI diamond bit employees, subject to the provisions of section X(A). To facilitate the trustee's selection of HTC employees, defendants shall make available all BHI diamond bit employees for consultation with the trustee, and shall provide personnel files and other information that the trustee may request to assess the relative performance of all sales, marketing and research and development employees of HTC.

XI—Compliance Inspection

For the purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon

written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

1. access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees, and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section XI shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XII—Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be

necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII—Termination

This Final Judgment will expire on the fifth anniversary of the date of its entry.

XIV—Public Interest

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

Attachment A—U.S. Sales & Marketing Personnel

U.S. Operations Manager

Houston, TX

Sales Manager
Sales Representative
Application Engineer
Marketing Clerk

Corpus Christi, TX

Sales Supervisor
Sales Representative
Marketing Clerk

New Orleans, LA

Sales Supervisor
Sales Representative
Application Engineer
Marketing Clerk

Denver, CO

Sales Supervisor
Application Engineer
Marketing Clerk

Alaska

Sales Representative
Marketing Clerk

Oklahoma City, OK

Sales Representative
Marketing Clerk

Bakersfield, CA

Sales Representative
Marketing Clerk

Lafayette, LA

Sales Representative
Marketing Clerk

Laurel, MS

Sales Representative
Marketing Clerk

Traverse City, MI

Sales Representative
Marketing Clerk

Farmington, MI

Sales Representative

Casper, WY

Sales Representative
Marketing Clerk

International Sales & Marketing Personnel

International Operations Manager
Executive Sales Support Assistant
Technical Sales Manager

Latin America

District Manager

Far East

District Manager

Europe/Africa

District Manager

Holland

Sales Representative

W. Africa

Sales Representative

Norway

Sales Representative

Nigeria

Sales Representative

Research and Development Personnel

Research and Development Engineer
(three positions)

[FR Doc. 90-8995 Filed 4-18-90; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Grants and Cooperative Agreements; Availability, etc.; Dance Program

AGENCY: National Endowment for the Arts.

ACTION: Notification of Availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to assist its Dance Program in the administration and coordination of artistic and administration evaluations of grant applicants. Duties include disbursement of funds to evaluators, making travel arrangements, maintaining records, and submitting reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 90-07 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 90-07 is scheduled for release approximately May 15, 1990 with proposals due on June 18, 1990.

ADDRESS: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100

Pennsylvania Ave., NW Washington,
DC 20506 (202/682-5482).

William I. Hummel,

Director, Contracts and Procurement
Division.

[FR Doc. 90-9059 Filed 4-17-89; 8:45 am]

BILLING CODE 7537-01-M

Meeting of National Endowment for the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT:

Catherine Wolhowe, Advisory Committee Management Officer, (Alternate) National Endowment for the Humanities, Washington, DC. 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

1. Date: May 1-2, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review application submitted to

Humanities Projects in Media, for projects beginning after October 1, 1990.

2. Date: May 10, 1990
Time: 9:00 a.m. to 5:30 p.m.
Room: 316-2
Program: This meeting will review proposals submitted to the April deadline in Higher Education in the Humanities Program, for projects beginning after September 1, 1990.
3. Date: May 10-11, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, from the Division of General Programs, for projects beginning after October 1, 1990.
4. Date: May 14, 1990
Time: 9 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review proposals submitted to the April deadline in the Higher Education Program, submitted to the Division of Education Programs, for projects beginning after September 1, 1990.
5. Date: May 16, 1990
Time: 9 a.m. to 5 p.m.
Room: 315
Program: This meeting will review applications for Conferences, submitted to the Division of Research Programs, for projects beginning after October 1, 1990.
6. Date: May 16, 1990
Time: 9 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review proposals submitted to the April 1 deadline in Higher Education in the Humanities Program, from the Division of Education Programs, for projects beginning after September 1, 1990.
7. Date: May 17-18, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review applications submitted for Humanities Projects in Media, from the Division of General Programs, for projects beginning after October 1, 1990.
8. Date: May 18, 1990
Time: 9 a.m. to 5 p.m.
Room: 315
Program: This meeting will review applications for Conferences, submitted to the Division of Research Programs, for projects beginning after October 1, 1990.
9. Date: May 18, 1990
Time: 9 a.m. to 5:30 p.m.
Room: 316-2

Program: This meeting will review proposals submitted to the April 1 deadline in the Higher Education in the Humanities Program, from the Division of Education Programs, for projects beginning after September 1, 1990.

10. Date: May 21, 1990
Time: 9 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review proposals submitted to the April 1 deadline in the Higher Education in the Humanities Program, submitted to the Division of Education Programs, for projects beginning after September 1, 1990.
11. Date: May 21, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2
Program: This meeting will review applications to direct Summer Seminars for School Teachers in Classical, Medieval, and Renaissance Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1991.
12. Date: May 22, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2
Program: This meeting will review applications to direct Summer Seminars for School Teachers in British and American Literature submitted to the Division of Fellowships and Seminars, for projects beginning after May 1991.
13. Date: May 23, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 316-2
Program: This meeting will review applications to direct Summer Seminars for School Teachers in History, Politics, and Society, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1991.
14. Date: May 23, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review applications to direct Summer Seminars for School Teachers in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1991.
15. Date: May 24, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2
Program: This meeting will review applications to direct Summer Seminars for School Teachers in Foreign and Comparative Literature and Music, submitted to the Division of Fellowships and

Seminars, for projects beginning after May 1991.

Catherine Wolhowe,
Advisory Committee Management Officer
(Alternate).

[FR Doc. 90-9130 Filed 4-18-90; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published March 21, 1990 (55 FR 10557). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the *Federal Register* approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the May 1990 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492-4600 (recording) or 301/492-7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Joint Severe Accidents and Probabilistic Risk Assessment, April 18, 1990, Bethesda, MD. The Subcommittees will continue their discussion of NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Occupational and Environmental Protection Systems, April 25, 1990, Bethesda, MD—Postponed.

Joint Advanced Pressurized Water Reactors and Advanced Boiling Water Reactors, April 26, 1990, Bethesda, MD—Postponed.

Joint Thermal Hydraulic Phenomena and Core Performance, April 27, 1990, Holiday Inn Hotel, 8120 Wisconsin Avenue, Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to the core power oscillation event at LaSalle County Station, Unit 2.

Materials and Metallurgy, May 1, 1990—postponed.

Advanced Reactor Designs, May 2, 1990—postponed.

Joint Reliability Assurance and Materials and Metallurgy, May 8, 1990, Bethesda, MD. The Subcommittees will discuss the status of the Nuclear Plant Aging Research (NPAR) Program and the industry efforts for dealing with the aging-related issues with regard to license renewal.

Improved Light-Water Reactors, May 9, 1990, Bethesda, MD. The Subcommittee will review the "passive plant" designs of Westinghouse, Combustion Engineering, General Electric, and the EPRI's future passive plant requirements document.

Materials and Metallurgy, May 24, 1990, West Palm Beach, FL. The Subcommittee will review low Charpy upper shelf energy matters relating to the integrity of reactor pressure vessels, discuss the status of the HSST program and other related matters.

Thermal Hydraulic Phenomena, May 31 and June 1, 1990, Bethesda, MD. The Subcommittee will discuss the status of several research programs including: the 2D/3D Program, Computational Capability for Accident Management, and the RELAP/SCDAP and TRAC/MELCOR codes.

TVA Plant Licensing and Restart, July 24 and 25, 1990, Huntsville, AL. The Subcommittee will review the planned restart of Browns Ferry Unit 2.

Improved Light-Water Reactors, Date to be determined (May), Bethesda, MD. The Subcommittee will review the draft SER for Chapter 5 of the EPRI ALWR Requirements Document.

Joint Advanced Pressurized Water Reactors and Advanced Boiling Water Reactors, Date to be determined (May/June), Bethesda, MD. The Subcommittees will discuss the licensing review basis documents for CE Systems 80+ and GE ABWR designs.

Joint Severe Accidents and Probabilistic Risk Assessment, Date to be determined (May/June), Bethesda,

MD. The Subcommittees will continue their review of NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Occupational and Environmental Protection Systems, Date to be determined (May/June) (tentative), Bethesda, MD. The Subcommittee will review the Advance Notice of Proposed Rulemaking on hot particles.

Decay Heat Removal Systems, Date to be determined (June), Bethesda, MD. The Subcommittee will continue its review of the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Thermal Hydraulic Phenomena, Date to be determined (July), Idaho Falls, ID. The Subcommittee will review the details of the modifications made to the RELAP-5 MOD-2 code as specified in the MOD-3 version.

Quality and Quality Assurance in Design and Construction, Date to be determined, Bethesda, MD. The Subcommittee will discuss the performance-based concept of quality, what it means, its implementation, and preliminary results.

Materials and Metallurgy, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 29, "Bolting Degradation or Failure in Nuclear Power Plants."

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the use of feed and bleed for decay heat removal in PWRs.

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PORVs."

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittees will review the proposed final revision to appendix J to 10 CFR part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

ACRS Full Committee Meetings

361ST ACRS Meeting, May 10-12, 1990, Bethesda, MD. Items are tentatively scheduled.

*A. *Reactor Operating Experience (Open)*—Briefing and discussion of NRC activities related to reactor operations and nuclear plant operating events.

*B. *Siting of Nuclear Power Plants (Open)*—Briefing by NRC staff representatives regarding NRC consideration of revised siting criteria for nuclear power plants.

*C. *Decommissioning of Nuclear Power Plants (Open)*—Briefing by representatives of the NRC staff regarding the status of decommissioning of the Shoreham Nuclear Power Station (SECY-90-084).

*D. *Individual Plant Examination for External Events (Open)*—The Committee will hear a briefing and discuss a proposed NRC generic letter regarding consideration of external events in Individual Plant Examinations (IPEs).

*E. *Interim NRC Standard for "Hot Particles" (Open) (tentative)*—Briefing and discussion of NRC revised standard for consideration of radiation exposure to "hot particles." Representatives of the NRC staff and industry will/may participate.

*F. *Maintenance Effectiveness Indicator (Open)*—Briefing by NRC staff representatives on the status of work related to the development of maintenance performance indicators.

*G. *Accident Sequence Precursor Program (Open)*—Briefing on the status of the NRC-sponsored Accident Sequence Precursor Program. Representatives of the NRC staff and the ORNL will participate as appropriate.

*H. *NRC Aging Research Program (Open)*—Briefing by representatives of NRC staff regarding the NRC research program on aging of nuclear power plant.

*I. *ACRS Subcommittee Activities (Open)*—Status reports and discussion of designated ACRS subcommittee activities including evaluation of BWR core power instabilities at reduced power/flow conditions.

*J. *Future ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

*K. *Preparation of ACRS Reports (Open)*—The Committee will discuss comments and recommendations resulting from matters considered during this meeting and will continue discussion as required of proposed ACRS reports on Certification Issues for Evolutionary Light-Water Reactors and

the NRC Severe Accident Research Program.

362rd ACRS Meeting, June 7-9, 1990—Agenda to be announced.

363rd ACRS Meeting, July 12-14, 1990—Agenda to be announced.

ACNW Full Committee Meetings

20th ACNW Meeting, May 23-25, 1990, Bethesda, MD. Items are tentatively scheduled.

*A. Technical Position on soil erosion and protection for uranium mill tailing sites.

*B. Pathfinder Atomic Power Plant dismantlement—The Committee will be briefed on the NRC staff's findings in their safety evaluation report.

*C. Committee Activities—The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate.

21st ACNW Meeting, June 28-29, 1990—Agenda to be announced.

22nd ACNW Meeting, July 30-31, 1990—Agenda to be announced.

Dated: April 13, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-9045 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

Certified Testing Laboratories, Inc., Establishment of Atomic Safety and Licensing Board

[Docket No. 030-12145]

[ASLBP No. 90-507-04-EA]

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding:

Certified Testing Laboratories, Inc., Byproduct Material License No. 29-14150-01 EA 89-079

This Board is being established pursuant to the Licensee's request for a hearing regarding an Order issued by the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, dated March 9, 1990, entitled "Order To Show Cause Why License Should Not Be Modified." (55 FR 10560, March 21, 1990) Licensee's employee, Mr. Joseph Cuozzo, has also requested a hearing regarding this matter.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following Administrative Judges.

Peter B. Bloch, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Judge Gustave A. Linenberger, jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 12th day of April 1990.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90-9126 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Commonwealth Edison Company (the licensee) to withdraw its application dated October 31, 1989, for proposed amendment to Facility Operating License Nos. DPR-39 and DPR-48 for the Zion Station, Units 1 and 2, located in Lake County, Illinois.

The proposed amendment would have revised the Technical Specifications for Zion Station to add the Technical Specifications for several TMI Action Plan items covered by Generic Letter 83-37.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on December 13, 1989 (54 FR 51254). However, by letter dated February 27, 1990, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated October 31, 1989, and the licensee's letter dated February 27, 1990, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the Local Public Document Room located at Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 10th day of April 1990.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Project Directorate III-2, Division of Reactor Projects III-IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-9127 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 72-7 (50-255)]

Consumers Power Co.; Receipt and Availability of Application For Materials License for Storage of Spent Fuel

The U.S. Nuclear Regulatory Commission (the Commission) has received an application dated March 12, 1990, for a materials license, under the provisions of 10 CFR part 72, from Consumers Power Company (the applicant or CPCo) to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) located in Van Buren County, Michigan. If granted, the license will authorize the applicant to store spent fuel in dry storage concrete casks at its Palisades Nuclear Plant site (Operating License DPR-20).

In consideration of the application, the Commission intends to perform a safety evaluation of the proposed activity. The Commission will complete an environmental evaluation to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and Finding of No Significant Impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register**. Prior to issuance of the requested license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. The issuance of the materials license will not be approved until the Commission has reviewed the proposal and has concluded that approval of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public.

The application is available, under Docket Number 72-7, for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, and at the Local Public Document Room at the

Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland this 10th day of April 1990.

For the U.S. Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 90-9128 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

Rochester Gas and Electric Corporation; Issuance of Amendment to Facility Operating License

[Docket No. 50-244]

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-18 issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant located in Wayne County, New York. The amendment was effective as of the date of issuance.

The amendment revised the Technical Specifications to reflect and allow the use of reconstituted fuel assemblies in order to reduce coolant activity and utilize the remaining energy in fuel assemblies. In the reconstitution process, the fuel rods which have been identified as defective, will be, removed and replaced with dummy rods. The reconstituted assembly will meet the original design criteria.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which is set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 2, 1990 (55 FR 7611). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (55 FR 13864) related to the action and has concluded that an environmental impact statement is not warranted and that the issuance of this amendment will not have a significant adverse effect on the quality of the human environment.

For further details with respect to the action, see (1) the application for amendment dated February 16, 1990, as supplemented on March 15, 1990; (2) Amendment No. 39 to License No. DPR-18; and (3) the Commission's related Safety Evaluation and Environmental Assessment.

All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14610. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 12th day of April 1990.

For the Nuclear Regulatory Commission.

Allen Johnson,

Project Manager, Project Directorate I-3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-9129 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the applications for licenses to export nuclear-grade graphite and deuterium oxide as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning these applications follows.

NRC EXPORT LICENSE APPLICATIONS

Name of applicant; date of appl.; date received; application no.	Description of items to be exported	Country of destination
Aldrich Chemical Co., 01/16/90, 03/02/90, XMAT0343.	14,550 kgs of Deuterium Oxide. This material is being exported to Canada for upgrading purposes only.	Canada.
Hi-Mark Research Ltd., Inc., 03/08/90, 03/14/90, XMAT0345.	30,000 kgs of bulk nuclear grade graphite for use as electrode material for electrical discharged machining.	Japan.
Hi-Mark Research Ltd., Inc., 03/09/90, 03/22/90, XMAT0346.	175,000 kgs of bulk nuclear grade graphite for use as electrode material for electrical discharge machining.	Canada. U.K. The Netherlands.

Dated this 12th day of April 1990 at Rockville, Maryland.

For the Nuclear Regulatory Commission.
Marvin R. Peterson,
Assistant Director for International Security, Exports and Materials Safety International Programs, Office of Governmental and Public Affairs.

[FR Doc. 90-9124 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

For the Nuclear Regulatory Commission.
Martin J. Virgilio,
Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 90-9125 Filed 4-18-90; 8:45 am]

BILLING CODE 7590-01-M

reduction applies and the amount of such reduction.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Shannah Koss-McCallum (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.
Dennis Eagan,
Clearance Officer.

[FR Doc. 90-9110 Filed 4-18-90; 8:45 am]

BILLING CODE 7905-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Employee Noncovered Service Pension Questionnaire
- (2) *Form(s) submitted:* G-209
- (3) *OMB Number:* 3220-0154
- (4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
- (5) *Type of request:* Revision of a currently approved collection
- (6) *Frequency of response:* On occasion
- (7) *Respondents:* Individuals or households
- (8) *Estimated annual number of respondents:* 500
- (9) *Total annual responses:* 500
- (10) *Average time per response:* 11 hours
- (11) *Total annual reporting hours:* 55
- (12) *Collection description:* Under section 3 of the Railroad Retirement Act, the Tier I portion of an employee annuity may be subjected to a reduction for benefits received based on work not covered under the Social Security Act or Railroad Retirement Act. The questionnaire obtains the information needed to determine if the

SECURITIES AND EXCHANGE COMMISSION

[Rei. No. 34-27898; File No. SR-CBOE-90-05]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Membership Application 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 March 19, 1990, the Chicago Board Options Exchange, Incorporated ("CBOE" 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 Exchange proposes to issue

Draft NUREG; Issuance, Availability

The Nuclear Regulatory Commission has issued a draft NUREG-1395, "Industry Perceptions of the Impact of the U.S. Nuclear Regulatory Commission on Nuclear Power Plant Activities." The draft document contains the results of an NRC senior management survey of the impact of NRC regulatory activities on the safe operation of nuclear power plants and discusses the staff's preliminary evaluation of the issues that emerged from the survey.

This draft NUREG is being issued to highlight the efforts of the NRC to improve its regulatory programs. The final NUREG will be issued following completion of the staff's evaluation of the survey issues and of two other related activities. Those two related activities are a voluntary utility survey regarding management time devoted to inspection activities, and an internal staff survey of the impact of NRC regulatory activities on the safe operation of nuclear power plants.

Draft NUREG-1395 is available for inspection or for copying for a fee at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for a single copy to the extent of supply of draft NUREG-1395 should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone requests cannot be accommodated. Draft NUREG-1395 is not copyrighted, and Commission approval is not required to reproduce it.

Dated at Rockville, Maryland, this 11th day of April 1990.

Regulatory Circular RG90-19 apprising the membership of its policy with regard to the investigation of all applicants for membership. In essence, the circular provides that regardless of the applicant's Designated Examining Authority all applicants, including persons associated with applicant member organizations, are investigated and assessed appropriate application fees.

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

The purpose of the proposed rule change is to restate the CBOE's policy regarding the investigation of all applicants for membership and the imposition of fees in connection with membership applications. CBOE Rule 3.8 requires that the Exchange's Membership Department investigate all applications before their applications are considered by the CBOE's Membership Committee, and CBOE Rule 2.22 authorizes the CBOE's Board of Directors to impose fees in connection with membership applications. The application fees listed in the proposed circular have been filed with the Commission previously.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the Exchange believes the proposed rule change is consistent with section 6(b)(4), which requires the equitable allocation of reasonable fees, and with section 6(c)(3), which authorizes the examination of persons associated with an applicant for membership in a national securities exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This 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

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change constitutes a stated policy with respect to the administration of existing Exchange rules, the proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A) of 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 Act.

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 the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-90-05 and should be submitted by May 9, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 12, 1990.

Jonathan G. Katz,
Secretary.

[FR Doc. 90-9060 Filed 4-18-90; 8:45 am]

BILLING CODE 6010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Sacramento County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of notice of intent.

SUMMARY: The FHWA is issuing this Notice to advise the public that an environmental impact statement (EIS) will not be prepared for the proposed North Natomas Freeway Improvements project in Sacramento County, California.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Schultz, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95812-1915, Telephone: (916) 551-1140.

SUPPLEMENTARY INFORMATION: The FHWA, California Division, issued a Notice of Intent to prepare an EIS for the proposed North Natomas Freeway Improvements in the City of Sacramento on April 1, 1987 (Vol. 52, No. 62, pg. 10436). The FHWA is withdrawing that Notice at this time. The City of Sacramento and the Sacramento Area Council of Governments determined that these projects were developed as mitigation measures for traffic impacts caused by the North Natomas Community Plan, and will result in lower overall vehicle miles traveled and higher operating speeds. These improvements, therefore, will not prevent attainment of the National Ambient Air Quality Standards and will be included in the new Sacramento Air Quality Management Plan. Mitigation measures have also been incorporated into the projects to avoid harm to the giant garter snake, a candidate for Federally-listed threatened or endangered species. The City of Sacramento completed an environmental assessment for these projects in December 1989, and the FHWA issued a FONSI on January 22, 1990.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

[Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program.]

Issued on: April 10, 1990.

John R. Schultz,

District Engineer, Sacramento, California.

[FR Doc. 90-9073 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions

from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted in January 1990. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2787-X	DOT-E 2787	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302(a)(1), 175.3.....	To authorize shipment of certain nonflammable compressed gases, in non-DOT specification pressure vessels equipped with a regulating valve, a pressure relief valve, and a squibb actuated valve. (Modes 1, 2, 3, 4.)
3004-X	DOT-E 3004	National Welders Supply Company, Inc., Charlotte, NC.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, 5.)
3941-X	DOT-E 3941	Aerojet Solid Propulsion Company, Sacramento, CA.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1 and 2.)
3941-X	DOT-E 3941	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1 and 2.)
3996-X	DOT-E 3996	Stauffer Chemical Company, Shelton, CT.	49 CFR 173.188.....	To renew and authorize an alternate non-DOT specification metal drum for shipment of phosphoric anhydride, classed as a corrosive material. (Modes 1 and 2.)
3996-P	DOT-E 3996	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	49 CFR 173.188.....	To become a party to exemption 3996. (Modes 1 and 2.)
4338-P	DOT-E 4338	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	49 CFR 173.119(m), 173.245a, 173.247, 174.63(b).	To become a party to exemption 4338. (Modes 1, 2, 3.)
4453-X	DOT-E 4453	Woodard Explosives, Inc., Albuquerque, NM.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1 and 3.)
4453-X	DOT-E 4453	Econexpress, Inc., Wheaton, IL	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1 and 3.)
4850-X	DOT-E 4850	Teledyne McCormick Selph, Hollister, CA.	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	ISC Technologies, Inc., Lancaster, PA.	49 CFR 173.100(cc), 175.3	To become a party to exemption 4850. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	Ferranti International Signal, Inc., Lancaster, PA.	49 CFR 173.100(cc), 175.3	To become a party to exemption 4850. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	GOEX, Inc., Cleburne, TX	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	Austin Powder Company, Cleveland, OH.	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, 3, 4.)
4850-X	DOT-E 4850	Owen Oil Tools, Inc., Fort Worth, TX...	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, 3, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4850-X	DOT-E 4850	Jet Research Center, Inc., Alvarado, TX.	49 CFR 173.100(cc), 175.3	To become a party to exemption 4850. (Modes 1, 2, 3, 4.)
4884-P	DOT-E 4884	Scott Specialty Gases, Inc., Plumsteadville, PA.	49 CFR 173.119(m), 173.136, 173.247, 173.251, 173.302(a)(1), 173.304, 173.3a, 175.3, 178.61.	To become a party to exemption 4884. (Modes 1, 2, 3, 4.)
5643-X	DOT-E 5643	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 172.203, 173.318, 173.320, 176.76(h), 178.338.	To authorize shipment of a nonflammable gas in vacuum insulated non-DOT specification portable tanks. (Modes 1 and 3.)
6299-X	DOT-E 6299	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification portable tanks, for transportation of nonflammable gases. (Modes 1 and 3.)
6325-X	DOT-E 6325	Mining Services International Corporation (MSI), Sale Lake City, UT.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6418-X	DOT-E 6418	Cenex—Land O'Lakes AG Services, Vancouver, WA.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
6497-X	DOT-E 6497	FMC Corporation, Philadelphia, PA	49 CFR 173.365, 174.63(c)	To authorize use of a modified DOT Specification 56 portable tank, for transportation of Class B poison solids. (Modes 1 and 2.)
6530-X	DOT-E 6530	UNIGAS, Inc., Ponce, PR	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6530-X	DOT-E 6530	AGA Gas, Inc., Washington, WV	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6543-P	DOT-E 6543	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of the West, Inc., Oakland, CA.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to exemption 6543. (Modes 1, 2, 3, 4.)
6563-X	DOT-E 6563	Mada Medical Products, Inc., Carlstadt, NJ.	49 CFR 173.302(a)(1), 175.3, 178.42-2.	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made generally in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
6563-X	DOT-E 6563	S.L.O. Health Products, Inc., Baywood Park, CA.	49 CFR 173.302(a)(1), 175.3, 178.42-2.	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made generally in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
6611-X	DOT-E 6611	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1 and 3.)
6614-P	DOT-E 6614	So-White Company, Inc., Plover, WI	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to exemption 6614. (Mode 1.)
6626-X	DOT-E 6626	National Welders Supply Company, Inc., Charlotte, NC.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To authorize use of DOT Specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA, for shipment of certain compressed gases. (Modes 1, 2, 3, 4, 5.)
6651-X	DOT-E 6651	Heatbath Corporation, Springfield, MA.	49 CFR 173.28(h), 173.28(m)	To authorize one-time reuse of single-trip containers, for transportation of certain Class B poisonous solids. (Mode 1.)
6658-X	DOT-E 6658	Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.65	To authorize use of a non-DOT Specification open-head steel drum, for transportation of a certain Class A explosive. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6691-X	DOT-E 6691	Industrial Gas Distributors, Inc., Billings, MT.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To authorize use of DOT Specification 3A or 3AA cylinders over 35 years old which may be retested every 10 years, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
6765-X	DOT-E 6765	Union Helium Co., Ltd., Minato-ku, Tokyo, Japan.	49 CFR 173.318(a), 176.76(h)(4).....	To authorize use of non-DOT specification containerized portable tanks, for transportation of a flammable and nonflammable gas. (Modes 1 and 3.)
6874-P	DOT-E 6874	Philipp and Lion Ltd., London, England.	49 CFR 172.101, 173.370(a)(13).....	To become a party to exemption 6874. (Modes 1, 2, 3.)
7024-X	DOT-E 7024	Avondale Mills, Sylacauga, AL.....	49 CFR 173.249(a)(7).....	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealed tanks. (Mode 1.)
7052-X	DOT-E 7052	G.E. Reuter-Stokes, Inc; Twinsburg, OH.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Starburst Electronics Inc., Calgary, Alberta, Canada.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	FME Corporation, Hayward, CA.....	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	K Power Electronics (division of Kent Electronics), Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Ferranti International Signal, Inc., Lancaster, PA.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Clifton Precision Systems Division, Springfield, PA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Power Conversion, Inc., Saddle Brook, NJ.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	In-Situ, Inc., Laramie, WY.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	HydriL—Production Technology Division, Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Medtronic, Inc./Promeon Division, Brooklyn Center, MN.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	ECO Energy Conversion, Somerville, MA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Crompton Parkinson, Limited, Tyne & Wear, England.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	S&G Photographic, Princeton, NJ.....	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052 (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Engineered Assemblies & Components Corporation, Teterboro, NJ.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	DME Corporation, Ft. Lauderdale, FL..	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Hazeltine Corporation, Braintree, MA...	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Bren-Tronics, Inc., Commack, NY.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Acme Aerospace Products Group, Salt Lake City, UT.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Siemens, AG, Munchen, West Germany.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Interstate Electronics Corporation, Anaheim, CA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	ACR Electronics, Inc., Fort Lauderdale, FL.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Information Electronique Securite Maritime Guidel, France.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052 (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	Leigh Instruments, Limited, Arlington, VA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	ITT Barton Instruments Company, City of Industry, CA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	Maxell Corporation of America, Fair Lawn, NJ.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Airborne Express, Inc., Wilmington, OH.	49 CFR 175.702(b), 175.75(a)(3)(ii).....	To authorize carriage of non-fissile radioactive materials aboard cargo only aircraft when the combined transport index exceeds the usual authorized limits specified in Part 175 or the separation distance criteria cannot be met. (Mode 4.)
7070-X	DOT-E 7070	American Chemical & Refining Company, Inc., Waterbury, CT.	49 CFR 173.365, 175.3, 175.630.....	To authorize shipment of poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4, 5.)
7259-P	DOT-E 7259	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	49 CFR 176.76(g)(5).....	To become a party to exemption 7259. (Mode 3.)
7455-X	DOT-E 7455	Austin Powder Company, Cleveland, OH.	49 CFR 176.177(g), 176.177(h), 176.177(n), 176.177(q), 176.177(r), 176.410(e).	To authorize handling and stowage of explosive material in an anchored and unmanned barge. (Mode 3.)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Company, Inc. Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-6(c), 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable, corrosive and poisonous waste materials. (Mode 1.)
7607-X	DOT-E 7607	Smith & Denison, Inc., Hayward, CA.....	49 CFR 172.101, 175.3.....	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7628-X	DOT-E 7628	Allied-Signal, Inc., Morristown, NJ.....	49 CFR 173.264(a)(11), 173.265(b)(3).	To authorize use of DOT Specification 111A100W-5 tank cars equipped with a safety relief valve instead of a vent, for shipment of certain corrosive liquids. (Mode 2.)
7708-X	DOT-E 7708	HTL/Kin-Tech Division, Duarte, CA.....	49 CFR 173.302(a), 175.3, 178.44.....	To authorize use of non-DOT specification small, high pressure cylinders of welded construction for military weapons systems use only. (Modes 1, 2, 4, 5.)
7835-X	DOT-E 7835	National Welders Supply Company, Inc., Charlotte, NC.	49 CFR 177.848, Part 107 Appen. B(1).	To authorize transport of compressed gas in cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7876-X	DOT-E 7876	Mallinckrodt, Inc., Paris, KY.....	49 CFR 173.299(a), 175.3.....	To authorize shipping description etching acid, liquid, n.o.s. to be used for products which do not comply with the definition in 49 CFR 173.229(a). (Modes 1, 2, 3, 4.)
7909-X	DOT-E 7909	Dow Chemical Company, Midland, MI.	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.30, 175.33.	To authorize renewal and an alternative packaging configuration. (Modes 1, 2, 4.)
7929-X	DOT-E 7929	C-I-L, Inc., North York, Ontario, Canada.	49 CFR 173.65.....	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1 and 2.)
7945-X	DOT-E 7945	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To amend exemption to increase the maximum allowable service pressure to 1500 psig from 900 psig and to change the wording in certain sections to make more correct. (Modes 1, 2, 4, 5.)
7991-X	DOT-E 7991	CSX Transportation, Inc., Jacksonville, FL.	49 CFR parts 100-177.....	To authorize transport of railway track torpedoes and fuses in flagging kits of specified construction. (Mode 1.)
7991-X	DOT-E 7991	Norfolk Southern Corporation, Norfolk, VA.	49 CFR parts 100-177.....	To authorize transport of railway track torpedoes and fuses in flagging kits of specified construction. (Mode 1.)
8156-X	DOT-E8156	Cryogenic Rare Gas Laboratories, Inc., Hanahan, SC.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or non-flammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1 and 2.)
8287-P	DOT-E8287	Nalco Chemical Company, Naperville, IL.	49 CFR 173.245(a)(16), 173.245(a)(26), 178.19-4(c), 178.35a-1(b).	To become a party to exemption 8287. (Modes 1, 2, 3.)
8388-X	DOT-E8388	B.W. Norton, Manufacturing Company, Inc. Hayward, CA.	49 CFR 178.19, Part 173, Subpart D, F.	To authorize shipment of liquid hazardous materials in a removable head polyethylene drum of five gallon capacity, without overpack. (Modes 1, 2, 3.)
8401-X	DOT-E8401	ERA Aviation, Inc., Anchorage, AK.....	49 CFR 175.3, 175.310(c)(3), 175.310(d).	To authorize carriage of fuel in Canadian 5B drums loaded in cargo compartments of passenger-carrying helicopters. (Mode 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8409-X	DOT-E8409	EM Science, Cincinnati, OH	49 CFR 173.264(a)(4), 178.210	To authorize shipment of hydrofluoric acid solution no greater than 70% strength, in non-DOT Specification polyethylene bottles, not exceeding a capacity of 6 liters, packed in DOT specification 12A fiberboard boxes. (Modes 1 and 3.)
8426-X	DOT-E8426	Crosby & Overton, Inc., Long Beach, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 with certain exceptions, for transportation of liquid and semi-solid waste materials. (Mode 1.)
8426-P	DOT-E8426	Hayter Trucking, Inc., Taft, CA.....	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8426. (Mode 1.)
8427-X	DOT-E8427	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.276.....	To authorize use of a stainless steel DOT Specification seamless 3A or 3E cylinder, for shipment of a flammable liquid. (Mode 4.)
8516-X	DOT-E8516	Atlas Powder International, Limited, Pearlinton, MS.	49 CFR 176.83(b).....	To authorize stowage of certain oxidizers and blasting agents in the same hold, compartment or freight container. (Mode 3.)
8518-P	DOT-E8518	Hayter Trucking, Inc., Taft, CA.....	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8518. (Mode 1.)
8556-X	DOT-E8556	UNIGAS, Inc., Ponce, PR	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To authorize use of non-DOT specification containerized portable tanks insulated with vacuum plus liquid nitrogen shield, for transportation of a flammable and nonflammable gas (Modes 1 and 3.)
8556-X	DOT-E8556	Linde Puerto Rico, Inc., Gurabo, PR....	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To authorize use of non-DOT specification containerized portable tanks insulated with vacuum plus liquid nitrogen shield, for transportation of a flammable and nonflammable gas. (Modes 1 and 3.)
8697-X	DOT-E8697	ERA Aviation Inc., Anchorage, AK	49 CFR 172.101 Column 6(b), 175.30(a)(1).	To authorize carriage of propane in DOT Specification 4B240, 4BA240, 4BW240 cylinders via helicopter utilizing sling loads. (Mode 4.)
8723-X	DOT-E8723	Wampum Hardware Company, New Galilee, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Mode 1 and 3.)
8723-X	DOT-E8723	Roundup Powder Company, Inc., Miles City, MT.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Mode 1 and 3.)
8725-X	DOT-E8725	NCF Industries, Inc. (CNG Cylinder Corp.), Long Beach, CA.	49 CFR 173.302(a).....	To authorize manufacture, marking and sale of non-DOT Specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain compressed gases. (Mode 1.)
8814-X	DOT-E 8814	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 175.3.....	To authorize manufacture, marketing and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4.)
8859-X	DOT-E 8859	Eastman Kodak Company, Rochester, NY.	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To authorize shipment of a compressed gas in accumulators which deviate from required test criteria. (Modes 1, 4, 5.)
8870-X	DOT-E 8870	EM Science, Cincinnati, OH	49 CFR 172.101, 173.286, 175.3.....	To commingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or 1/2 lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, 5.)
8871-X	DOT-E 8871	Chase Packaging Corporation, Greenwich, CT.	49 CFR 173.182, 173.204, 173.217, 173.245(b), 173.366.	To authorize manufacture, marketing and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags, having a capacity of approximately 2000 pounds each, and top and bottom outlets, for shipment of corrosive solid, nitrates and poisons. (Modes 1, 2, 3.)
8938-X	DOT-E 8938	Cryogenic Services, Inc., Canton, GA..	49 CFR 173.304(a)(2), 173.316(a), 175.3.	To authorize two (2) additional models of non-DOT specification cylinders, similar to DOT-4L cylinders, for shipment of Carbon Dioxide, refrigerated liquid. (Modes 1, 2, 3, 4.)
9043-X	DOT-E 9043	Ozella Harrington Trucking Company, Benson, AZ.	49 CFR 173.154(a)(18)	To authorize shipment of ammonium nitrate solution, classed as an oxidizer in a DOT Specification MC-306 stainless steel insulated cargo tanks modified to DOT Specification 307 cargo tanks. (Mode 1.)
9052-X	DOT-E 9052	Chemical Handling Equipment Company, Inc., Toledo, OH.	49 CFR 173.118a, 173.119, 173.125, 176.340, 178.19, 178.253, Part 173, Subpart F.	To authorize marking by etching or stamping of the certification into the polyethylene of the portable tanks. (Modes 1, 2, 3.)
9052-X	DOT-E 9052	Chemical Handling Equipment Company, Inc., Toledo, OH.	49 CFR 173.118a, 173.119, 173.125, 176.340, 178.19, 178.253, Part 173, Subpart F.	To authorize a decrease in the minimum wall thickness of non-DOT specification rotationally molded polyethylene portable tanks and to authorize an additional oxidizing material, n.o.s., (solid). (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9145-X	DOT-E 9145	Exxon Pipeline Company, Houston, TX.	49 CFR 173.119, 173.304, 173.315.....	To authorize use of non-DOT specification container, for shipment of flammable liquids and gases. (Mode 1.)
9168-X	DOT-E 9168	All-Pak, Inc., Pittsburgh, PA.....	49 CFR 172.504, 173.118, 173.244, 173.3, 173.345, 173.346, 173.359, 173.370, 173.377, 175.3, 175.33, Part 172, Subpart E.	To authorize manufacture, marking and sale of specially designed composite type packaging, for shipment of small quantities of various flammable, corrosive, and poison B liquids and solids without affixing POISON, CORROSIVE, or FLAMMABLE labels. (Modes 1, 2, 4.)
9176-X	DOT-E 9176	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.304(a), 177.840(a)(1).....	To authorize manufacture, marking and sale DOT Specification 4L cylinders, for transportation of certain nonflammable gases. (Mode 1.)
9184-X	DOT-E 9184	Cyanamid Canada, Inc., East Willowdale, Canada.	49 CFR 173.178.....	To authorize shipment of calcium carbide in polyethylene lined woven polypropylene collapsible bags in truckload or carload lots only. (Modes 1, 2.)
9211-X	DOT-E 9211	Waterman Steamship Corporation, New Orleans, LA.	49 CFR 146.29-35(f).....	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritime Prepositioning Ship (TAKX). (Mode 3.)
9211-X	DOT-E 9211	American Overseas Marine Corporation (AMSEA), Quincy, MA.	49 CFR 146.29-35(f).....	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritime Prepositioning Ship (TAKX). (Mode 3.)
9281-X	DOT-E 9281	Western Atlas International, Inc., Houston, TX.	49 CFR 172.101, 173.100.....	To authorize transport of cylindrical pellets of desensitized RDX, HMX, HNS and PYX in DOT Specification 12B65 fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
9364-X	DOT-E 9364	Platte Chemical Company, Greeley, CO.	49 CFR 1173.359.....	To authorize methyl parathion, classed as poison B liquid, as an additional material for shipment in the prescribed packaging. (Mode 1.)
9370-X	DOT-E 9370	Norris Cylinder Company, Longview, TX.	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize manufacture, marking and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3T cylinders, for transportation of nonflammable gases. (Modes 1, 2, 3, 4.)
9525-X	DOT-E 9525	Cyanamid Canada, Inc., East Willowdale, Canada.	49 CFR 178.42, Part 173, Subpart D, E, H.	To authorize use of a welded stainless steel cylinder equivalent to DOT Specification 3E with exceptions, for transportation of certain pyroforic liquids, flammable liquids, poison B liquids, and flammable solids. (Modes 1, 2, 3, 4.)
9525-X	DOT-E 9525	American Cyanamid Company, Wayne, NJ.	49 CFR 178.42, Part 173, Subpart D, E, H.	To authorize use of a welded stainless steel cylinder equivalent to DOT Specification 3E with exceptions, for transportation of certain pyroforic liquids, flammable liquids, poison B liquids and flammable solids. (Modes 1, 2, 3, 4.)
9549-X	DOT-E 9549	GOEX, Inc., Cleburne, TX.....	49 CFR 173.100(v), 175.30.....	To authorize transport of oil well cartridges containing more than 350 grains, but not more than 600 grains of Class A, type 3 explosive, as Class C explosive, in DOT Specification 12H fiberboard box. (Modes 1, 3, 4.)
9571-X	DOT-E 9571	U.S. Department of Defense, Falls Church, VA.	49 CFR Parts 100-177.....	To authorize transport of not more than 5 grams of an approved or unapproved explosive in a special packaging essentially without regulation. (Modes 1, 2, 3, 4, 5.)
9623-X	DOT-E 9623	Woodard Explosives, Inc., Albuquerque, NM.	49 CFR 177.835(c)(3).....	To authorize transport of blasting agent or an oxidizer in a DOT Specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9689-P	DOT-E 9689	American Cyanamid Company, Wayne, NJ.	49 CFR 176.76(a)(4).....	To become a party to exemption 9689 (Mode 3.)
9739-X	DOT-E 9739	Unocal Corporation, Los Angeles, CA.	49 CFR 173.245.....	To authorize shipment of corrosive liquids in DOT Specification MC-306 stainless steel cargo tanks. (Mode 1.)
9750-P	DOT-E 9750	Econexpress, Inc., Wheaton, IL.....	49 CFR 173.154(a)(18).....	To become a party to exemption 9750 (Mode 1.)
9791-X	DOT-E 9791	Pressed Steel Tank Company, Inc., Milwaukee, WI.	49 CFR 173.301(h), 173.302(a), 173.34(a)(1), 178.37.	To authorize manufacture, marking and sale of a high strength, non-specification cylinder conforming in part with the DOT-3AA specification, for transportation of certain nonflammable, nonliquefied compressed gases. (Mode 1.)
9803-X	DOT-E 9803	Transcon Transport, Inc., Smithville, TN.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9851-X	DOT-E 9851	Northwest Airlines, Inc., St. Paul, MN..	49 CFR Parts 100-199.....	To modify packaging configurations. (Mode 5.)
9884-X	DOT-E 9884	Puritan-Bennett Corporation, Indianapolis, IN.	49 CFR 173.316, 178.57-(8)(c), 178.57-2.	To authorize marking of the package with letters ¼ inch high instead of 2 inches high and adding an additional transport system. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9885-X	DOT-E 9885	Astro Container Company, Evendale, OH.	49 CFR 173.188.....	To authorize manufacture, marking and sale of non-DOT specification removable head metal drums, having net weight not over 600 pounds each, for transportation of corrosive materials. (Modes 1, 2.)
9889-X	DOT-E 9889	Assmann Corporation of America, Garrett, IN.	49 CFR Part 173, Subparts D, E, F.....	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded, linear low density polyethylene portable tank enclosed within a protective steel cage for the shipment of corrosive liquids, flammable liquids, or an oxidizer. (Mode 1.)
9946-P	DOT-E 9946	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.327(a).....	To become a party to exemption 9946. (Modes 1, 2, 3.)
10001-P	DOT-E 10001	Linde Puerto Rico, Inc., Gurabo, PR....	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (Mode 1.)
10001-P	DOT-E 10001	Unigas Welding Supplies, Mercedita, PR.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (Mode 1.)
10001-P	DOT-E 10001	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (Mode 1.)
10001-P	DOT-E 10001	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (Mode 1.)
10001-P	DOT-E 10001	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (Mode 1.)
10022-P	DOT-E 10022	Linde Puerto Rico, Inc., Gurabo, PR....	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10022-P	DOT-E 10022	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (Mode 1.)
10094-P	DOT-E 10094	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.154(a)(17).....	To become a party to exemption 10094. (Mode 2.)
10103-P	DOT-E 10103	Du-Laur Products Inc., Vassar, MI.....	49 CFR Parts 100-177.....	To become a party to exemption 10103. (Mode 1.)
10165-X	DOT-E 10165	U.S. Olympic Festival '90, Saint Paul, MN.	49 CFR 173.118, 173.31, 175.30, 175.85, Part 107, Appendix B, Part 172, Subparts C, D, E.	To authorize carriage of a small quantity of a flammable liquid in two safety lamps onboard an aircraft. (Mode 5.)
10171-P	DOT-E 10171	Eurotainer, S.A., Paris, France.....	49 CFR 173.123, 173.315, 178.245.....	To become a party to exemption 10171 (Modes 1, 2, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9989-N	DOT-E 9989	E.I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.245.....	To authorize shipment of certain corrosive liquids inside a DOT Specification 12P fiberboard box containing one DOT Specification 2U polyethylene container and two non-DOT Specification polyethylene containers. (Modes 1, 2, 3.)
10058-N	DOT-E 10058	Ciba-Geigy Corporation, Ardsley, NY....	49 CFR 173.245.....	To authorize transport of acetic acid solution, in a non-DOT specification non-removable head polyethylene containers. (Modes 1 and 3.)
10094-N	DOT-E 10094	Columbia Nitrogen Corporation, Augusta, GA.	49 CFR 173.154(a)(17).....	To authorize transport of ammonium nitrate solution in DOT Specification 111A100W1 lined and insulated tank car tanks. (Mode 2.)
10120-N	DOT-E 10120	American Cyanamid Company, Wayne, NJ.	49 CFR 173.377.....	To authorize transport of an organic phosphate mixture in a packaging not currently authorized in 49 CFR. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10155-N	DOT-E 10155	Walpole, Inc., Mt. Holly, NJ.....	49 CFR 173.154, 173.182, 173.217, 173.245b, 173.365, 173.366, 173.368.	To authorize manufacture, marking and sale of collapsible, disposable, polyethylene-lined woven polypropylene bulk container bag having a capacity not greater than 2200 pounds each with top and bottom outlets, for shipment of flammable solids, corrosive solids, oxidizers, and poison B solids. (Modes 1, 2, 3.)
10174-N	DOT-E 10174	Ethyl Corporation, Baton Rouge, LA....	49 CFR 173.206.....	To authorize a one-time shipment of metallic sodium in a non-DOT specification tank car tanks conforming with a DOT Specification 105A300W. (Mode 2.)
10227-N	DOT-E 10227	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.316, 173.3, 178.57(b)(b), 178.57-2, 178.57-8(c).	To authorize manufacture, marking and sale of insulated non-DOT specification cylinders conforming with 49 CFR Section 178.57 except Sections 178.57-2, 178.57-8(b) and 178.57-8(c), for shipment of liquid oxygen. (Modes 1, and 4.)
10235-N	DOT-E 10235	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.119(m), 173.145, 173.276, 173.304(d), 173.336, 173.3a, 175.3, 179.100-23, 179.101-1.	To authorize use of tank car tanks conforming to a DOT 105J5500W specification, except that the tank and the tank head puncture resistance systems may be manufactured from certain high alloy steels for the use in transportation of a poisonous gas and certain flammable liquids. (Mode 2.)
10239-N	DOT-E 10239	E.I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.263, 179.200-18(b)(1).....	To authorize transport of hydrochloric in DOT specification 111A100W tank car tanks equipped with a surge baffle in the safety vent assembly. (Mode 2.)
10256-N	DOT-E 10256	Johnson Industries Corporation, West Liberty, OH.	49 CFR 173.302(a)(1), 173.304(a).....	To authorize manufacture, marking, and sale of a non-DOT specification fiber reinforced plastic full wrapped composite cylinder, for shipment of certain hazardous materials. (Modes 1, 3, 4.)

EMERGENCY EXEMPTIONS

Application	Exemption	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4453-X	DOT-E 4453	Roundup Powder Company, Inc., Miles City, MT.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3.)
EE 7024-X	DOT-E 7024	Greenwood Motor Lines, Inc., Greenwood, SC.	49 CFR 173.173.249(a)(7).....	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealed tanks. (Mode 1.)
EE 7024-X	DOT-E 7024	Mount Vernon Mills, Inc., Ware Shoals, SC.	49 CFR 173.249(a)(7).....	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealed tanks. (Mode 1.)
EE 7052-X	DOT-E 7052	Martin Marietta Corporation, Denver, CO.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7052-X	DOT-E 7052	TNR Technical, Inc., Altamonte Springs, FL.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7052-X	DOT-E 7052	DigiCourse, Inc., Harahan, LA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7052-X	DOT-E 7052	Plainview Batteries, Inc., Plainview, NY.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7052-X	DOT-E 7052	Sonatech, Inc., Ventura, CA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7052-X	DOT-E 7052	TDW Pipeline Surveys, Tulsa, OK....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
EE 7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3.	To become a party to exemption 7218. (Modes 1, 2, 3, 4, 5.)
EE 7835-X	DOT-E 7835	National Welders Supply Company, Inc., Charlotte, NC.	49 CFR 177.848, Part 107 Appen. B(1).	To become a party to exemption 7835. (Mode 1.)
EE 8391-X	DOT-E 8391	EFI Corporation, d/b/a EFIC, San Jose, CA.	49 CFR 173.302(a)(1), (173.304(a)(1)), 175.3.	To become a party to exemption 8391 (Modes 1, 2, 3, 4, 5.)
EE 8426-P	DOT-E 8426	T.W. Company, North Salt Lake City, UT.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8426. (Mode 1.)
EE 8718-X	DOT-E 8718	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3.	To become a party to exemption 8718. (Modes 1, 2, 3, 4, 5.)
EE 8723-X	DOT-E 8723	Roundup Powder Company, Inc., Miles City, MT.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 8723. (Modes 1, and 3.)

EMERGENCY EXEMPTIONS—Continued

Application	Exemption	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8859-X	DOT-E 8859	AVM Corporation, Marion, SC.....	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To authorize shipment of a compressed gas in accumulators which deviate from required test criteria. (modes 1, 4, 5.)
EE 9070-X	DOT-E 9070	Warner Brothers, Inc., Sunderland, MA.	49 CFR 173.119, 173.32(a)(1).....	To become a party to exemption 9070. (Mode 1.)
EE 9211-X	DOT-E 9211	Maersk Line, Limited, Madison, NJ..	49 CFR 146.29-35(f)	To become a party to exemption 9211. (Mode 3.)
EE 9851-X	DOT-E 9851	Trans World Airlines, Inc., Kansas City, MO.	49 CFR 100-199.....	To become a party to exemption 9851. (Mode 5.)
EE 10301-N	DOT-E 10301	Fred Hutchinson Cancer Research Center, Seattle, WA.	49 CFR Parts 100 through 199.....	To authorize shipment of liquid nitrogen contained in an insulated plastic container to be transported in the cabin of a passenger-carrying aircraft under special conditions, except from party of 49 CFR. (Mode 5.)
EE 10302-N	DOT-E 10302	Austin Powder Company, Cleveland, OH.	49 CFR 171.12(D), 172.411(a).....	To authorize Shipments of trinitrotoluene (TNT), Class A explosive, in packages which are labeled in accordance with IMO regulations rather than DOT regulations. (Modes 1 and 3.)
EE 10309-N	DOT-E 10309	Suburban Propane, Whippany, NJ...	49 CFR 173.31(9)	To authorize transportation of DOT Specification 112J340W tanks with overdue tank and safety relief valve tests containing Liquefied Petroleum Gas (Propane) for a period not to exceed six months. (Mode 2.)
EE 10312-N	DOT-E 10312	CanadianOxy Industrial Chemicals Ltd., Partnership British Columbia, CN.	49 CFR 173.29(c)(2), 179.102-2.....	To authorize transport of a DOT specification 105A500W tank car tank with a defective safety relief valve for the transportation of chlorine residue. (Mode 2.)

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8644-X	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.101, 173.315.....	To authorize shipment of liquid nitrogen or oxygen, in vacuum insulated non-DOT specification cargo tanks. (Mode 3.)
8644-X	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.101, 173.315.....	To authorize shipment of liquid nitrogen or oxygen, in vacuum insulated non-DOT specification cargo tanks. (Mode 3.)
8717-X	Goodloe E. Moore, Incorporated, Danville, IL.	49 CFR 173.28(m).....	To authorize reuse of DOT Specification 17H steel drums of 55-gallon capacity, with an inside polyethylene liner of 0.010 inch minimum thickness, for shipment of certain adhesives, classed as a flammable liquid. (Mode 1.)
9065-N	Scintrex, Limited, Concord Ontario, Canada.	49 CFR Parts 100-199.....	To authorize shipment of cesium vapour lamps containing not more than 1 milligram of cesium metal, and magnetometer products containing such cesium vapour lamps as essentially non-regulated. (Modes 1, 2, 3, 4, 5.)
9112-N	Petron, Inc., Alexandria, LA.....	49 CFR 178.341-5.....	To authorize shipment of gasoline, classed as a flammable liquid in cargo tanks comparable to DOT Specification MC-306 except they are not equipped with an emergency flow control. (Mode 1.)
9483-N	Lan-O-Sheen, Inc., Saint Paul, MN.....	49 CFR 173.1200(a)(6)(i).....	To authorize shipment of 1.3 ounces of methyl ethyl ketone peroxide, classed as an organic peroxide, in a plastic tube, overpacked in strong outside packaging, without using inside cushioning material. (Mode 1.)
9882-N	Benton Fibre Drum Co., Inc., Highstown, NJ.	49 CFR 173.119(a)(9), 173.154(a)(9), 173.245(a)(24), 173.245b(a)(5), 178.225-2.	To authorize manufacture, marking and sale of a non-DOT fiber drum, equivalent to DOT Specification 21P fiber drum, except the top and bottom will be polyethylene or polypropylene, for transport of certain oxidizers, peroxides, corrosives and flammables. (Mode 1.)
9883-N	Benton Fibre Drum Co., Inc., Highstown, NJ.	49 CFR 173.119(a)(9), 173.154(a)(9), 173.245(a)(24), 173.245b(a)(5), 178.224-1.	To authorize manufacture, marking and sale of a non-DOT fiber drum equivalent to DOT Specification 21C fibre drums except lid and bottom are constructed of polyethylene or polypropylene for transportation of certain oxidizers, peroxides, flammables and corrosives. (Mode 1.)
10065-N	International Services Corporation, Washington, DC.	49 CFR 172.101, 173.54.....	To authorize shipment of certain Class A, B and C explosives by cargo air which are forbidden for shipment by air or exceed authorized quantity limitation prescribed for air shipment. (Mode 4.)

Denials

10054-P—Request by Atchison, Topeka and Santa Fe Railway Company Chicago, IL to permit the shipping papers for packaging in non-placarded trailers and containers to be kept on the trailers and containers themselves denied January 3, 1990.
 10168-N—Request by Bennett Industries Peotone, IL to authorize manufacture marking and sale of a non-DOT specification 90 mil, removable head, polyethylene drum similar to the DOT

Specification 34 drum for transportation of corrosive materials authorized to be shipped in a DOT spec. 34 drum denied January 10, 1990.

Issued in Washington, DC, on February 23, 1990.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-9046 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions

from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted in December 1989. The modes of

transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—

Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3302-X	DOT-E 3302	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.302, 175.3.....	To authorize use of non-DOT specification sampling bottles (cylinders), for transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
4453-P	DOT-E 4453	Lilly Explosives Company, Inc., Permberton, WV.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (Modes 1 and 3.)
4453-P	DOT-E 4453	Gibson Explosives Products, Inc., Duffield, VA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 4453. (Modes 1 and 3.)
4600-X	DOT-E 4600	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.315, 178.245-3(a).....	To authorize transport of hydrogen bromide (anhydrous) in DOT Specification 51 type portable tanks with a design pressure of 525 psig. (Mode 1.)
4607-X	DOT-E 4607	Armstrong Laboratories, Inc., West Roxbury, MA.	49 CFR 173.306(a)(3), 175.3.....	To authorize transport of nonflammable, nonpoisonous compressed gas, in an inside plastic coated glass bottle. (Modes 1, 2, 3, 4.)
4612-X	DOT-E 4612	EM Science, Cincinnati, OH.....	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
4884-P	DOT-E 4884	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.119(m), 173.136, 173.247, 173.251, 173.302(a)(1), 173.304, 173.3a, 175.3, 178.61.	To become a party to exemption 4884. (Modes 1, 2, 3, 4.)
5643-P	DOT-E 5643	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 172.203, 173.318, 173.320, 176.76(h), 178.338.	To become a party to exemption 5643. (Modes 1 and 3.)
5861-X	DOT-E 5861	HTL—Kin-Tech Division, Pacific Scientific Company, Duarte, CA.	49 CFR 173.304(a)(1), 175.3, 178.47..	To authorize use of a stainless steel other than prescribed in the regulations, in the construction of a cylinder patterned after the DOT Specification 4DS cylinders, for transportation of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
5951-X	DOT-E 5951	Jones Chemicals, Inc., LeRoy, NY.....	49 CFR 173.314(c).....	To authorize transport of chlorine or sulfur dioxide, in DOT Specification 106A500 type tank. (Modes 1 and 2.)
6045-X	DOT-E 6045	Viskase Corporation, Chicago, IL.....	49 CFR 173.121.....	To authorize use of DOT Specification MC-312 cargo tanks for transportation of a flammable liquid. (Modes 1 and 3.)
6309-X	DOT-E 6309	Freeman Chemical Corporation, Port Washington, WI.	49 CFR 173.315(a)(1), 174.63(b).....	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6418-P	DOT-E 6418	Nyssa Coop Supply, Nyssa, OR.....	49 CFR 173.357(b).....	To become a party to exemption 6418. (Mode 1.)
6602-X	DOT-E 6602	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.245(a), 173.314(c).....	To authorize use of 105A500W or 106A500X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1 and 2.)
6602-X	DOT-E 6602	Jones Chemicals, Inc., LeRoy, NY.....	49 CFR 173.245(a), 173.314(c).....	To authorize use of 105A500W or 106A500X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1 and 2.)
6602-X	DOT-E 6602	Ethyl Corporation, Baton Rouge, LA....	49 CFR 173.245(a), 173.314(c).....	To authorize use of 105A500W or 106A600X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1 and 2.)
6614-X	DOT-E 6614	Steelcrete Company, Novi, MI.....	49 CFR 173.263(a)(28), 173.277(a)(6).	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6691-X	DOT-E 6691	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of The Southeast, Inc., Wilmington, NC.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of the West, Inc., San Ramon, CA.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To become a party to exemption 6691. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Applica- tion No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6691-X	DOT-E 6691	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder, (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Puerto Rico, Inc., Gurabo, PR....	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder, (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder, (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder, (Modes 1, 2, 3, 4, 5.)
6691-X	DOT-E 6691	UNIGAS, Inc., Mercedita, PR	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To authorize use of DOT Specification 3A or 3AA cylinders over 35 years old which may be retested every 10 years, for transportation of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
6735-X	DOT-E 6735	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252.....	To authorize transport of bromine in a non-DOT specification cylinder constructed in accordance with all requirements of DOT Specification 4B, 4BA or 4BW except that the cylinder shall be marked "DOT-E 6735" in lieu of the DOT specification marking. (Modes 1, 2, 3.)
6743-X	DOT-E 6743	Atlas Powder Company, Dallas, TX.....	49 CFR 173.114a(h)(3), 173.182	To authorize shipment of an oxidizing material and a blasting agent in DOT Specification 56 or 57 portable tanks. (Mode 1.)
6747-X	DOT-E 6746	Bridgeport/Firestone, Inc., Akron, OH.	49 CFR 173.315(a)(1).....	To authorize shipment of anhydrous ammonia in portable tanks built, marked and maintained in compliance with the DOT Specification MC-331 cargo tank. (Modes 1 and 3.)
6765-X	DOT-E 6765	L'Air Liquide Corporation, Le Blanc-Mesnil, France.	49 CFR 173.318(a), 176.76(h)(4).....	To authorize use of non-DOT specification containerized portable tanks, for transportation of a flammable and nonflammable gas. (Modes 1 and 3.)
6765-X	DOT-E 6765	Teisan Kabushiki Kaisha, Tokyo, Japan.	49 CFR 173.318(a), 176.76(h)(4).....	To authorize use of non-DOT specification containerized portable tanks, for transportation of a flammable and nonflammable gas. (Modes 1 and 3.)
6765-P	DOT-E 6765	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.318(a), 176.76(h)(4).....	To become a party to exemption 6765 (Modes 1 and 3.)
6874-P	DOT-E 6874	Mine Chemical Services, Inc., Winnemucca, NV.	49 CFR 172.101, 173.370(a)(13).....	To become a party to exemption 6874 (Modes 1, 2, 3.)
6908-X	DOT-E 6908	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302(a)(1), 175.3, 178.65 ..	To authorize certain variances from the specifications for DOT Specification 39 cylinders, used to transport certain non-flammable gases. (Modes 1, 2, 3, 4.)
6908-X	DOT-E 6908	Allied-Signal Aerospace Company, Tempe, AZ.	49 CFR 173.302(a)(1), 175.3, 178.65 ..	To authorize certain variances from the specifications for DOT Specification 39 cylinders, used to transport certain non-flammable gases. (Modes 1, 2, 3, 4.)
6971-X	DOT-E 6971	Chem Service, Inc., West Chester, PA.	49 CFR Parts 100-199.....	To authorize an alternative method of packaging for reshippers who are returning the material to the holder of the exemption. (Modes 1, 2, 3, 4, 5.)
6985-X	DOT-E 6985	U.S. Department of Energy, Washington, DC.	49 CFR 173.154(a)(8), 173.86(a).....	To authorize shipment of diallyl phthalate-pyrotechnic materials in a aluminum case packed in a DOT Specification wooden box. (Mode 1.)
7024-X	DOT-E 7024	B.I. Transportation, Inc., Burlington, NC.	49 CFR 173.249(a)(7)	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers, identified as sealtanks. (Mode 1.)
7052-X	DOT-7052	Geophysical Research Corporation, Tulsa, OK.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Central Skyport, Inc., Columbus, OH....	49 CFR 175.702(b), 175.75(a)(3)(ii).....	To authorize carriage of non-fissile radioactive materials aboard cargo only aircraft when the combined transport index exceeds the usual authorized limits specified in Part 175 or the separation distance criteria cannot be met. (Mode 4.)
7274-P	DOT-E 7274	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 172.101, 173.318, 173.320, 176.30, 176.76(h).	To become a party to exemption 7274. (Mode 3.)
7440-X	DOT-E 7440	Revlon, Inc., Professional Products Group, Jacksonville, FL.	49 CFR 173.1200(a)(8)(ii)(A), 173.1200(a)(8)(ii)(E), 173.306(a)(3)(i), 173.306(a)(3)(v), 178.33.	To renew and decrease the aerosol container from 58 cubic inches (32 fl. oz.) to 43 cubic inches (34 fl. oz.) while maintaining a maximum of 40 PSI internal pressure. (Modes 1, 2, 3.)
7465-X	DOT-E 7465	State of Alaska, Dept. of Transp. & Public Fac., Juneau, AK.	49 CFR 173.119, 173.304, 176.83, 176.905(1), Part 172, Part 176 Subpart H.	To authorize stowage and transport of motor vehicles, gasoline including camp stove or lantern fuel) and liquefied petroleum gas aboard passenger vessels. (Mode 3.)
7541-X	DOT-E 7541	E.I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.315(a).....	To authorize use of a non-DOT specification portable tank for transportation of certain flammable and non-flammable compressed gases. (Modes 1 and 3.)
7607-X	DOT-E 7607	Dames & Moore, Golden, CO	49 CFR 172.101, 175.3.....	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7607-P	DOT-E 7607	Science Applications, International Corporation, McLean, VA.	49 CFR 172.101, 175.3.....	To become a party to exemption 7607. (Mode; 5.)
7621-X	DOT-E 7621	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.357, 174.63(b).....	To authorize use of DOT Specification 51/ISO portable tanks, for shipment of poison B liquid. (Modes 1, 2, 3.)
7770-X	DOT-E 7770	Eurotainer US, Inc., New York, NY.....	49 CFR 173.143, 173.264(6)(4), 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3.)
7835-P	DOT-E 7835	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 177.848, Part 107 Appen. B(1).	To become a party to exemption 7835. (Modes 1.)
7891-X	DOT-E 7891	Farchan Laboratories, Inc., Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2, and 4.)
7928-X	DOT-E 7928	Alaska Marine Highway System, State of Alaska, Juneau, AL.	49 CFR 172.101, 176.905(L).....	To authorize stowage of certain hazardous materials on the vehicle deck of passenger vessels. (Mode 3.)
7929-X	DOT-E 7929	Trojan Corporation, Spanish Fork, UT.	49 CFR 173.65.....	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1 and 2.)
7929-X	DOT-E 7929	Austin Powder Company, Cleveland, OH.	49 CFR 173.65.....	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1 and 2.)
7946-X	DOT-E 7946	Westinghouse Electric Corporation, Pittsburgh, PA.	49 CFR 173.306(b)(4), 175.3.....	To authorize use of non-DOT specification nonrefillable containers, for shipment of nonflammable gases. (Modes 1, 2, 3, and 4.)
7954-X	DOT-E 7954	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 172.504, 172.504, 173.301(d)(2), 173.302(a)(3).	To renew and authorize shipments of mixtures containing up to 21.5% fluorine (balance nitrogen, argon, helium, xenon, neon or krypton) in manifolded DOT Specification cylinders. (Modes 1 and 3.)
8156-X	DOT-E 8156	Scott Specialty Gases, Inc., Plumsteadville, PA.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or non-flammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1 and 2.)
8156-P	DOT-E 8156	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To become a party to exemption 8156. (Modes 1 and 3.)
8213-X	DOT-E 8213	Trailmaster Tanks, Incorporated, Fort Worth, TX.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC-307/MC-312 except for bottom outlet valve variations, for transportation of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8228-P	DOT-E 8228	Central Intelligence Agency, Washington, DC.	49 CFR 173.100(bb), 173.113(a)(1), 173.86.	To become a party to exemption 8228. (Mode 1.)
8236-P	DOT-E 8236	Mazda Motor of America, Inc., Irvine, CA.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To become a party to exemption 8236. (Modes 1, 2, 3, and 4.)
8329-X	DOT-E 8329	Texas Instruments, Inc., Dallas, TX.....	49 CFR 173.266.....	To authorize use of DOT Specification 57 portable tanks in less than truckload quantities with other hazardous materials subject to 49 CFR 177.848. (Mode 1.)
8354-X	DOT-E 8354	VTG Vereinigte Tanklager und Transportmittel GmbH, Hamburg, West Germany.	49 CFR 173.123, 173.315.....	To authorize use of non-DOT specification portable tanks, for transportation of certain liquefied petroleum gases and other gases classed as flammable liquid. (Modes 1, 2, and 3.)
8445-P	DOT-E 8445	Eldredge, Inc., West Chester, PA.....	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445. (Mode 1.)
8465-X	DOT-E 8465	AT Plastics, Inc., Brampton, Ont., Canada.	49 CFR 173.182(b)(6)(i), 173.234, 178.241.	To authorize manufacture, marking and sale of non-DOT specification plastic bags (comparable to a DOT Specification 44P), for shipment of ammonium nitrate fertilizers and sodium nitrite mixtures. (Modes 1, 2, and 3.)
8556-X	DOT-E 8556	L'Air Liquide Corporation, Paris, France.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To authorize use of non-DOT specification containerized portable tanks insulated with vacuum plus liquid nitrogen shield, for transportation of a flammable and nonflammable gas. (Modes 1 and 3.)
8556-P	DOT-E 8556	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To become a party to exemption 8556. (Modes 1 and 3.)
8723-P	DOT-E 8723	Econexpress, Inc., Wheaton, IL.....	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 8723. (Modes 1 and 3.)
8770-X	DOT-E 8770	Eastman Kodak Company, Rochester, NY.	49 CFR 172.402, 173.286(c).....	To authorize shipment of a corrosive liquid and minute quantity of a flammable, poisonous solid in DOT Specification 12A, 12B or 15A fiberboard or wooden boxes with inside glass bottles. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Applica- tion No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8811-X	DOT-E 8811	Aqualon Company, Wilmington, DE.....	49 CFR 173.294, 178.340-3, 178.343-2.	To authorize use of modified DOT Specification MC-312 cargo tanks made of titanium, for shipment of certain corrosive materials. (Mode 1.)
8811-X	DOT-E 8811	Hoechst Celanese Corporation, Somerville, NJ.	49 CFR 173.294, 178.340-3, 178.343-2.	To authorize use of modified DOT Specification MC-312 cargo tanks made of titanium, for shipment of certain corrosive materials. (Mode 1.)
8834-X	DOT-E 8843	GOEX, Inc., Cleburne, TX.....	49 CFR 173.246, 175.3.....	To authorize manufacture, marking and sale of non-DOT specification nonrefillable cylinders, for transportation of bromine trifluoride. (Modes 1, 2, 3, 4.)
8843-X	DOT-E 8843	Owen Oil Tools, Inc., Fort Worth, TX...	49 CFR 173.246, 175.3.....	To authorize manufacture, marking and sale of non-DOT specification nonrefillable cylinders, for transportation of bromine trifluoride. (Mode 1, 2, 3, 4.)
8862-P	DOT-E 8862	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.119, 173.124(a)(4), 173.305.	To become a party to exemption 8862. (Mode 1.)
8988-P	DOT-E 8988	Wedge Wireline, Inc., Arlington, TX.....	49 CFR 172.101, 173.110, 173.80, 175.30.	To become a party to exemption 8988. (Modes 1, 3, 4.)
9034-P	DOT-E 9034	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To become a party to exemption 9034. (Modes 1, 2, 3, 4, 5.)
9047-P	DOT-E 9047	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.124(a)(2), 173.124(a)(4), 175.3.	To become a party to exemption 9047. (Modes 1, 2, 3, 4, 5.)
9066-X	DOT-E 9066	BMW of North America, Inc., Montvale, NJ.	49 CFR 171.11 (see paragraph 8.d.) ...	To authorize transport of an airbag gas generator as flammable solid, in a box constructed of single wall corrugated fiberboard with an inside styropor container insert for shock absorption. (Modes 1, 2, 3, 4.)
9066-X	DOT-E 9066	Porsche Cars of North America, Inc., Reno, NV.	49 CFR 171.11 (see paragraph 8.d.) ...	To authorize transport of an airbag gas generator as flammable solid, in a box constructed of single wall corrugated fiberboard with an inside styropor container insert for shock absorption. (Modes 1, 2, 3, 4.)
9066-X	DOT-E 9066	Volvo Cars of North America, Rockleigh, NJ.	49 CFR 171.11 (see paragraph 8.d.) ...	To renew and modify section 7, paragraph A to include DOT Specification 12B fiberboard box identified as Volvo 2. (Modes 1, 2, 3, 4.)
9066-X	DOT-E 9066	Mercedes-Benz of North America, Inc., Montvale, NJ.	49 CFR 171.11 (see paragraph 8.d.) ...	To authorize transport of an airbag gas generator as flammable solid, in a box constructed of single wall corrugated fiberboard with an inside styropor container insert for shock absorption. (Modes 1, 2, 3, 4.)
9072-X	DOT-E 9072	Thiokol Corporation, Brigham City, UT.	49 CFR 173.92.....	To authorize shipment of rocket motors, Class B explosive in specially designed non-DOT specification containers. (Mode 1.)
9134-X	DOT-E 9134	ISC Chemicals, Limited, Bristol, England.	49 CFR 173.264, 178.245.....	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain corrosive materials. (Modes 1, 2, 3.)
9414-P	DOT-E 9414	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.302(a)(5).....	To become a party to exemption 9414. (Modes 1 and 3.)
9507-P	DOT-E 9507	Linde Gases of the Northwest, Inc., Portland, OR.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9507. (Mode 1.)
9596-X	DOT-E 9596	L'Air Liquide Corporation, Sassenage, France.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 178.338.	To authorize use of non-DOT specification insulated portable tanks for transportation of liquefied helium. (Modes 1 and 3.)
9694-P	DOT-E 9694	Thatcher Company, Salt Lake City, UT.	49 CFR 173.315(i)(13), 173.33(f)(9), 173.33(h)(5)(i).	To become a party to exemption 9694. (Mode 1.)
9723-X	DOT-E 9723	BD Technology, Inc., Arcadia, CA.....	49 CFR 177.848(b).....	To authorize shipment of "lab-packs" containing cyanides and cyanide mixtures with "lab-packs" containing acids and corrosive liquids in the same transport vehicle. (Mode 1.)
9723-X	DOT-E 9723	GSX Chemical Services, Inc., Columbia, SC.	49 CFR 177.848(b).....	To authorize shipment of "lab-packs" containing cyanides and cyanide mixtures with "lab-packs" containing acids and corrosive liquids in the same transport vehicle. (Mode 1.)
9785-P	DOT-E 9785	ABC Containers, N.V., Antwerpen, Belgium.	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (Modes 1, 2, 3.)
9785-X	DOT-E 9785	Atlantic Container Line, Limited, South Plainfield, NJ.	49 CFR 173.30, 176.11, 176.83.....	To authorize stowage and segregation of hazardous materials transported in freight containers to be in accordance with the proposed Amendment 24-86 to the International Maritime Dangerous Goods Code. (Modes 1, 2, 3.)
9785-X	DOT-E 9785	Compagnie Generale Maritime, Paris, France.	49 CFR 173.30, 176.11, 176.83.....	To authorize stowage and segregation of hazardous materials transported in freight containers to be in accordance with the proposed Amendment 24-86 to the International Maritime Dangerous Goods Code. (Modes 1, 2, 3.)
9920-X	DOT-E 9920	Tri-Wall Company, Louisville, KY.....	49 CFR 173.245b, 173.365.....	To authorize rail as an additional mode of transportation. (Modes 1, 2.)
9929-P	DOT-E 9929	Hughes Aircraft Company, Los Angeles, CA.	49 CFR 172.101, 173.92.....	To become a party to exemption 9929 (modes 1, 3, 4.)
9929-X	DOT-E 9929	Morton Thiokol, Inc., Elkton Division, Elkton, MD.	49 CFR 172.101, 173.92.....	To authorize shipment of an additional Star 63 rocket motor, Class B explosives. (Modes 1, 3, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9971-X	DOT-E 9971	Fisher Scientific Company, Fair Lawn, NJ.	49 CFR 173.119(a)(23), 173.245(a)(18), 174.3, 175.3, 176.3(a), 178.210.	To authorize rail freight and cargo vessel as additional modes of transportation. (Modes 1, 2, 3, 4.)
10184-P	DOT-E 10184	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.34(e)(10), 173.34(e)(9).....	To become a party to exemption 10184. (Modes 1, 2, 3.)
10184-P	DOT-E 10184	Linden Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.34(e)(10), 173.34(e)(9).....	To become a party to exemption 10184. (Modes 1, 2, 3.)
10184-X	DOT-E 10184	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.34(e)(10), 173.34(e)(9).....	To reissue exemption originally issued on an emergency basis to authorize shipment of a specific gas mixture in DOT-4BW cylinder retested in accordance with Section 173.34(e)(9), (10). (Modes 1, 2, 3.)
10184-X	DOT-E 10184	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.34(e)(10), 173.34(e)(9).....	To authorize DOT Specification 4B or 4A cylinders retested in accordance with 49 CFR 173.34(e)(9) and (10) for shipment of a compressed gas, n.o.s.. (Modes 1, 2, 3.)
10192-X	DOT-E 10192	Eli Lilly and Company, Indianapolis, IN.	49 CFR 173.125, 178.205.....	To renew exemption issued on an emergency basis to authorize shipment of Isopropyl Alcohol classed as a flammable liquid in a DOT Specification 12B fiberboard box without handholes. (Modes 1, 2, 3, 4.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10130-N	DOT-E 10130	UF Strainrite, New Haven, CT.....	49 CFR Part 173 Subparts E, F, and H.	To authorize manufacture, marking and sale of collapsible, disposable polyethylene-lined woven polypropylene bulk bags for shipment of flammable solids, corrosive solids, oxidizers, and poison B solids. (modes 1, 2, 3)
10161-N	DOT-E 10161	Container Corporation of America, Wilmington, DE.	49 CFR Part 173 subparts E, F, and H.	To authorize manufacture, marking and sale of non-DOT specification full removable head polyethylene drum of 20-, 25-, and 30-gallon capacity, for shipment of certain corrosive, flammable, poison B, and oxidizer solids. (modes 1, 2, 3)
10173-N	DOT-E 10173	Olin Corporation—Chemicals Group, Stamford, CT.	49 CFR 173.263(a)(10).....	To authorize shipment of an aqueous sodium chlorite solution in DOT specification MC-307 cargo tanks. (mode 1)
10203-N	DOT-E 10203	Morton Thiokol, Inc., Marshall, TX.....	49 CFR 173.91.....	To authorize transport of 155mm illuminating projectile in non-DOT packaging. (modes 1, 3)
10206-N	DOT-E 10206	E.I. du Pont de Nemours & Company Wilmington, DE.	49 CFR 179.101-1, Note 4.....	To authorize transport of liquid aniline oil and liquid nitrobenzene in certain DOT Specification 112A and 114A specification tank car tanks which have a dark color band around the center of the tank. (mode 2)
10216-N	DOT-E 10216	Motor Transportation Services, Cortland, NY	49 CFR 173.34(L), Subparagraphs 1, 2, 3, Part 107, Appendix B.	To authorize the rebuilding and selling of low-pressure, DOT Specification 4B, 4BA and 4BW steel cylinder in accordance with the procedures prescribed within the exemption. (modes 1, 2, 3, 4, 5)
10246-N	DOT-E 10246	Ciba-Geigy Corporation, Ardsley, NY...	49 CFR 173.359.....	To authorize transport of a Class B poison of low toxicity in a packaging not authorized in 49 CFR. (mode 1)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 6016-X	DOT-E 6016	S.J. Smith Welding Supply, Daventonport, IA.	49 CFR 173.315(a).....	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (mode 1)
EE 7051-X	DOT-E 7051	Advance Research Chemicals, Inc., Catoosa, OK.	49 CFR 173.246(a), 175.3.....	To authorize use of non-DOT specification Teflon bottles overpacked with either a DOT specification 12A or 12B fiberboard box to transport a corrosive liquid. (modes 1, 4)
EE 7052-X	DOT-E 7052	Hazeltine Corporation, Braintree, MA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Leigh Instruments, Limited, Carleton Place, Ontario.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	ACR Electronics, Inc., Fort Lauderdale, FL.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7052-X	DOT-E 7052	DME Corporation, Ft. Lauderdale, FL.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Bren-Tronics, Inc., Commack, NY....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Syntron, Inc., Houston, TX.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	In-Situ, Inc., Laramie, WY.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Clifton Precision, Springfield, PA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Siemens Medical Systems, Inc., Jamaica, NY.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7060-X	DOT-E 7060	Federal Express Corporation, Memphis, TN.	49 CFR 175.702(b), 175.75(a)(3)(ii).	To authorize carriage of non-fissile radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (mode 4)
EE 7991-X	DOT-E 7991	CSX Transportation, Inc., Jacksonville, FL.	49 CFR Parts 100-177.....	To authorize transport of railway track torpedoes and fuses in flagging kits of specified construction. (mode 1)
EE 8988-X	DOT-E 8988	Vann Systems, Houston, TX.....	49 CFR 172.101, 173.110, 173.80, 175.30.	To authorize transport of charged oil well guns as Class C explosive when the net weight of explosive material in the vehicle or vessel does not exceed 200 pounds. (modes 1, 3, 4)
EE 9077-X	DOT-E 9077	Central Vermont Railway, Inc., St. Albans, VT.	49 CFR Parts 100-177.....	To authorize transport of railway track torpedoes and railway fuses in flagging kits constructed of 24 gauge galvanized steel. (mode 1)
EE 9836-X	DOT-E 9836	Marko Foam Products, Inc., Hayward, CA.	49 CFR 177.839 (a), (b), 178.150, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-reusable expanded polystyrene case similar to a DOT-33A, except that it will incorporate six cavities to contain not more than six five-pint bottles, for shipment of those commodities authorized by Part 173 to be shipped in a DOT-33A case. (mode 1)
EE 9851-X	DOT-E 9851	American Airlines, Inc., Dallas, TX...	49 CFR Parts 100-199.....	To authorize a one time shipment of insulated dewars containing liquid nitrogen to be transported in the cabin of a passenger aircraft under special conditions. (mode 5)
EE 9851-X	DOT-E 9851	Delta Air Lines, Inc., Atlanta, GA.....	49 CFR Parts 100-199.....	To authorize a one time shipment of insulated dewars containing liquid nitrogen to be transported in the cabin of a passenger aircraft under special conditions. (mode 5)
EE 9888-P	DOT-E 9888	Powerplex Technologies, Inc., Ontario, Canada.	49 CFR Parts 100-199.....	To become a party to exemption 9888. (mode 1)
EE 10180-X	DOT-E 10180	Convenience Marine Products, Inc., Grand Rapids, MI.	49 CFR 173.304(a)(2), 173.34(d).....	To manufacture, mark and sell cylinders similar to DOT specification 39 without a relief device to be used as a fire extinguisher charged with a nonflammable liquefied compressed gas. (mode 1)
EE 10285-N	DOT-E 10285	Western Growers Association, Newport Beach, CA.	49 CFR 173.29, 173.315.....	To authorize shipment of residual amounts of ammonia in DOT specification packagings. (mode 1)
EE 10286-N	DOT-E 10286	Marsulex Incorporated, Norwalk, CT.	49 CFR 173.29(c)(2), 174.50(d), 179.100-15.	To authorize the transport of a DOT specification 105A300W tank car with a defective safety relief valve for the transportation of sulfur dioxide residue. (mode 2)
EE 10287-N	DOT-E 10287	Prolerized Steel Corporation, Kansas City, KS.	49 CFR 173.203(d), Part 107, Appendix B to Subpart B, Part 172, Subparts, D, E, F.	To authorize one-time-only transportation of a shipment of radioactive contaminated shredded scrap steel contained in a gondola type rail car without regard to specification packaging, marking, labeling, placarding and certain shipping paper requirements. (mode 2)
EE 10300-N	DOT-E 10300	U.S. Department of Energy, Washington, DC.	49 CFR 173.305.....	To authorize use of non-DOT specification cylinders, used in Foam Products Unit System. (mode 1)

WITHDRAWAL EXEMPTIONS

Application	No. Applicant	Regulation(s) affected	Nature of exemption thereof
8839-P	Hampton Roads Sanitation District, Virginia Beach, VA.	49 CFR 172.101, 173.114a(h)(3), 173.266, 173.268, 176.415, 176.83, 178.19, Part 173, Subpart D, F.	To become a party to exemption 8839 (modes 1, 2, 3)

WITHDRAWAL EXEMPTIONS—Continued

Applica- tion	No. Applicant	Regulation(s) affected	Nature of exemption thereof
10018-X	CIBA-GEIGY Corporation, Hawthorne, NY.....	49 CFR 173.359	To authorize transport of a certain Class B poison in a non-Dot specification rotationally molded polyethylene container. (mode 1)

Denials

10132-N Request by AmeriBrom, Inc. New York, NY to authorize shipment of Bromine, classed as a corrosive material in a non-DOT specification ISO portable tank of 1250 liter capacity denied December 13, 1989.

Issued in Washington, DC, on February 23, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-9047 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given of the exemptions granted in November 1989. The modes of

transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Applica- tion No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2582-X	DOT-E 2582	Advance Research Chemicals, Inc., Catoosa, OK.	49 CFR 175.3, Part 173, Subparts D, E, F, G.	To authorize shipment of certain hazardous materials in cylinders made in compliance with DOT Specification 3E1800, with certain exceptions. (modes 1, 2, 3, 4)
2582-X	DOT-E 2582	Ozark-Mahoning Co., Tulsa, OK	49 CFR 175.3, Part 173, Subparts D, E, F, G.	To authorize shipment of certain hazardous materials in cylinders made in compliance with DOT Specification 3E1800, with certain exceptions. (modes 1, 2, 3, 4)
3004-X	DOT-E 3004	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Puerto Rico, Inc., Gurabo, PR	49 CFR 173.302, 175.3.....	To authorize use of non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of the West, Inc., San Ramon, CA.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.302, 175.3.....	To authorize use of non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Applica- tion No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3004-X	DOT-E 3004	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
3004-X	DOT-E 3004	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.302, 175.3.....	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (modes 1, 2, 4, 5)
4453-X	DOT-E 4453	Ladshaw Explosives, Inc., New Braunfels, TX.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (modes 1, 3)
5749-X	DOT-E 5749	E.I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.315(a).....	To authorize use of smaller outside dimension valves: To authorize use of new bolts and studs that have lower temperature properties; and removable fiberglass panel. (mode 1)
6122-X	DOT-E 6122	Pennwalt Corporation, Buffalo, NY.....	49 CFR 173.154(a)(12), 173.158(a)(3), 178.205-16.	To authorize use of a full telescope half slotted fiberboard box meeting the requirements of DOT Specification 12B fiberboard box, for shipment of certain dry organic peroxides. (modes 1, 2)
6418-P	DOT-E 6418	Agrinorth West Company, Prescott, WA.	49 CFR 173.357(b).....	To become a party to exemption 6418. (mode 1)
6472-X	DOT-E 6472	Morton Thiokol, Inc., Brigham City, UT.	49 CFR 173.91.....	To authorize the additional wire bound box with fiberboard lining. (modes 1, 2, 3)
6484-X	DOT-E 6484	Angus Chemical Company, Northbrook, IL.	49 CFR 172.101, 173.149a.....	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (mode 1)
6501-X	DOT-E 6501	GOEX, Inc., Cleburne, TX.....	49 CFR 173.62.....	To authorize transport of liquid high explosives in DOT Specification 6D steel drums overpacked with a DOT Specification 2SL liner. (mode 1)
6530-X	DOT-E 6530	Linde Puerto Rico, Inc., Gurabo, PR....	49 CFR 173.302(c).....	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (modes 1, 2)
6530-X	DOT-E 6530	Linde Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.302(c).....	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (modes 1, 2)
6531-X	DOT-E 6531	TAVCO, Inc., Chatsworth, CA.....	49 CFR 173.302(a)(1), 175.3.....	To authorize use of a non-DOT Specification pressure vessel for shipment of a nonflammable compressed gas. (modes 1, 2, 4, 5)
6563-X	DOT-E 6563	Monogahela Power Company, Fairmont, WV.	49 CFR 173.302(a)(1), 175.3, 178.42-2.	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made generally in compliance with DOT Specification 3E with certain exceptions. (modes 1, 2, 3, 4, 5)
6589-X	DOT-E 6589	International Safety Devices, Inc., Hesperia, CA.	49 CFR 173.302(a)(1), 175.3.....	Reinstatement of exemption that authorizes the shipment of materials in non-DOT specification cylinders. (modes 1, 2, 4, 5)
6691-X	DOT-E 6691	GenEx, Ltd., Des Moines, IA.....	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (modes 1, 2, 3, 4, 5)
6801-X	DOT-E 6801	Phillips Petroleum Company, Bartlesville, OK.	49 CFR 173.119(a)(7), 173.119(e)(1)...	To authorize use of a one-gallon glass bottle, packed in a DOT Specification 12B fiberboard box, for shipment of certain flammable liquids. (modes 1, 2)
6974-P	DOT-E 6974	Williams International, Walled Lake, MI.	49 CFR 173.302(a)(1), 175.3, 178.42..	To become a party to exemption 6974. (modes 1, 2, 4)
7052-P	DOT-E 7052	Ansul Fire Protection Wornald U.S., Inc., Marinette, WI.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Ocean Technology, Inc., Burbank, CA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Honeywell, Inc., Horsham, PA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	General Dynamics Corporation, Fort Worth, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	3M Transportation Company, St. Paul, MN.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Hughes Electronics Products Corporation, Livonia, MI.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Mercury Instruments, Inc., Cincinnati, OH.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Magnavox Government & Industrial Electronics Co., Fort Wayne, IN.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Flow Research Corporation, Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Maxell Corporation of America, Fair Lawn, NJ.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Exploration Logging, Inc., Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	Baker Hughes Drilling Systems, Inc. (BHDS), Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To become a party to exemption 7052. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	Computalog Wireline Services, Inc., Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To become a part to exemption 7052. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	SAFT America, Inc., Cockeysville, MD.	49 CFR 172.101, 172.4500, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Schlumberger Well Services, Rose-sharon, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Halliburton Company, Duncan, OK.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Halliburton Logging Services, Inc., Fort Worth, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	SAB NIFE A/S, Denmark, Sweden.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	TOTCO, Houston, TX.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Boeing Aerospace Company, Seattle, WA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Telonics, Inc., Mesa, AZ.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	GE Aerospace, Philadelphia, PA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Allen-Bradley Company, Inc., Milwaukee, WI.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Battery Engineering, Inc., Hyde Park, MA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Wilson Greatbatch, Limited, Clarence, NY.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Sippican Ocean Systems, Inc., Marion, MA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	General Motors Corporation, Warren, MI.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Tadiran Electronics Industries, Limited, Port Washington, NY.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	ENDECO, Inc., Marion, MA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	Dukane Corporation/Seacom Division, St. Charles, IL.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Altus Corporation, San Jose, CA.....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Sperry-Sun Drilling Services, Inc. Houston, TX.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Teledyne Systems Company, Northridge, CA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Tadiran-Israel Electronics Industries, Limited, Rehovot, Israel.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	Ray-O-Vac Corporation, Madison, WI..	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7052-X	DOT-E 7052	MODICON, Inc., North Andover, MA....	49 CFR 172.101, 172.400, 175.3.....	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
7073-X	DOT-E 7073	Ethyl Corporation, Baton Rouge, LA....	49 CFR 173.354(a)(6), 174.63(b).....	To authorize use of non-DOT specification portable tanks for transportation of a Class B poisonous liquid. (modes 1, 2, 3)
7595-X	DOT-E 7595	American Cyanamid Company, Wayne, NJ.	49 CFR 173.358, 173.359.....	To authorize transport of certain poison B liquids in DOT Specification MC-312 cargo tanks. (mode 1)
7654-X	DOT-E 7654	J.T. Baker, Inc., Phillipsburg, NJ.....	49 CFR 173.119(f).....	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (modes 1, 2)
7654-X	DOT-E 7654	Tennessee Eastman Company, Kingsport, TN.	49 CFR 173.119(f).....	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (modes 1, 2)
7654-X	DOT-E 7654	Texas Eastman Company, Longview, TX.	49 CFR 173.119(f).....	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (modes 1, 2)
7737-X	DOT-E 7737	Parker Hannifin Corporation, Eastlake, OH.	49 CFR 173.119(a), 173.199(b), 173.119(f), 173.124(a), 173.148(a), 173.302(a), 173.304(a), 173.304(d), 173.328, 173.332, 173.336, 173.337, 173.358, 175.3, 178.42.	To authorize manufacture, marking and sale of non-DOT specification seamless aluminum cylinders, for shipment of flammable gas, nonflammable gas, flammable liquid, or poison A. (modes 1, 2, 3, 4)
7770-X	DOT-E 7770	Arbel-Fauvet-Rail, Paris, France.....	49 CFR 173.143, 173.264(b)(4), 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (modes 1, 2, 3)
7774-P	DOT-E 7774	Wedge Wireline, Inc., Arlington, TX.....	49 CFR 173.246, 175.3.....	To become a party to exemption 7774. (modes 1, 2, 4)
7887-X	DOT-E 7887	Estes Industries, Inc., Penrose, CO.....	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	To authorize transport of certain toy propellant devices and igniters, in DOT Specification 15A, 15B, 16A or 19A wooden boxes, or DOT Specification 12B fiberboard boxes. (modes 1, 2, 3, 4, 5)
7887-X	DOT-E 7887	Model Rectifier Corporation, Edison, NJ.	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	To authorize transport of certain toy propellant devices and igniters, in DOT Specification 15A, 15B, 16A or 19A wooden boxes, or DOT Specification 12B fiberboard boxes. (modes 1, 2, 3, 4, 5)
7887-X	DOT-E 7887	Flight Systems, Inc., Raytown, MO.....	49 CFR 172.101, 173.111, 175.3, Part 107, Appendix B.	To authorize transport of certain toy propellant devices and igniters, in DOT Specification 15A, 15B, 16A or 19A wooden boxes, or DOT Specification 12B fiberboard boxes. (modes 1, 2, 3, 4, 5)
7891-X	DOT-E 7891	Reliance Electric Company, Cleveland, OH.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (modes 1, 2, 4)
7891-X	DOT-E 7891	Sigma-Aldrich Corporation, Saint Louis, MO.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7943-X	DOT-E 7943	Hasa Chemicals, Inc., Santa Clarita, CA.	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in one or two one-gallon polyethylene containers packed in fiberboard boxes, complying with DOT Specification 12B except for handholes in top flaps. (mode 1)
7943-X	DOT-E 7943	Grow Group, Inc., Motebello, CA.....	49 CFR 173.263(a) (15), 173.272 (c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in one or two one-gallon polyethylene containers packed in fiberboard boxes, complying with DOT Specification 12B except for handholes in top flaps. (mode 1)
7946-X	DOT-E 7946	Imaging and Sensing Technology Corporation, Horsehead, NY.	49 CFR 173.306(b)(4), 175.3.....	To authorize use of non-DOT specification nonrefillable containers, for shipment of nonflammable gases. (modes 1, 2, 3, 4)
7985-X	DOT-E 7985	Process Engineering, Inc., Plaistow, NH.	49 CFR 173.315(a).....	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of nonflammable gases. (modes 1, 3)
7991-X	DOT-E 7991	Union Pacific RR Co. and Missouri Pacific RR Co., Omaha, NE.	49 CFR Parts 100-177.....	To authorize transport of railway track torpedoes and fuses in flagging kits of specified construction, (mode 1)
8009-P	DOT-E 8009	American Energy Services, Inc., Knoxville, TN.	49 CFR 173.301(d)(2), 173.302(a)(3)...	To become a party to exemption 8009. (mode 1)
8156-X	DOT-E 8156	GenEx, Ltd., Des Moines, IA.....	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the West, Inc., San Ramon, CA.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8156-X	DOT-E 8156	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (modes 1, 2)
8162-X	DOT-E 8162	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (modes 1, 2, 3, 4, 5)
8180-X	DOT-E 8180	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	49 CFR 173.119(m), 173.136(a)(3), 173.247(a)(7).	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (modes 1, 2)
8194-X	DOT-E 8194	Pennwalt Corporation, Buffalo, NY.....	49 CFR 173.119(m)(6), 173.221(a)(3), 178.205, 178.210-10.	To authorize use of a fiberboard box complying with DOT Specification 12B (except for closure method and its one-piece, die-cut design), for shipment of liquid organic peroxides. (modes 1, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8214-X	DOT-E 8214	Volkswagen of America, Inc., Troy, MI.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To authorize transport of inflators and modules in passive restraint systems used in automobiles as flammable solids, n.o.s. (modes 1, 2, 3, 4)
8239-X	DOT-E 8239	Westinghouse Electric Corporation, Pittsburgh, PA.	49 CFR 172.101 Column 6(a), 172.101 Column 6(b), 173.302, 175.3.	To authorize use of non-DOT specification containers, for the shipment of nonflammable gases. (modes 1, 2, 3, 4, 5)
8273-X	DOT-E 8273	TRW Vehicle Safety Systems, Inc., Washington, MI.	49 CFR 171.11 (see paragraph 8.d.), 173.153, 173.154, 175.3.	To authorize an alternative packaging method and an increase in the quantity of igniter composition to 1 gram. (modes 1, 2, 3, 4)
8348-X	DOT-E 8348	Frell, Inc., Corpus Christi, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC-312 except for bottom outlet valve variation, for transportation of flammable or corrosive waste, liquids or semi-solids. (mode 1)
8354-X	DOT-E 8354	Arbel-Fauvet-Rail, Paris, France	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain liquefied petroleum gases and other gases classed as flammable gases and a flammable liquid. (modes 1, 2, 3)
8363-X	DOT-E 8363	IMR Powder Company, Plattsburgh, NY.	49 CFR 173.93(a)	To authorize shipment of certain solid propellant explosives in metal canisters overpacked in DOT Specification 12H 65 fiberboard boxes. (modes 1, 3)
8390-X	DOT-E 8390	J.T. Baker, Inc., Phillipsburg, NJ	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	Texas Instruments, Inc., Dallas, TX	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	General Chemical Corporation, Parsippany, NJ.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	KTI Chemicals, Inc., Danbury, CT	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	Olin Hunt Specialty Products, Inc., West Paterson, NJ.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	Hi Pure Chemicals, Inc., Nazareth, PA.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	Image Technology Corporation, Chandler, AZ.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8390-X	DOT-E 8390	Ashland Chemical Company, Columbus, OH.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (mode 1)
8426-P	DOT-E 8426	Pacific Industrial Service Corporation, Long Beach, CA.	49 CFR 173.119 (a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8426. (mode 1)
8445-P	DOT-E 8445	Price Trucking Corporation, Buffalo, NY.	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445. (mode 1)
8445-P	DOT-E 8445	FIW, Inc., Pecatonica, IL	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445. (mode 1)
8445-X	DOT-E 8445	SET Environmental, Inc., Wheeling, IL.	49 CFR Part 173, Subparts D, E, F, H.	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (mode 1)
8478-X	DOT-E 8478	West-Mark, Ceres, CA	49 CFR 173.119 (a), (m), 173.245(a), 177.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable and corrosive liquids. (mode 1)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8518-X	DOT-E 8518	Pacific Construction & Maintenance, Inc., Ventura, CA.	49 CFR 173.119 (a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 except for bottom outlet valve variations, for transportation of flammable liquids or corrosive or poison B materials. (mode 1)
8554-X	DOT-E 8554	Piedmont Explosives, Inc., Statesville, NC.	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tanks. (modes 1, 3)
8556-X	DOT-E 8556	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	To authorize use of non-DOT specification containerized portable tanks insulated with vacuum plus liquid nitrogen shield, for transportation of a flammable and nonflammable gas. (modes 1, 3)
8716-X	DOT-E 8716	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 173.28(m)	To authorize multi-trip use of DOT Specification 17C steel drums, for transportation of lithium metal, ingots, immersed in neutral oil. (mode 1)
8716-X	DOT-E 8716	Cyprus Fotte Mineral Company, Malvern, PA.	49 CFR 173.28(m)	To authorize reuse of 55-gallon capacity DOT-17C drums exempt from certain reconditioning requirements when shipping lithium metal, classed as a flammable solid between various company facilities. (mode 1)
8811-X	DOT-E 8811	Hercules, Inc., Wilmington, DE	49 CFR 173.294, 178.340-3, 178.343-2.	To authorize use of modified DOT Specification MC-312 cargo tanks made of titanium, for shipment of certain corrosive materials. (mode 1)
8843-P	DOT-E 8843	Computalog Wireline Services, Inc., Houston, TX.	49 CFR 173.246, 175.3	To become a party to exemption 8843. (modes 1, 2, 3, 4)
8915-X	DOT-E 8915	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.301(d), 173.302(a)(3)	To authorize atmospheric gases, helium, tetrafluoromethane or mixtures thereof containing up to 21 percent oxygen, classed as a nonflammable gas and mixtures of atmospheric gases (except oxygen). (modes 1, 3)
8967-X	DOT-E 8967	Hercules, Inc., Wilmington, DE	49 CFR 173.93(a)(11)	To authorize shipment of a solid propellant explosive, in a non-DOT specification fiberboard tube, overpacked in a non-DOT specification palletized metal cage. (mode 1)
8976-X	DOT-E 8978	Battery Engineering, Inc., Hyde Park, MA.	49 CFR 172.101, 175.3	To authorize transport of lithium cells containing more than 12 but not more than 50 grams of lithium metal, in non-DOT specification, non-reusable, open head, steel drums. (modes 1, 2, 3, 4)
8988-X	DOT-E 8988	Baker Sand Control, Houston, TX	49 CFR 172.101, 173.110, 173.80, 175.30.	To authorize transport of charged oil well guns as Class C explosive when the net weight of explosive material in the vehicle or vessel does not exceed 200 pounds. (modes 1, 3, 4)
8988-P	DOT-E 8988	Computalog Wireline Services, Inc., Houston, TX.	49 CFR 172.101, 173.110, 173.80, 175.30.	To become a party to exemption 8988. (modes 1, 3, 4)
8995-X	DOT-E 8995	Olin Corporation, Brook Park, OH	49 CFR 173.315(a)(1), 173.346, 174.63(b).	To authorize the addition of blowing agent formulations and transportation of products in a dual cargo tank configuration complying with DOT Specification MC-331. (modes 1, 2)
8995-P	DOT-E 8995	Polyfoam Products, Inc., Spring, TX	49 CFR 173.315(a)(1), 173.346, 174.63(b).	To become a party to exemption 8995. (modes 1, 2)
9129-X	DOT-E 9129	Weldex Corporation, Grafton, MA	49 CFR 173.34(L) (1), (2), (3), Part 107, Appendix B.	To authorize repairing, rebuilding, retesting, marking and sale of any DOT Specification 4B, 4BA and 4BW low pressure steel cylinders. (modes 1, 2, 3, 4, 5)
9136-X	DOT-E 9136	Sonoco Plastic Drum, Inc., Lockport, IL.	49 CFR 173.119, 173.221, 173.245b(a)(6), 173.271, 173.357(b), 178.19.	To authorize manufacture, marking and sale of DOT Specification 34 drums of up to 30 gallon capacity, for shipment of various poison B liquids, flammable liquids, organic peroxides, oxidizers and corrosive materials. (modes 1, 2, 3)
9146-X	DOT-E 9146	Blefa-Felser GmbH, Postfach, West Germany.	49 CFR 171.12(c), 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 gauge, 55-gallon capacity, DOT Specification 17E drums. (modes 1, 2, 3)
9256-X	DOT-E 9256	U.S. Department of Energy, Washington, DC.	49 CFR 173.86, 175.30, 46 CFR 146.20-13, Part 107, Appendix B, Subpart B(1).	To ship new explosives under a tentative hazard classification to test facilities without marking them as laboratory samples and without being accompanied by a qualified explosives handler. (modes 1, 2, 3, 4)
9332-P	DOT-E 9332	Johnson Matthey Company, West Chester, PA.	49 CFR 172.101, 173.150, 175.3	To become a party to exemption 9332. (modes 1, 2, 4)
9347-X	DOT-E 9347	Boondock International, Inc., Houston, TX.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3, 178.42.	To authorize deletion of sub-paragraphs 8.d. and 8.e. of the exemption, which pertain to retest and reinspection of the exemption cylinders. (modes 1, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9348-X	DOT-E 9348	DURACELL, Inc., Bethel, CT.....	49 CFR 173.206, 175.3, 175.85, Part 107, Appendix B.	To renew and authorize motor vehicle, rail freight and cargo vessel as additional modes of transportation not to exceed six batteries shipped as cargo. (modes 4, 5)
9380-X	DOT-E 9380	ARCO Pipe Line Company, Independence, KS.	49 CFR 173.119, 173.304, 173.315.....	To authorize two 15 gallon sump tanks and one 15 gallon or one 38 gallon sump tank containing a flammable liquid, n.o.s. to be shipped on a 2-ton truck. (mode 1)
9414-X	DOT-E 9414	GenEx, Ltd., Des Moines, IA.....	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of the South, Inc., Houston, TX.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of West, Inc., San Ramon, CA.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of New England, Inc., West Hartford, CT.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of Florida, Inc., Tampa, FL.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Union Carbide Industrial Gases, Inc., Danbury, CT.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9414-X	DOT-E 9414	Linde Gases of Southern California, Inc., Santa Ana, CA.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane (halo-carbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (modes 1, 3)
9480-X	DOT-E 9480	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	49 CFR 173.302(a)(5).....	To authorize shipment of tetrafluoromethane and mixture thereof in DOT Specification 3AL cylinders. (modes 1, 2, 3, 4)
9501-X	DOT-E 9501	Hughes Aircraft Company, Los Angeles, CA.	49 CFR 173.302, 175.3.....	To authorize transport of a potassium hydroxide solution and hydrogen gas under pressure to be shipped in a non-DOT specification compressed gas cylinder constructed of Inconel. (modes 1, 3, 4)
9549-P	DOT-E 9549	Mecano-Tech, Inc., Houston, TX.....	49 CFR 173.100(v), 175.30.....	To become a party to exemption 9549. (modes 1, 3, 4)
9549-P	DOT-E 9549	Computalog Wireline Services, Inc., Houston, TX.	49 CFR 173.100(v), 175.30.....	To become a party to exemption 9549. (modes 1, 3, 4)
9555-X	DOT-E 9555	E.I. du Pont de Nemours & Company, Wilmington, DE.	49 CFR 173.346.....	To authorize use of DOT Specification MC-330 and MC-331 cargo tanks for shipment of a poison B liquid. (mode 1)
9607-P	DOT-E 9607	MidLab, Inc., Sweetwater, TN.....	49 CFR Parts 100-199.....	To become a party to exemption 9607. (modes 1, 4, 5)
9607-P	DOT-E 9607	Diversified International, Boca Raton, FL.	49 CFR Parts 100-199.....	To become a party to exemption 9607 (modes 1, 4, 5)
9736-X	DOT-E 9736	Aqua-Tech, Inc., Port Washington, WI.	49 CFR Part 173, Subparts D, E, F, H.	To authorize reuse of DOT-17H steel drums a maximum of three times before reconditioning, for shipment of various liquid or solid hazardous substances and wastes packed in inside plastic, glass, earthenware of metal container, not exceeding 1-gallon capacity for disposal, repackaging or reprocessing. (mode 1)
9741-P	DOT-E 9741	Celtic Trading of Florida, Seminole, FL.	49 CFR 173.260(a)(3).....	To become a party to exemption 9741. (modes 1, 2, 3)
9783-X	DOT-E 9783	Helios Container Systems, Inc., Addison, IL.	49 CFR 173.154, 173.164, 173.178, 173.182, 173.217, 173.234, 173.245b, 173.366.	To authorize cargo vessel as additional mode of transportation. (modes 1, 2, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9785-P	DOT-E 9785	American President Lines, Limited, Oakland, CA.	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (modes 1, 2, 3)
9785-P	DOT-E 9785	Bermuda Container Line, Newark, NJ..	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (modes 1, 2, 3)
9785-P	DOT-E 9785	Mitsui O.S.K. Lines (America) Inc., New York, NY.	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (modes 1, 2, 3)
9785-P	DOT-E 9785	Mitsui O.S.K. Lines, Limited, Tokyo, Japan.	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (modes 1, 2, 3)
9785-P	DOT-E 9785	SafBank Line Limited, Iselin, NJ.....	49 CFR 173.30, 176.11, 176.83.....	To become a party to exemption 9785. (modes 1, 2, 3)
9804-X	DOT-E 9804	Rotational Molding, Inc., Gardena, CA.	49 CFR 173.119, 173.125, 173.266, 178.19, 178.253, Part 173, Subpart F.	Authorizes manufacture, marking and sale of non-DOT specification rotationally molded, polyethylene portable tank enclosed in a steel frame, for the shipment of corrosive materials, flammable liquids, or an oxidizer. (modes 1, 2)
9844-X	DOT-E 9844	Theodor Fries Gesellschaft MBH & Co., Sulz, Australia.	49 CFR 173.266(a), 178.19.....	To authorize use of a non-DOT specification polyethylene container of 15-gallon capacity, similar to a DOT Specification 34, for shipment of hydrogen peroxide, 60%. (modes 1, 2, 3)
9846-X	DOT-E 9846	FlexCon and Systems, Inc., Lafayette, LA.	49 CFR 173.154, 173.164, 173.178, 173.182, 173.217, 173.234, 173.245b.	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of approximately 2200 pounds each, and top and bottom outlets, for shipment of a flammable solid, oxidizing materials, and corrosive solids. (modes 1, 2)
9880-X	DOT-E 9880	G.E. Reuter-Stokes, Inc., Twinsburg, OH.	49 CFR 173.302, 175.3.....	To renew exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT containers, hermetically sealed electron tubes, containing nonflammable gas. (modes 1, 2, 3, 4, 5)
9881-X	DOT-E 9881	G.E. Reuter-Stokes, Inc., Twinsburg, OH.	49 CFR 173.302, 175.3.....	To renew exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT metal, single-trip, inside container described as hermetically sealed electron tube devices, for transportation of nonliquefied nonflammable gases. (modes 1, 2, 3, 4, 5)
9953-P	DOT-E 9953	Service Master Manufacturing Company, Downers Grove, IL.	49 CFR 177.834(i)(2)(i).....	To become a party to exemption 9953 (mode 1)
9991-P	DOT-E 9991	Aqua-Tech, Inc., Port Washington, WI.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 9991. (mode 1)
10001-P	DOT-E 10001	Linde Gases of the West, Inc., San Ramon, CA.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (mode 1)
10001-P	DOT-E 10001	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (mode 1)
10001-P	DOT-E 10001	Linde Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (mode 1)
10001-P	DOT-E 10001	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (mode 1)
10001-P	DOT-E 10001	Linde Gases of the Midwest, Inc., Hillside IL.	49 CFR 173.316, 173.320.....	To become a party to exemption 10001. (mode 1)
10006-P	DOT-E 10006	Arco Products Company, South Gate, CA.	49 CFR 172.203(a), 178.341-4(b), Part 107, Subpart B, Appendix B.	To become a party to exemption 10006. (mode 1)
10006-P	DOT-E 10006	Sheldon Oil Company, Suisun, CA.....	49 CFR 172.203(a), 178.341-4(b), Part 107, Subpart B, Appendix B.	To become a party to exemption 10006. (mode 1)
10022-P	DOT-E 10022	Linde Gases of the West, Inc., San Ramon, CA.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (mode 1)
10022-P	DOT-E 10022	Linde Gases of the Southeast, Inc., Wilmington, NC.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (mode 1)
10022-P	DOT-E 10022	Linde Gases of the Midwest, Inc., Hillside, IL.	49 CFR 173.119, 173.245, 173.246, 173.247, 173.251, 173.264, 173.273, 173.302, 173.304, 173.328, 173.34, 173.346.	To become a party to exemption 10022. (mode 1)
10175-X	DOT-E 10175	Phillips Container, Cleveland, OH.....	49 CFR 173.119, 178.19, part 173, Subpart F.	To authorize the addition of certain flammable liquids and to add rail freight and cargo vessel as modes of transportation. (modes 1, 2, 3)
10199-X	DOT-E 10199	BAJ, Limited, Banwell, England.....	49 CFR 173.206(f).....	To renew and add cargo-aircraft as additional mode of transportation. (modes 1, 3, 4)
10223-X	DOT-E 10223	TPI International Airways, Inc., Miami, FL.	49 CFR 172.101.....	To authorize one time transport of rocket ammunition with explosive projectile, Class A explosive in cargo aircraft. (mode 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10254-X	DOT-E 10254	University of Texas M.D. Anderson Cancer Center, Houston, TX.	49 CFR 178.104-3(a)(1)	To renew exemption issued on an emergency basis to authorized shipment cyclotron-irradiated solid materials, classed as radioactive material, in DOT 6M package with gross weight not exceeding 900 pounds. (mode 1).

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
10006-N	DOT-E 10006	Knappco, Kansas City, MO.....	49 CFR 172.203(a), 178.341-4(b), Part 107, Subpart, Appendix B.	To authorize transport of flammable liquids in MC-306 cargo tanks, which are not equipped with a 1 psig normal vent, for the purpose of inservice field testing of an emergency relief vent. (mode 1)
10078-N	DOT-E 10078	Wasson-ECE Instrumentation, Inc., Fort Collins, CO.	49 CFR 173.302(a), 173.304(a)	To authorize manufacture, marking and sale of non-DOT specification cylinders for sampling of certain flammable liquids and flammable gases. (modes 1, 2)
10139-N	DOT-E 10139	Mitsubishi International Corporation Portland, OR.	49 CFR 173.266.....	To authorize use of a DOT Specification 12A fiber-board box, with inside polyethylene bottles of not greater than 4.9 liter capacity, for the transportation of hydrogen peroxide solutions, 30% hydrogen peroxide by weight. (modes 1, 3)
10151-N	DOT-E 10151	Sigri Corporation, Somerville, NJ.....	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	To authorize use of a non-DOT specification full removable head salvage cylinder of 45 gallon capacity for overpacking damaged or leaking packages of pressurized and non-pressurized hazardous materials. (mode 1)
10162-N	DOT-E 10162	Ibex Industries Inc., Calvert City, KY....	49 CFR 173.119 (a), (m), 173.245(a), 173.346(a) 178.340-7, 178.340-8(c), 178.342-5, 178.343-5.	To authorize manufacture marking and sale of non-DOT specification cargo tanks with a full opening rear head, for transportation of liquid and semi-solid waste materials, classed as flammable liquid, corrosive material, and poison B. (mode 1)
10171-N	DOT-E 10171	Arbel-Fauvet-Rail, France.....	49 CFR 173.123, 173.315, 178.245.....	To authorize use of non-DOT specification IMO Type 5 portable tanks for transportation of certain compressed and a flammable liquids. (mode 1, 2, 3)
10195-N	DOT-E 10195	Catalyst Resources, Inc., Pasadena, TX.	49 CFR 173.119, 173.245, 173.34(e)...	To authorize a 15 year service life from cylinders that are subjected to 5 year internal and external visual inspections when used in dedicated compatible catalyst formulation service. (modes 1, 2, 3)
10200-N	DOT-E 10200	Van Leer Verpackungen GmbH, Hamburg, Germany.	49 CFR 171.12(c), 178.116-6(a), Part 173, Subparts D, E, F, H.	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 gauge, 55-gallon capacity, DOT Specification 17E drums. (modes 1, 2, 3)
10207-N	DOT-E10207	Atlantic Research Corporation, Gainesville, VA.	49 CFR 173.88(e)(2)(ii), 173.92(b).....	To authorize transport of a rocket motor with igniter installed and in a propulsive state. (modes 1, 3)
10225-N	DOT-E 10225	Atochem, Inc.—Chemical Division, Glen Rock, NJ.	49 CFR 173.119(a), 173.119(m)	To authorize one-time shipment of dimethylamine in 55-gallon non-authorized DOT Specification 17E steel drums, overpackaged in steel salvage drums. (mode 1)
10242-N	DOT-E 10242	ENPAC Corporation, Jacksonville, FL..	49 CFR Part 173, Subparts D, E, F, H.	To authorize manufacture, marking and sale of a polyethylene, removable head drum not to exceed 20 gallon capacity for transporting certain solid hazardous materials. (mode 1, 2)
10254-N	DOT-E 10254	University of Texas, M.D. Anderson Cancer Center, Houston, TX.	49 CFR 178.104-3(a)(1)	To authorize use of DOT Specification 6M packages with a greater gross weight than normally authorized. (mode 1)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4453-X	DOT-E 4453	Thermex Energy Corporation Dallas, TX.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (modes 1, 3)
EE 6563-X	DOT-E 6563	S.L.O. Health Products, Inc., Baywood Park, CA.	49 CFR 173.302(a)(1), 175.3, 178.42-2.	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (modes 1, 2, 3, 4, 5)
EE 7052-X	DOT-E 7052	Sparton Corporation, Jackson, MI.	49 CFR 172.101, 172.400, 175.3...	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7052-X	DOT-E 7052	ECO Energy Conversion, Somerville, MA.	49 CFR 172.101, 172.400, 175.3...	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Medtronic, Inc./Promeon Division, Brooklyn Center, MN.	49 CFR 172.101, 172.400, 175.3...	To authorize shipment of batteries containing lithium and other materials classed as flammable solid. (modes 1, 2, 3, 4)
EE 7052-X	DOT-E 7052	Power Conversion, Inc., Saddle Brook, NJ.	49 CFR 172.101, 172.400, 175.3...	To authorize shipment of batteries containing lithium and other materials classed as flammable solid. (modes 1, 2, 3, 4)
EE 8723-X	DOT-E 8723	Wampum Hardware Company, New Galilee, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (modes 1, 3)
EE 9070-X	DOT-E 9070	Warner Brothers, Inc., Sunderland, MA.	49 CFR 173.119, 173.32(a)(1)	To authorize the filling and discharge of two non-DOT specification portable tanks while remaining securely mounted on a trunk chassis. (mode 1)
EE 10280-N	DOT-E 10280	Occidental Chemical Corporation, Pasadena, TX.	49 CFR 173.31(b)	To authorize a one-time shipment of chlorine in a DOT Specification 105A500W tank care overdue for tank and safety valve retest. (mode 2)
EE 10281-N	DOT-E 10281	Pennwalt Corporation, Buffalo, NY.	49 CFR 173.158	To authorize shipment of lauroyl peroxide, classed as organic peroxide, in a fiberboard box complying with UN4G packaging groups II and III, containing a single polyethylene bag. (mode 1)
EE 10282-N	DOT-E 10282	Pennwalt Corporation, Buffalo, NY.	49 CFR 173.158	To authorize shipment of decanoyl peroxide, classed as organic peroxide, in a non-DOT specification corrugated fiberboard box containing a single polyethylene bag. (mode 1)

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8390-X	Ashland Oil, Inc., Columbus, OH	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8567-X	Environmental Oil, Inc., Syracuse, NY	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/MC-312 except for bottom outlet valve variations, for transportation of flammable, corrosive waste liquids or semi-solids. (Mode 1.)
8978-X	Battery Engineering, Inc., Hyde Park, MA	49 CFR 172.101, 175.3	To authorize transport of lithium cells containing more than 12 but not more than 50 grams of lithium metal, in non-DOT specification, non-reusable, open head, steel drums. (Modes 1, 2, 3, 4.)
10001-P	Linde Gases of the West, Inc., San Ramon, CA	49 CFR 173.316, 173.320	To become a party to exemption 10001. (Mode 1.)
10091-P	Bausch & Lomb Incorporated, Rochester, NY	49 CFR 173.1200 (a)(8)(ii) (e)	To become a party to exemption 10091. (Modes 1, 2, 3, 4, 5.)
10258-N	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.252(a)(4)(ii)	To authorize shipment of bromine, classed as a corrosive material, in DOT specification MC 312 cargo tanks constructed of nickel clad steel of 3/8 inch total thickness. (Mode 1.)

Issued in Washington, DC, on February 23, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-9048 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 76

Thursday, April 19, 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

DATE AND TIME: Tuesday, April 24, 1990 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, April 26, 1990 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Closed to the Public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes.

Revised Draft Allocation Regulations and Reporting Forms.

Proposal for Revision of Commission Practice Regarding the Issuance of Questions and Document Requests in Commission Enforcement Cases.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,
Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 90-9252 Filed 4-17-90; 3:42 pm]

BILLING CODE 6715-01-M

INTER-AMERICAN FOUNDATION BOARD

TIME AND DATE: May 2, 1990, 6:00-9:30 p.m.

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

May 2, 1990

1. The Chairman's Report
2. The President's Report
3. Approval of the Minutes of the September 25, 1989, Board Meeting
4. Board Audit Committee Report
5. Old Business
6. New Business

CONTACT PERSON FOR MORE

INFORMATION: Charles M. Berk,
Secretary to the Board of Directors, (703) 841-3812.

Dated: April 16, 1990.

Charles M. Berk,

Sunshine Act Officer.

[FR Doc. 90-9240 Filed 4-12-90; 2:51 pm]

BILLING CODE 7025-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that on Monday, April 16, 1990, at 5:00 p.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to the resolution of a thrift institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr., (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, and Director T. Timothy Ryan, (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552B).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: April 17, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-9245 Filed 4-17-90; 8:45 am]

BILLING CODE 6714-01-M

Corrections

Federal Register

Vol. 55, No. 76

Thursday, April 19, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. TB-90-001]

Burley Tobacco Advisory Committee; Proposed Establishment

Correction

In notice document 90-8509 appearing on page 13815 in the issue of Thursday, April 12, 1990, the document heading should have appeared as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Fossil Energy

10 CFR Part 590

Administrative Procedures With Respect to the Import and Export of Natural Gas; Technical Amendments

Correction

In rule document 89-30270 beginning on page 53530 in the issue of Friday, December 29, 1989, make the following corrections:

1. On page 53530, under "FOR FURTHER INFORMATION CONTACT:", in the seventh line "Skinner" should read "Skinker".

§ 590.201 [Corrected]

2. On page 53533, § 590.201(a), in the first line "information" should read "authorization".

§ 590.304 [Corrected]

3. On page 53535, in § 590.304(d), in the penultimate line "copy of" should read "copy on".

§ 590.310 [Corrected]

4. On page 53536, in the fifth line of § 590.310 "interrogatives" should read "interrogatories".

§ 590.315 [Corrected]

5. On page 53537, in § 590.315(d), in the second line "§ 590.506" should read "§ 590.307".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3752-2]

Exploratory Environmental Research Centers; Solicitation for Proposals

Correction

In notice document 90-7890 beginning on page 12725 in the issue of Thursday, April 5, 1990, make the following correction:

- On page 12725, in the first column, under DATES, in the second line, "July 17, 1990" should read "July 27, 1990".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302-1

[FTR Amendment 9]

RIN 3090-AD47

Federal Travel Regulation; Travel Management Program

Correction

In rule document 90-6666 beginning on page 10769 in the issue of Friday, March 23, 1990 make the following correction:

§ 302-1.11 [Corrected]

- On page 10778, in § 302-1.11(b)(2), at the beginning of the ninth line "travel and transportation may take place at any time following the most recent" should be inserted.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Investigational New Drugs

Correction

In rule document 90-3501 appearing on page 5445 in the issue of Thursday,

February 15, 1990, make the following corrections:

1. In the first column, under "AGENCY" "NNS" should read "HHS".
2. In the second column, under "Authority", in the fifth line "476F" should read "467F".
3. In the third column, in the fifth line "1008" should read "10003".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AB37

Social Security Benefits and Supplemental Security Income; Vocational Rehabilitation Services Payment

Correction

In rule document 90-5343 beginning on page 8449 in the issue of Thursday, March 8, 1990, make the following correction:

§ 416.2217 [Corrected]

- On page 8458, in the first column, in § 416.2217(d), in the first line, insert "total" after "The".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Supplemental Security Income (SSI) for the Aged, Blind, and Disabled; Outreach Demonstration Program; Announcement of Fiscal Year (FY) 1990 Availability of Cooperative Agreement and Grant Funds and Request for Applications

Correction

In notice document 90-8375 beginning on page 13748 in the issue of Wednesday, April 11, 1990, make the following correction:

- On page 13752, under "I. Closing Date for Receipt of Applications", in the third line "May 11, 1990." should read "June 11, 1990."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-020-06-4212-13]

Exchange of Public and Private Lands in Custer and Prairie Counties, MT

Correction

In notice document 90-7246 appearing on page 12064 in the issue of Friday, March 30, 1990, make the following correction:

In the first column, in the land description, under T. 10 N., R. 51 E., "Sec. 24" should read "Sec. 34".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

28 CFR Part 345

Work and Compensation; Overtime Pay

Correction

In rule document 90-6881 appearing on page 11326 in the issue of Tuesday, March 27, 1990, make the following corrections:

§ 345.19 [Corrected]

1. On page 11326, in third column, in the first line "time" should read "times".

2. On the same page, in the third column, in § 354.19(b), in the *example*, the table should have appeared as follows:

STEP 1:

$$\frac{\text{Total Units (70) x Rate Per Unit (10¢)}}{\text{Number of Hours Worked (10)}} = \text{Average Hourly Rate (70¢)}$$

STEP 2:

$$\text{Average Hourly Wage (70¢) x Overtime Factor (2)} = \text{Overtime Hourly Rate (\$1.40)}$$

STEP 3:

$$\text{Overtime Hourly Rate (\$1.40) x Number of Hours Worked (3)} = \text{Overtime Pay (\$4.20)}$$

BILLING CODE 1505-01-D

Faint bleed-through text from the reverse side of the page, including "Part II", "Department of Transportation", "28 CFR Part 25 and 26", "Emergency Position Indicating Radio Beacons for Unpowered Fishing, Fish Processing, Fish-Landing and Commercial Vessels and Commercial Fishing Industry Vessel Regulations, Rule and Proposed Rule".

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE

Patrol, Person Inhabited, Inc.
25 CFR Part 240

Patrol, Person Inhabited, Inc.
25 CFR Part 240

Patrol, Person Inhabited, Inc.
25 CFR Part 240

Work and Compensation Division
25 CFR Part 240

Work and Compensation Division
25 CFR Part 240

Work and Compensation Division
25 CFR Part 240

Exchange of Public and Private Lands
25 CFR Part 240

Exchange of Public and Private Lands
25 CFR Part 240

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Exchange of Public and Private Lands
25 CFR Part 240

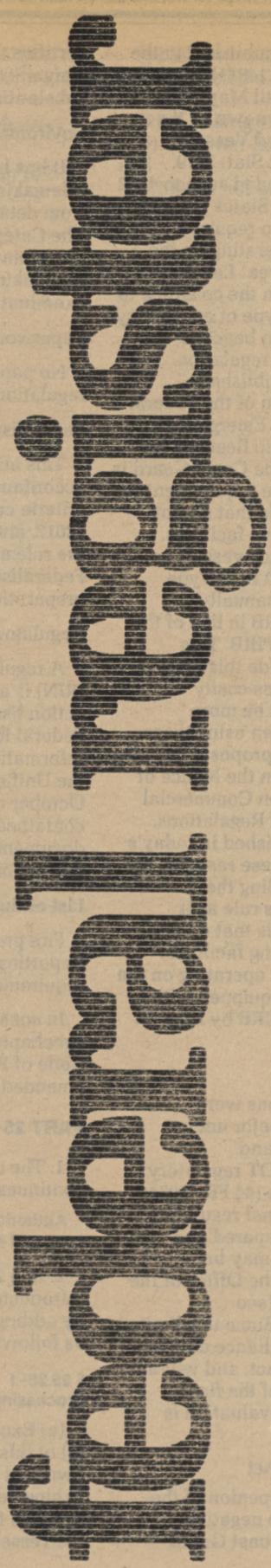
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Thursday
April 19, 1990



Part II

**Department of
Transportation**

Coast Guard

46 CFR Parts 25 and 28

**Emergency Position Indicating Radio
Beacons for Uninspected Fishing, Fish
Processing, Fish Tending and Commercial
Vessels and Commercial Fishing Industry
Vessel Regulations; Rule and Proposed
Rules**

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD-87-016]

RIN 2115-AC69

Emergency Position Indicating Radio Beacons for Uninspected Fishing, Fish Processing, and Fish Tending Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule: suspension of compliance date for a limited category of fishing vessels.

SUMMARY: For a limited category of fishing vessels, the Coast Guard is suspending the compliance date of its final rule that requires Category 1 406 MHz emergency position indicating radio beacons (EPIRBs) to be carried on uninspected fishing, fish processing and fish tender vessels operating on the high seas. This suspension is for those fishing vessels without galleys and berthing facilities. The Coast Guard is considering a less expensive alternative means of compliance for those vessels. This suspension will allow owners of these vessels to avoid the expense of purchasing Category 1 406 MHz EPIRBs at least until further Coast Guard consideration of the alternative is complete.

EFFECTIVE DATE: April 19, 1990.

ADDRESSES: Between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, comments and the Final Rule are available for inspection and copying at the Marine Safety Council, U.S. Coast Guard, room 3314, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:

LCDR Stanford W. Deno, Survival Systems Branch, room 1404, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: A Final Rule was published in the *Federal Register* on August 17, 1988 (53 FR 31004), effective October 3, 1988. This rule required owners of fishing vessels, fish processing vessels and fish tender vessels operating on the high seas to ensure that the vessels do not operate unless they have on board a Category 1 406 MHz satellite EPIRB. As originally published, owners had until August 17, 1989, to bring their vessels into compliance with the rule. On April 13,

1989, a Final Rule was published in the *Federal Register* (54 FR 14811) extending the compliance date until May 17, 1990.

Public Law 100-540, known as the "EPIRB's on Uninspected Vessels Requirements Act" (102 Stat. 2719, October 28, 1988), amended section 4102 of title 46 of the United States Code by revising paragraph (e) to require uninspected vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline to carry the number and type of emergency position indicating radio beacons (EPIRBs) prescribed by regulation.

In a Proposed Rule published elsewhere in this edition of the *Federal Register* (CGD 87-016a, Emergency Position Indicating Radio Beacons for Uninspected Vessels) the Coast Guard is proposing an alternative requirement for those small open vessels that do not have galleys and berthing facilities. Under that proposal, such vessels would be permitted to carry an FCC Type Accepted Category 2, manually activated 406 MHz EPIRB in lieu of the Category 1, float free EPIRB. This alternative would provide this limited category of vessels a less costly requirement that would be more practical to the fishermen using these open boats. That same proposal has also been cross-referenced in the Notice of Proposed Rulemaking on Commercial Fishing Industry Vessel Regulations, (CGD 88-079) also published in today's *Federal Register*. For these reasons, the Coast Guard is suspending the compliance date for this rule as it applies to fishing vessels that do not have galleys and berthing facilities. Therefore, such vessels operating on the high seas need not be equipped with a Category 1 406 MHz EPIRB by May 17, 1990.

Regulatory Evaluation

The original regulations were considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation has been prepared and placed in the docket. It may be inspected or copied at the Office of the Marine Safety Council (see "ADDRESSES", above). Since this limited suspension of the compliance date has minimal economic impact, and will not affect the conclusions of the final evaluation, no further evaluation is considered necessary.

Regulatory Flexibility Act

Since this limited suspension of the compliance date has no negative economic impact, the Coast Guard

certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

It has been determined that this rulemaking is categorically excluded from detailed environmental evaluation. The Categorical Exclusion Determination for the original rulemaking is available in the docket for examination.

Paperwork Reduction

No paperwork is required by this regulation.

Federalism Statement

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

Regulatory Information Number

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

List of Subjects in 46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing subchapter C of chapter I of title 46, Code of Federal Regulations, is amended as follows:

PART 25—[AMENDED]

1. The authority citation to part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

2. In § 25.26-1, by revising the introductory text of paragraph (a), and by adding a new paragraph (c) to read as follows:

§ 25.26-1 Uninspected fishing, fish processing, and fish tender vessels.

(a) Except as provided in paragraph (c) of this section, after May 17, 1990, the owner of an uninspected vessel that is a fishing vessel, a fish processing vessel, or a fish tender vessel shall ensure that the vessel does not operate on the high

seas, as defined in 33 CFR 2.05-1(a), unless it has on board—

* * * * *

(c) This section does not apply to—

(1) A skiff or workboat if—

(i) Its "mother ship" carries an EPIRB as required by paragraph (a) of this section; and

(ii) When not in use, the skiff or work boat is carried aboard the mother ship;

or

(2) A fishing vessel if—

(i) Does not have berthing facilities;

and

(ii) Does not have a galley.

Dated: April 6, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-8629 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD 87-016a]

RIN 2115-AC69

Emergency Position Indicating Radio Beacons for Uninspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the uninspected vessel regulations by requiring emergency position indicating radio beacons (EPIRBs) to be carried on uninspected commercial vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline. The EPIRB's on Uninspected Vessels Requirements Act amended the shipping laws of the United States by requiring those vessels to have the number and type of EPIRBs prescribed by regulation. By implementing the law, the regulations will ensure rapid and effective search and rescue during emergency situations. Some other minor revisions to the regulations for uninspected vessels are proposed as well.

DATES: Comments must be submitted on or before June 18, 1990.

ADDRESSES: Comments should be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 87-016a), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. Between the hours of 8 a.m. and 3 p.m. Monday through Friday, except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Stanford W. Deno, Survival Systems Branch, room 1404, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Public Law 100-540, known as the "EPIRB's on Uninspected Vessel Requirements Act" (102 Stat. 2719, October 28, 1988), amended section 4102 of title 46 of the United States Code by revising paragraph (e) to require uninspected vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline to carry the number and type of emergency position indicating radio beacons (EPIRBs) prescribed by regulation. The rules

discussed in this notice would implement that law.

Similar rules requiring the carriage of EPIRBs on uninspected fishing, fish processing, and fish tender vessels operating on the high seas were published in the *Federal Register* on August 17, 1988 (53 FR 31004). Those rules were published under the authority of section 16 of the "Coast Guard Authorization Act of 1986" (Pub. L. 99-640, 100 Stat. 3545). The "EPIRB's on Uninspected Vessel Requirements Act" expanded the requirement for the carriage of EPIRBs to all uninspected commercial vessels operating on the high seas, and on the Great Lakes beyond three miles from the coastline. Another Notice of Proposed Rulemaking (NPRM) in this edition of the *Federal Register* titled "Commercial Fishing Industry Vessel Regulations" (CGD 88-079) includes proposed EPIRB requirements for uninspected commercial fishing vessels, fish tender vessels, and fish processing vessels. The proposed requirements in this NPRM would apply to all other uninspected commercial vessels operating on the high seas or on the Great Lakes beyond three miles from the coastline.

Drafting Information

The principal persons involved in drafting these regulations are: LCDR Stanford W. Deno, Office of Marine Safety, Security and Environmental Protection, Mr. R.L. Markle, Office of Marine Safety, Security and Environmental Protection, and CDR G.A. Gallion, Project Counsel, Office of Chief Counsel.

Discussion

The proposed amendments to part 25 of 46 CFR subchapter C would apply only to uninspected *commercial* vessels such as tugboats, towboats, small freight vessels, fishing industry vessels, and vessels under 100 gross tons carrying 6 or less passengers for hire. Recreational boats are not affected, as long as they do not operate in commercial service. These proposed amendments apply to all uninspected commercial vessels that operate beyond three miles from the coastline of the Great Lakes. Fishing vessels on the high seas are already required to carry EPIRBs under 46 CFR 25.26. Additional rules affecting fishing vessels are discussed in the separate NPRM on Commercial Fishing Industry Vessel Regulations (CGD 88-079) in this edition of the *Federal Register*.

Uninspected vessels are generally small vessels which, when damaged, may sink suddenly without calling for help. When a distress call is made, it often does not include an accurate or

complete identification of the vessel, description of the situation, or position. Uninspected vessels often do not have established routes or schedules. Therefore, the position of an uninspected vessel and whether or not it is overdue may be unknown to anyone ashore. These factors greatly reduce the chance of anyone being rescued following a uninspected vessel casualty. In contrast, when there is an EPIRB to provide prompt notification of the casualty and a homing beacon to guide rescuers to the scene, the chance of saving lives increases dramatically.

The Coast Guard agreed to seek legislative authority to require EPIRBs on uninspected vessels in a response to the April 24, 1980 recommendation resulting from the National Transportation Safety Board (NTSB) investigation of the 1978 loss of the F/V LOBSTA I. In the absence of legislative authority, an internal Coast Guard directive (COMDTINST 2370.2A) of October 28, 1981 instructed Coast Guard personnel to encourage all uninspected vessel operators to carry EPIRBs. Coast Guard and National Transportation Safety Board investigations of a number of uninspected vessel casualties have resulted in recommendations for EPIRBs on all uninspected vessels, in addition to uninspected fishing vessels. These casualties include the F/V BINKI which sank off Alaska in July 1987, the sailing vessel PRIDE OF BALTIMORE which sank north of Puerto Rico in May 1986, the tug M/V CELTIC which sank in Long Island Sound in November 1984, the F/V MARY LOU which sank off Alaska in January 1984, the F/V NOREEN ANN which sank off Alaska in May 1983, the F/V EQUINOX which sank in Alaskan waters in March 1983, and the F/V MARBLEHEAD which sank off Maryland in 1981. In addition, the sinkings of several other uninspected vessels have underscored the importance of an operating EPIRB. The M/V WEST I sank in the Pacific in June of 1986, and although the vessel had an EPIRB on board, it failed to function, and the crew spent over two weeks adrift in a liferaft. Seven were saved, but the master died the day before the survivors were rescued. The M/V PAM ALARIO was a tug that capsized and sank in December 1987. All on board were rescued after six days adrift, but for some reason, the EPIRB on the vessel did not deploy or did not operate. The tug WILLAMETTE PILOT III sank off California in March 1985, but its EPIRB ceased functioning after less than 7 hours of operation.

The proposed regulations would require the use of Federal

Communications Commission (FCC) Type Accepted Category I float-free EPIRBs operating on the dedicated satellite frequency of 406.025 MHz. The "406" MHz Satellite EPIRB system provides improved alerting and locating over conventional EPIRBs operating on 121.5/243 MHz, and also includes safeguards to prevent problems arising from false alarms and false alerts. (A false alarm is an EPIRB signal generated either accidentally or purposely, which is not the result of an emergency. A false alert is a transmission on 121.5 MHz or 243 MHz which is interpreted incorrectly as an EPIRB transmission.) The 406 MHz frequency is dedicated solely to the satellite distress system. On 406 MHz, the only signal recognized by the satellites is the beacon's coded distress signal, therefore, false alerts generated by interference are eliminated. False alarms and false alerts, which comprise more than ninety-nine percent of all EPIRB alerts, are a major problem which limit the effectiveness of the 121.5/243 MHz system. Although "COSPAS/SARSAT" search and rescue satellites can receive 121.5 MHz signals, 121.5/243 MHz EPIRBs are not designed as "Satellite EPIRBs", and their coverage area and alert and locate ability is significantly inferior to that of the 406 MHz Satellite EPIRB. FCC Type Accepted 406 MHz satellite EPIRBs are now available from several manufacturers, with others undergoing tests for type acceptance at this time. The FCC requirements for 406 MHz satellite EPIRBs also include qualification tests by Coast Guard accredited independent laboratories intended to reduce some of the quality problems that have become evident in some 121.5/243 MHz EPIRBs.

There are two types of 406 MHz satellite EPIRB relevant to this rulemaking. The "Category 1" EPIRB is an automatic float-free device. Electronically the "Category 2" EPIRB is identical to the Category 1, except that it is arranged for manual operation.

The Coast Guard recognizes that many owners and operators of uninspected vessels have voluntarily installed EPIRBs in response to the previous educational campaign and that this equipment has a long service life. Therefore the proposed rules would allow 121.5/243 MHz Class A (float-free) EPIRBs that are installed on or before 45 days after the effective date of the final rules to be carried for about six years. To allow adequate time for installation of satellite EPIRBs, the Coast Guard intends to establish a compliance date approximately one year after the effective date of the final rules. Under

rules published by the Federal Communications Commission any Class A EPIRB that does not meet signal coherency standards must be removed from service by August 1, 1991. Tests performed by the National Aeronautics and Space Administration (NASA) indicated that no Class A EPIRB manufactured before October 1, 1988 met the signal coherency standards. Signal coherency standards are intended to ensure that EPIRBs can be detected by satellite.

Although conventional 121.5/243 MHz Class A EPIRBs would be acceptable for the proposed six year phase-in period, this proposal would not allow Class B 121.5/243 MHz EPIRBs or Class C VHF-FM EPIRBs to be counted toward the EPIRB carriage requirement. Class B EPIRBs are not automatically deployed and activated. The signal from a VHF-FM Class C EPIRB is not detectable by the COSPAS/SARSAT satellites and can often go unnoticed by coast and ship radio stations.

The term "high seas" is used in the statute and in the proposed regulations. This term is not defined by the statute. The Coast Guard has defined high seas by regulation in 33 CFR 2.05-1(a); that is, waters which are neither U.S. territorial seas nor territorial seas of another country. Territorial seas are defined in 33 CFR 2.05-5(a) as those waters within the belt, three nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline. The baseline generally follows the coastline. The President's Proclamation 5928 of December 27, 1988 (54 FR 777, January 9, 1989) extended the territorial sea to 12 miles from the baseline for the purposes of international law; however, that proclamation did not affect domestic law. Accordingly, the meaning of high seas as used in the proposed rules was not altered. These definitions will remain valid until there is further Congressional action.

Most uninspected vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline are included in the EPIRB carriage requirements proposed in this NPRM, including small uninspected vessels regardless of length, tonnage, numbering or documentation, manning, accommodation spaces, or propulsion. Section 25.26-10 includes some proposed exemptions from the requirement to carry EPIRBs. The first exemption would apply to skiffs or work boats which are carried aboard a "mother ship". These boats would not be required to carry their own EPIRBs. A second partial exemption would apply to open boats which are not equipped to

stay at sea for more than a few hours. If these vessels operate on the high seas or beyond three miles from the coastline on the Great Lakes, they would be required to carry either a Category 2, manually activated, 406 MHz Emergency Position Indicating Radio Beacon (EPIRB), or the Category 1 automatically activated float-free EPIRB. We recognize that the Category 1 EPIRB may not always be appropriate for installation in open boats.

Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the docket. It may be inspected or copied at the Office of the Marine Safety Council (see "ADDRESSES", above).

The draft evaluation uses a cost estimate of \$2700 for each of the estimated 10,000 uninspected vessels that would be affected. This cost estimate is based on the present retail cost of a Category 1 EPIRB and is believed to be higher than the cost which will eventually be achieved through volume production. The high figure has thus been used as a conservative basis for the evaluation. Approximately half of the affected vessels would have to install satellite EPIRBs within a year, at a cost of about \$13.5 million. The remainder would replace their existing conventional EPIRBs over a five year period at a cost, adjusted to 1989 dollars, of about \$10.25 million, for a total of about \$23.75 million for the industry to comply with the requirements in the rules in a six year period.

In addition to the saving of lives, primary benefits of the proposed regulations include more timely notification to the authorities that a casualty has occurred and more accurate identification of the object of the search and the area to be searched, which should contribute to large savings of money for the Coast Guard and other organizations involved in a search.

In the three-year period from 1984 to 1986, 40 lives were lost as a result of total losses of tugboats and towboats which make up largest group of the vessels covered by the proposed rules. Our casualty statistics are not sufficiently detailed to identify the deaths that occurred on other types of uninspected vessels that would be covered by the proposed rules. Although the number of lives that may be saved

through mandatory EPIRB requirements cannot be accurately predicted, using the minimally accepted value of a human life of one million dollars, the saving of only a few lives each year would justify the cost of these rules.

More tangible benefits can be identified in the reduction of search and rescue costs. The search for the fishing vessel AMAZING GRACE took 16 days and cost \$12 million before the search was abandoned. There was no definite notice that a casualty had occurred, and the area to be searched was unknown. Search time and cost can be significantly reduced if a functioning satellite EPIRB is in operation to guide searchers to the scene of the casualty. The savings to the government as a result of elimination or significant reduction of only three or four large-scale searches would justify the cost of these rules, even without considering the lives that may be saved by more timely location of vessels in distress.

The Coast Guard certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Some uninspected vessel operators are part of large corporations and are clearly not small entities. Other uninspected vessel operators are considered to be small entities in that they are not part of large diversified corporations, and generally own no more than a few vessels.

It has been determined that this rulemaking is categorically excluded from a detailed environmental evaluation. The Categorical Exclusion Determination is available in the docket for examination, copying, and public comment. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment.

List of Subjects in 46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Coast Guard proposes to amend part 25 of title 46, Code of Federal Regulations, as follows:

PART 25—[AMENDED]

1. The authority citation to part 25 is revised to read as follows:

Authority: 46 U.S.C. 4102, 4104, and 4302; 49 CFR 1.46. Subpart 25.50 also issued under 33 U.S.C. 1903(b).

2. Subpart 25.26 is revised to read as follows:

Subpart 25.26—Emergency Position Indicating Radio Beacons

- 25.26-1 Manned uninspected vessels.
- 25.26-5 Servicing of EPIRBs.
- 25.26-10 Exemptions.

Subpart 25.26—Emergency Position Indicating Radio Beacons

§ 25.26-1 Manned uninspected vessels.

(a) After [insert date one year after effective date], the owner of a manned uninspected vessel which operates on the high seas as defined in 33 CFR 2.05-1(a), or which operates beyond three miles from the coastline of the Great Lakes, shall ensure that the vessel has on board—

(1) An FCC Type Accepted Category 1, float-free, automatically activated, 406 MHz Emergency Position Indicating Radio Beacon (EPIRB); or

(2) A 121.5/243 MHz Class A EPIRB meeting paragraph (b) of this section.

(b) Until [insert date 6 years after effective date], a Coast Guard approved 121.5/243 MHz Class A EPIRB may be on board a vessel, under paragraph (a) of this section, if the EPIRB is operable and installed on the vessel on or before [insert date 45 days after effective date].

(c) Under rules published by the Federal Communications Commission at 47 CFR 80.1053, Class A EPIRBs manufactured prior to October 1, 1988 do not meet signal coherency and stability standards, and may not be used to meet the requirements of this section after August 1, 1991.

§ 25.26-5 Servicing of EPIRBs.

(a) The master of each vessel required to have an EPIRB under this subpart shall ensure that each EPIRB on board is tested and serviced as required by this section.

(b) The EPIRB must be tested in accordance with the manufacturer's instructions to determine whether or not it is operating immediately after installation and at least once each month thereafter, unless it is an EPIRB installed in a Coast Guard approved inflatable liferaft that is tested annually during the servicing of the inflatable liferaft by an approved facility. If the EPIRB is not operating, it must be repaired or be replaced with an operating EPIRB.

(c) The battery of the EPIRB must be replaced—

(1) Immediately after the EPIRB is used for any purpose other than being tested; and

(2) Before the expiration date that is marked on the battery.

§ 25.26-10 Exemptions.

(a) A skiff or work boat is not required to carry an EPIRB if—

- (1) Its "mother ship" carries an EPIRB under § 25.26-1(a) of this chapter; and
- (2) When not in use, the skiff or work boat is carried aboard the mother ship.

(b) A vessel is not required to carry an EPIRB under § 25.26-1(a) of this chapter if it—

- (1) Does not have berthing facilities;
- (2) Does not have a galley; and
- (3) Carries an FCC Type Accepted Category 2, manually activated, 406 MHz Emergency Position Indicating Radio Beacon (EPIRB).

Dated: January 19, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-8630 Filed 4-18-90; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 28

[CGD 88-079]

RIN 2115-AD12

Commercial Fishing Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing regulations for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels to implement the provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. These regulations would apply to all U.S. commercial fishing industry vessels, whether existing before, or built or altered after, the effective date of the regulations and would provide requirements for their equipment, design, and operations. Additional equipment would be required for documented vessels that operate beyond the Boundary Line or that operate with more than 16 individuals on board. Design and construction requirements would apply to vessels built after or which undergo a major conversion completed after the effective date of these rules, if those vessels operate with more than 16 individuals on board. Additionally, casualty and injury reporting requirements are included that would apply to all underwriters of primary insurance for commercial fishing industry vessels, owners of commercial fishing industry vessels, and all employees injured on such vessels. These regulations are intended to improve the overall safety of commercial fishing industry vessels.

DATES: Comments on this notice must be received on or before: August 20, 1990.

ADDRESSES: Comments should be mailed to Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 88-079), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays at the Marine Safety Council, U.S. Coast Guard, room 3600, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

A draft Regulatory Evaluation has been placed in the public docket for this rulemaking, and may be inspected and copied at the Marine Safety Council, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander M. M. Rosecrans, Office of Marine Safety, Security and Environmental Protection (G-MTH-4/13), room 1304, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-2997.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this Notice of Proposed Rulemaking (NPRM) (CGD 88-079), identify the specific issues of this NPRM to which each comment applies, and give reasons for the comments. Receipt of comments will be acknowledged if a stamped self-addressed post card or envelope is enclosed with the comments. All comments received before the expiration of the comment period will be considered before further action is taken.

Public Hearings and Meetings

Public hearings are planned for this NPRM. Hearings are planned for the Alaska, Gulf Coast, East Coast, and West Coast regions; however the number and date of these meetings have not yet been determined. Additional details of these hearings will be announced in the *Federal Register* subsequent to this notice.

A public meeting on implementation of the Commercial Fishing Industry Vessel Safety Act of 1988 (Act) was held at the offices of the American Institute of Marine Underwriters in New York, NY, on October 12, 1989. Notice of the meeting was published in the *Federal Register* on September 15, 1989 (53 FR 38316). The purpose of the meeting was to give the insurance industry an opportunity to ask questions on the intent of the proposed requirements

related to casualty data collection and to provide for the consultation with that industry in the development of such regulations that is required by the Act.

Drafting Information: Several offices at Coast Guard Headquarters and Coast Guard District Offices contributed to these proposed rules, but the principal persons involved in drafting this notice are Lieutenant Commander M.M. Rosecrans, Office of Marine Safety, Security and Environmental Protection and Commander G.A. Gallion, Office of the Chief Counsel.

RIN Number

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

Background

Law—Commercial Fishing Industry Vessel Safety Act of 1988

On September 9, 1988, Title 46 United States Code, was amended in Chapter 45 (Uninspected Commercial Fishing Industry Vessels, sections 4501 through 4508) by the Commercial Fishing Industry Vessel Safety Act of 1988, Public Law 100-424. This chapter, as amended, is applicable to all U.S. uninspected commercial fishing vessels, fish processing vessels, and fish tender vessels, except fish processing vessels of more than 5,000 gross tons and fish tender vessels of more than 500 gross tons since they are subject to inspection under 46 U.S.C. 3301 (11) and (12). Also it does not apply to vessels engaged solely in sport fishing that are subject to inspection under 46 U.S.C. 3301(8) as small passenger vessels and are regulated under 46 CFR subchapter T, or to vessels carrying 6 or less passengers which operate as uninspected passenger vessels regulated under 46 CFR subchapter C, part 25. Vessels that alternate between commercial and sport fishing must comply with the requirements for the service in which they are engaged.

The Act requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. The Act also requires the reporting of casualties to commercial fishing industry vessels by insurers, reporting of injuries by seamen on board commercial fishing industry vessels, and collection of casualty information by the Secretary.

The Act calls for regulations concerning the following equipment:

1. For all vessels. The regulations developed for this class of vessels should concern:

- (a) Fire extinguishing equipment.
- (b) Life preservers.
- (c) Backfire flame arrestors for gasoline engines.
- (d) Ventilation of enclosed spaces.
- (e) Visual distress signals.
- (f) Buoyant apparatus.
- (g) Alerting and locating equipment, including emergency position indicating radiobeacons (EPIRBs).
- (h) Placards informing seamen of the duty to report injuries.

2. For vessels which are documented and operate beyond the boundary line described in 46 CFR part 7 or are documented and operate with more than 16 individuals on board. The regulations developed for this class of vessels should also concern:

- (a) Alerting and locating equipment including, EPIRBs.
- (b) Lifeboats or liferafts.
- (c) An immersion suit for each individual on board.
- (d) Radio communication equipment.
- (e) Navigation equipment including compasses, radar reflectors, nautical charts, and anchors.
- (f) First aid equipment.
- (g) Any other equipment required to minimize the risk of injury.

3. For vessels which are built after, or which undergo a major conversion completed after, the effective date of the regulations and operate with more than 16 individuals on board. The regulations developed for this class of vessels should also concern:

- (a) Navigation equipment, including radars and fathometers.
- (b) Life saving equipment, immersion suits, signaling devices, bilge alarms, bilge pumps, life rails and grab rails.
- (c) Fire protection and firefighting equipment.
- (d) Use and installation of insulation material.
- (e) Storage of flammable and combustible material.
- (f) Fuel, ventilation, and electrical equipment.

The Act also addresses a major operational problem encountered by commercial fishing industry vessels by requiring regulations for operational stability. The Act states that those regulations are to apply to all vessels which are built, or which are substantially altered in a manner that affects operational stability, after December 31, 1990.

The Act requires that in developing regulations, the Coast Guard—

(1) Shall consider the specialized nature and economics of the operations and the character, design, and construction of commercial fishing industry vessels; and

(2) May not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulations.

Concern for the size and complexity of fish processing vessels is recognized by the Act. All fish processing vessels are to be inspected at least once every two years to ensure compliance with the regulations developed in response to the Act. Further, fish processing vessels which are built after or which undergo a major conversion completed after July 27, 1990, must meet the survey requirements of and be classed by the American Bureau of Shipping or another similarly qualified organization accepted by the Coast Guard for that purpose.

Commercial Fishing Industry Vessel Advisory Committee

The Act requires formation of a 17 member Commercial Fishing Industry Vessel Advisory Committee (Committee). The Executive Secretary of the Committee is appointed by the Secretary of Transportation, and the Federal Advisory Committee Act (5 U.S.C. App. 1 *et seq.*) applies to the Committee, except that the Committee terminates on September 30, 1992. A solicitation for membership on the Committee was published in the **Federal Register** on September 23, 1988 (53 FR 37075). That solicitation also explained the constituency of the Committee.

The Committee has met three times to discuss implementation of the Act and development of the subsequent regulations. The meetings were held twice in Washington, DC and once in Seattle, WA. Announcements of these meetings appeared in the **Federal Register** on March 13, 1989 (53 FR 10473), March 24, 1989 (53 FR 12307), June 6, 1989 (53 FR 24071), and September 27, 1989 (53 FR 39621).

The Committee has discussed a myriad of topics dealing with implementing the Act including several drafts leading to this NPRM. The basic form of the regulations resulted from Committee recommendations. To a large extent the content and the level of detail of this NPRM is based upon comments generated by the Committee in response to general discussions at the aforementioned meetings and review of the drafts.

Regulations—Advance Notice of Proposed Rulemaking

An Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** on December 29, 1988 (53 FR 52735), addressing potential requirements for uninspected fishing, fish processing, and fish tender vessels. In response to that ANPRM nearly 200 comment letters were received. Each of the comment letters has been considered in developing this NPRM.

Organization of the Regulations

Based upon the advice of the Committee, suggestions from the Fishing Vessel Safety Coordinators at the Coast Guard District offices, and many comments submitted in response to the ANPRM, a method of presenting the rules was sought that would allow the majority of those affected by the rules to determine the applicable requirements quickly and clearly. The standard regulatory format of title 46 Code of Federal Regulations (46 CFR) includes grouping requirements by subject, e.g., all fire fighting equipment requirements would be grouped together. This was considered to be too burdensome for commercial fishing industry vessel owners, since the large majority of requirements would not be applicable to most of the smaller state numbered vessels and within each section there would be differing applicability statements. Therefore, the organization of the proposed regulations was modeled after the Act as the simplest method of presentation.

Effective date of Regulations

The Coast Guard is considering establishing an effective date of the Final Rule which is 90 to 180 days after publication of the Final Rule. This could be necessary to allow manufacturers to prepare for increases in demand for some safety items after the Final Rule is published. The rules in this NPRM have taken this into consideration in §§ 28.125, 28.210, and 28.270. An alternative being considered is to establish an effective date 30 days after publication of the Final Rule with dates of compliance for some difficult to obtain equipment at later dates. Specific comments on this topic are requested.

Subpart A—General Provisions

This subpart applies to all commercial fishing industry vessels and contains the definitions of terms used in part 28, reporting requirements for casualties and injuries, and other administrative provisions. The rules proposed in this subpart are applicable to all vessels, vessel owners, underwriters of primary

insurance, and seamen employed on commercial fishing industry vessels.

Section 28.040 Incorporation by reference. Included in this section is a listing of the industry standards that are proposed to be incorporated by reference and the corresponding sections where each standard is referenced as the governing requirement.

In the interest of keeping the regulations as uncomplicated as possible, the number of standards incorporated by reference has been minimized. Instead, performance type standards have been used extensively.

Section 28.080 Report of casualty. This section proposes reporting requirements for vessel owners, agents, masters, individuals in charge of vessels, and underwriters of primary insurance whenever a casualty results in—

- (1) Loss of life;
- (2) An injury to an individual that causes that individual to remain incapacitated for a period in excess of 72 hours;
- (3) Loss of a vessel; or
- (4) Damage to or by a vessel, its apparel, gear, or cargo, except for fishing gear while not on board a vessel, that impairs the seaworthiness of the vessel or that is initially estimated at \$2,500 or more.

If the casualty is reported to a Coast Guard Marine Safety or Marine Inspection Office on Form CG 2692, in accordance with 46 CFR Part 4, a separate report would not be required. Currently, 46 CFR 4.05-1 requires the following casualties to be reported to the nearest Coast Guard Marine Safety or Marine Inspection Office as soon as possible after the casualty:

- (1) All accidental groundings and any intentional grounding which meets any of the other criteria listed below or which causes a hazard to navigation, the environment, or the safety of the vessel.
 - (2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel.
 - (3) An occurrence which materially and adversely affects the vessel's seaworthiness or fitness for service or route.
 - (4) Loss of life.
 - (5) Injury which requires professional medical treatment beyond first aid.
 - (6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of \$25,000.
- The owner, agent, operator, master, or individual in charge of the vessel would be required to report the casualty to the

underwriter of primary insurance for the vessel or to the Marine Index Bureau. The underwriter of primary insurance would be required to report each casualty to the Marine Index Bureau within 90 days of receiving notice of the casualty and whenever it paid a claim resulting from a casualty. Information furnished by underwriters of primary insurance to comply with the provisions of this section will be exempt from disclosure under the Freedom of Information Act because it would be commercial and financial information which, if disclosed, would be likely to cause substantial harm to the competitive position of the underwriter. Such information is exempt from disclosure.

Section 28.090 Report of injury. This section would require each individual, when in the service of a commercial fishing industry vessel, to report every injury or illness to the master, individual in charge of the vessel, or other agent of the employer within seven days of the injury or illness. The purpose of this provision is to ensure that the employer, or his representative on board the vessel, is aware of all injuries and is provided with an opportunity to correct an unsafe or dangerous condition that may develop during a voyage.

Subpart B—Requirements for All Vessels

This subpart contains regulations which would apply to every commercial fishing industry vessel in response to section 4502(a) of the Act. The requirements of this subpart would be in addition to the requirements of 46 CFR subchapter C, which also applies to commercial fishing industry vessels.

Section 28.105 Lifesaving equipment—general requirements. This section simply restates the existing requirement that life preservers, immersion suits, and other lifesaving equipment required in 46 CFR subpart 25.25 be carried on board commercial fishing industry vessels. This is in addition to the requirements proposed in this subpart.

The Coast Guard considered requiring work vests (Type IV personal flotation devices approved under 46 CFR 160.053) for those individuals working on the open deck of commercial fishing industry vessels. The Committee recommended that work vests not be required because work vests interfere with the normal work of personnel on the decks of commercial fishing industry vessels and for that reason are not worn. The Coast Guard agreed with that recommendation and therefore, no work vest requirements are proposed.

Section 28.110 Life preservers or other personal flotation devices. In addition to the requirements of 46 CFR 25.25, this section would require installation of life preservers, immersion suits, and other personal lifesaving devices on certain vessels. Equipment which is in addition to that already required under 46 CFR subpart 25.25 would be required on the effective date of the regulations. Specific comments are requested from equipment manufacturers on their ability to meet an increased demand for the life preservers, immersion suits, and the other personal lifesaving devices proposed in this section. More specifically, estimates of the number of lifesaving devices that could be manufactured with as little as a three month notice are needed.

This section also proposes that each vessel that operates on the ocean beyond the Boundary Line, or on the Great Lakes, except those that operate between 32 °N and 32 °S latitude, be required to carry an immersion suit or an exposure suit of the proper size for each individual on board. Present regulations for freight vessels and tank vessels, in which exposure suits are required, establish exemption lines at 35 °N and 35 °S worldwide, except in the Atlantic Ocean, where the lines are 32 °N and 32 °S. Since the winter water temperatures in the Pacific Ocean near the coastline of the U. S. are colder than in the Atlantic Ocean at the same time of the year, 32 °N and 32 °S exemption lines are proposed for commercial fishing industry vessels. The expected water temperature at 32 °N is at least 60 °F. at all times during the year in the coastal areas of North America.

The immersion suits proposed here would be required to be of the proper size for each individual on board. The Coast Guard presently approves three sizes of immersion suits for use on inspected or uninspected vessels. These sizes are: "child/small adult" for individuals between 20 kg (44 lb.) and 50 kg (110 lb.), "adult" for individuals between 50 kg (110 lb.) and 150 kg (330 lb.), and "oversize adult" for individuals over 150 kg (330 lb.). These size classes were originally intended for large inspected vessels, where the "adult" suit would be adequate, if not well fitting, for almost every individual on board. The "child/small adult" and "adult oversize" suits are available for the few individuals outside the normal adult suit size range. This sizing philosophy would allow for suits to be stowed on the vessel without being assigned to any one particular individual.

The Coast Guard recently approved intermediate sizes of immersion suits as being equivalent to the "adult" size when they are assigned to an individual. The Coast Guard has also requested that immersion suit manufacturers consider development of performance standards and design guidelines for immersion suits suitable for individuals weighing less than 20 kg (44 lb.), which might be appropriate for children.

Comments are specifically requested on all aspects of these intermediate sizes of immersion suits and of the immersion suits suitable for individuals weighing less than 20 kg (44 lb.)

Section 28.115 Ring lifebuoys. This section would expand the requirement for ring lifebuoys under 46 CFR subpart 25.25 for vessels of more than 65 feet in length by requiring 2 additional ring lifebuoys. Currently 46 CFR subpart 25.25 requires only one ring lifebuoy for a vessel of more than 26 feet in length. The purpose of this proposal is to make sure that there are sufficient ring life buoys on board to be readily available at various points on the vessel.

Working on an open deck in a harsh environment, such as is done on board commercial fishing industry vessels, is hazardous, especially in light of the large openings in railings and bulwarks that are necessary for setting and retrieving fishing gear. Ring lifebuoys, conveniently located on deck, could be crucial in aiding an individual that has fallen or been washed overboard.

Section 28.125 Survival craft. Proposed requirements for survival craft are presented in this section. A survival craft such as a lifeboat or liferaft extends survival time by keeping survivors of a casualty out of the water to prevent death from hypothermia and drowning. Survival craft become more important when the vessel operates in colder waters, waters further from potential rescuers, and in more adverse weather and sea conditions. Immersion suits play an important part in extending survival time, but they do not replace and are not as effective as survival craft that keep individuals out of the water.

Section 28.125 proposes graduated survival craft requirements based upon the area of operation. The minimum requirement for the most exposed routes, as limited by statutory authority, would be inflatable liferafts with enough total capacity to accommodate all individuals on board. The inflatable liferafts would have to be of the same "ocean service" or "SOLAS" type that are currently used on inspected commercial vessels that operate in ocean service.

For vessels on less exposed routes (generally closer to shore), a less sophisticated liferaft might be used. The Coast Guard is considering approval of a "coastal" liferaft that would not include as much equipment, and might not be required to have an inflatable floor or insulated canopy. The details of the proposed standards for "coastal" liferafts are expected to be published in the Federal Register in 1990 under CGD 85-205, RIN 2115-AC51.

The inflatable buoyant apparatus is another device being considered for acceptance in less exposed waters, and for vessels in ocean waters where the Act only provides authority to require buoyant apparatus. This device resembles an inflatable liferaft, except that it has no canopy or equipment packs, and can be used effectively while floating either side up.

In waters close to the coastline where water temperature is normally above 60°F. (15°C.), the minimum required equipment would be a (rigid) buoyant apparatus or life float. These devices provide some flotation for survivors, but do not support them completely out of the water. They are suitable for use only where rescue is close at hand and hypothermia is not an immediate threat. In other, warmer, more protected waters, survival craft would not be required. The life preservers and, in some cases, immersion suits would provide flotation in most abandon-ship emergencies.

Section 28.105 would also require survival craft required by § 28.125 to be Coast Guard approved. However, unapproved survival craft of a type similar to that required by § 28.125 would be permitted on vessels fitted with them, if that survival craft was on board on the effective date of these regulations and remained in good and serviceable condition. Under § 28.135, unapproved inflatable liferafts on vessels in Ocean service that operate beyond 50 miles from the coastline or beyond 20 miles from the coastline in cold waters would have to be provided with the survival equipment packs appropriate for their service.

Under § 28.125 there would be a graduated implementation schedule for having survival craft on existing commercial fishing industry vessels. Existing, documented vessels that operate in the North Pacific area (generally north of the Strait of Juan de Fuca) would have to comply within 1 year of the effective date of the final rules. Existing, documented vessels that operate on the Great Lakes or in the Atlantic Ocean, north and east of a line drawn at a bearing of 150 degrees true from Watch Hill Light, Rhode Island,

would have to comply with this section within two years of the effective date. All other existing, documented vessels would have to comply with this section within three years of the effective date. Within 4 years of the effective date of the regulations, all vessels, including state numbered vessels, would have to comply with this section.

Under § 28.305, there would be no graduated implementation schedule for survival craft on vessels built after or which undergo a major conversion completed after the effective date of the regulations. On the date they first operate, or the date on which they first operate after the conversion is completed, survival craft would be required to comply with § 28.125.

After reviewing a draft of this NPRM, the Committee recommended to the Coast Guard that the proposed requirements for survival craft applicable to vessels that operate beyond the Boundary Line include a requirement to carry an inflatable liferaft. While the Coast Guard agrees in principle with the Committee, the Act gives limited authority in the area of survival craft, and inflatable liferafts can not be required on all vessels that operate beyond the Boundary Line.

Two other rulemakings would require certain inspected vessels to increase the number of inflatable survival craft which they carry. One of these rulemakings involves the proposed revision of the requirements for small passenger vessels published on January 30, 1989 (54 FR 4413), CGD 85-080, RIN 2115-AC22, 46 CFR subchapter T, Small Passenger Vessel Inspection and Certification. The second is a proposed revision to the lifesaving requirements for large inspected vessels published on April 21, 1989 (54 FR 16198), CGD 84-069, RIN 2115-AB72, 46 CFR subchapter W, Lifesaving Equipment.

The Coast Guard is concerned about the combined effect of these rulemakings on the ability of the inflatable survival craft industry to respond to the demand without having an adverse affect on the quality of the survival craft and the cost to the purchaser. Comments are specifically requested on appropriate time-phasing of requirements for inflatable survival craft in this rulemaking and their relationship to the requirements that would be created under other rulemaking projects.

A phased implementation schedule for requiring inflatable survival craft on commercial fishing industry vessels is intended to spread out the demand for inflatable survival craft, while ensuring that vessels subject to the higher risks, those in the north Pacific area, are

equipped with survival craft at the earliest practicable date.

Section 28.130 Stowage of survival craft. Survival craft are of no use to personnel if the survival craft are trapped by a sinking vessel. This section proposes to require that survival craft be arranged to automatically float-free from a sinking vessel or be readily accessible for launching. A float-free arrangement ensures that the survival craft will be available if the vessel sinks before the crew can prepare the survival craft for launching. Comments are specifically requested on the feasibility of this requirement for all affected vessels. The Coast Guard is interested in determining if there are vessels which do not have any suitable stowage location available for float-free survival craft. If the float-free survival craft is located where it may be under water breaking over the deck, it may inadvertently float free and be lost. Alternative stowage may be appropriate, such as a manual quick release mechanism, or a small inflatable liferaft packed in a valise and stowed inside the deckhouse near an access to the open deck.

Section 28.135 Survival craft equipment. Proposed in this section are requirements for survival craft equipment which would be similar to those for inspected vessels. Inflatable liferafts would be required to be packed with SOLAS A, SOLAS B, or Coastal Service equipment packs. Life floats, inflatable buoyant apparatus, and buoyant apparatus would not be required to be equipped with equipment packs but would be required to be fitted with a lifeline, pendants, a painter, and a light.

Additionally this section would prohibit the carriage of survival craft other than inflatable liferafts, life floats, inflatable buoyant apparatus, or buoyant apparatus unless that survival craft complied with the requirements for installation, arrangement, equipment, and maintenance contained in 46 CFR subchapter W.

Section 28.140 Lifesaving equipment markings. Proposed marking requirements are contained in this section for items of lifesaving equipment. These proposed rules are similar to the requirements for inspected vessels in proposed 46 CFR subchapter W, Lifesaving Equipment, mentioned above. Most floating items of survival equipment would be required to be marked with the name of the vessel and with retroreflective material in accordance with the internationally agreed upon manner as outlined in the International Maritime Organization

Maritime Safety Committee Circular 513, "Guidelines Concerning the Use and Fitting of Retro-Reflective Materials on Lifesaving Appliances." Inflatable liferafts and inflatable buoyant apparatus would be exempt from the marking requirements of this section, since they are affixed with tags, prior to packing, which can be used to identify them.

Marking of lifesaving equipment is intended to assist search and rescue operations, by making the lifesaving equipment more visible and identifying the individual or the vessel from which the equipment originated. This section would require the marking of equipment on vessels within one year of the effective date of the regulations.

The marking requirements for immersion suits proposed in § 28.140 are related to the sizing issue discussed previously under § 28.110. The proposed requirements would allow immersion suits to be marked with either the name of the vessel or the individual to whom the immersion suit is assigned. The main purpose for the marking of survival equipment is to enable identification of the vessel the equipment belongs to, in case it is found at sea or washed ashore. Marking an immersion suit with the name of the individual to whom it is assigned would allow the suit to move with the individual from vessel to vessel without the need to continually remark it. Some fishermen have purchased personal immersion suits. Allowing an immersion suit to be marked with the owner's name would permit the immersion suit to be taken from vessel to vessel with the individual. This would also be especially helpful for those who have purchased the smallest and largest sizes of immersion suits. Having the name of the individual marked on the suit should still allow the vessel involved to be identified.

Section 28.145 Operational readiness, maintenance, and inspection of lifesaving equipment. This section would require inflatable liferafts and inflatable buoyant apparatus to be inspected and serviced annually at a Coast Guard approved liferaft servicing facility. New inflatable liferafts and inflatable buoyant apparatus would not have to be serviced until after they were two years old.

The Coast Guard is considering approval of servicing facilities to service unapproved liferafts, as permitted in § 28.125(c), in order to facilitate the inspection and maintenance requirements for all liferafts, whether Coast Guard approved or not. Approval and servicing of inflatable liferafts is the subject of another regulatory project (CGD 85-205, RIN 2115-AC51). An

NPRM on this subject is expected to be published in the Federal Register in 1990.

Section 28.150 Distress signals. This section proposes requirements for visual distress signals on all commercial fishing industry vessels. Visual distress signals can be used to attract the attention of nearby vessels and aircraft, and are useful in alerting them to an emergency situation, or directing them to a vessel in distress. As specified in this section, vessels that operate beyond the Boundary Line and vessels that operate more than three miles from the coastline on the Great Lakes would be required to carry the same type of flares and smoke signals. In addition, vessels carrying inflatable liferafts would also have distress signals packed in the liferafts as part of the SOLAS A, SOLAS B, or Coastal Service equipment packs required by § 28.135.

Vessels that operate in coastal waters, as defined in 33 CFR 175.105(b), and within three nautical miles of the coastline on the Great Lakes would be required to carry the visual distress signals required for recreational boats under 33 CFR part 175, subpart C. Coastal waters include certain large bodies of water inside the Boundary Line, such as bays, sounds, harbors, rivers, and inlets with entrances to the ocean or to the Great Lakes, and which are wider than two nautical miles.

This section proposes that distress signals complying with these requirements be on board affected vessels on the effective date of the regulations. Equipment manufacturers are requested to specifically identify problems with supplying large numbers of distress signals on relatively short notice.

Section 28.155 Emergency position indicating radiobeacons (EPIRB). This section proposes requirements for EPIRBs on commercial fishing industry vessels. A separate NPRM in this issue of the Federal Register addresses requirements for EPIRBs on all uninspected vessels (CGD 87-016a, RIN 2115-AC69); however, § 28.155 proposes different compliance dates for commercial fishing industry vessels. The servicing requirements of proposed § 25.26-5 would apply to commercial fishing industry vessels.

Under rules published by the Federal Communications Commission in 47 CFR 80.1053, an EPIRB which does not meet the signal and coherency standard in effect after October 1, 1988, may not be used to meet the requirements for an EPIRB after August 1, 1991. EPIRBs manufactured before October 1, 1988, do not meet those stability and coherency standards and may not be used to meet

the requirements of 46 CFR subpart 25.26 or this section after August 1, 1991. However, EPIRBs manufactured prior to October 1, 1988, may be retained on board, since they may still be effective in helping to locate a disabled vessel or its survivors, but newer type EPIRBs (406 MHz, Category 1 or Category 2 satellite type) will also have to be fitted.

Section 28.160 Excess fire detection and protection equipment. This section proposes to allow fire fighting and fire detection equipment which is not required, provided it does not endanger the vessel or the personnel on board and is listed and labeled by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc.

Section 28.165 Portable fire extinguishers. This section proposes requirements for portable fire extinguishers. Vessels of not more than 6 feet in length, including sail powered fishing vessels such as "skipjacks", would be required to meet the existing regulations for portable fire extinguishers in 46 CFR subpart 25.30. In addition to the requirements of 46 CFR subpart 25.30, vessels over 65 feet in length would be required, as a minimum, to carry the portable fire extinguishers specified in Table 28.165. The proposed requirements in this section are similar to those for inspected vessels.

Section 28.170 Injury placard. This section proposes requirements which would specify the wording and construction of an injury placard required by the Act in 46 U.S.C. 4502(a)(8) and 10603, to be aboard all commercial fishing industry vessels. The placard would be required to be at least 8½ inches by 11 inches and be posted in a prominent place accessible to the crew.

Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Line or With More Than 16 Individuals on Board.

Section 28.200 Applicability. This section describes the proposed applicability of this subpart. This subpart implements the mandate of 46 U.S.C. 4502(b). The requirements of this subpart would be in addition to the requirements of subparts A and B. It would apply to all documented vessels that operate with more than 16 individuals on board and all documented vessels that operate beyond the Boundary Line. The Boundary Line is described in 46 CFR part 7, and the rules for documenting vessels are contained in 46 CFR subchapter G. An individual is any person on board for any reason.

Section 28.205 Fireman's outfit. This section proposes requirements for the carriage of a fireman's outfit on vessels with more than 49 individuals on board. The fireman's outfit is proposed as an aid rescuing trapped individuals in the event of a fire. Vessels with more than 49 individuals are likely to be relatively large with many accommodation spaces and large, more complicated work spaces than the typical commercial fishing industry vessel. The likelihood of fire increases as the number of work spaces and the size of the work spaces increases. The fireman's outfit is considered necessary to allow for the rescue of individuals liable to be trapped during a fire and to aid in fighting a fire.

Section 28.210 First aid equipment and training. This section contains proposed requirements for first aid equipment and the training necessary for the proper use of the first aid equipment. The first aid equipment would be required to be of suitable composition for the number of individuals carried on board and accessible to all individuals on board.

The specific items of first aid equipment that would be suitable is not specified, as it may vary depending on the number of individuals, the area of operation, the duration of the voyage, and even the methods of fishing. It is expected that many organizations, including the American National Red Cross can provide recommendations on the equipment that is appropriate if the above variables are known. Many industry organizations such as the North Pacific Fishing Vessel Owners Association publish guidance for their members on minimum first aid equipment considered appropriate.

The Committee was very concerned with the usefulness of first aid equipment without proper training in its use. They argued that the mere possession of first aid equipment did not give any assurance that the equipment would be used properly in event of an injury. The Committee recommended that the Coast Guard require a level of preparedness for injuries commensurate with the number of individuals on board by requiring a graduated number of individuals trained in proper administration of first aid. Two comments to the ANPRM also asked that at least one crew member be required to show proof of first aid training. The Coast Guard agrees with both the Committee and these comments and is proposing requirements for training in first aid.

The Committee also recommended that the Coast Guard propose training in CPR (cardiopulmonary resuscitation).

The Coast Guard agrees that training in CPR would be beneficial and has included a proposal for CPR training. An individual trained in both first aid and CPR could count toward the required number for both first aid and CPR.

Training in both first aid and CPR is readily available in nearly all locations and is relatively inexpensive. The proposed requirements concerning acceptable training courses are similar to those found in 46 CFR 10.205. Section 28.210 contains no provisions for maintaining training certificates, such as periodic refresher courses, such as is commonly required to remain certified in CPR. Because of the delayed implementation date, 2 years after the effective date of the regulations, it is expected that individuals could obtain training when not fishing. This would minimize the impact of this requirement on individuals.

Section 28.215 Guards for exposed hazards. This section proposes requirements for guards for exposed hazards. Running machinery would be required to have hand covers, guards, or railings to reduce the chance of personnel being injured while working around the moving gears, belts, and chains. These guards would be required to be retro-fitted on existing vessels not already so equipped after the effective date of the regulations. The impact of retrofitting guards is expected to be small, since larger vessels, likely to be subject to this section, probably have such guards installed because it is considered good marine practice.

Section 28.225 Nautical charts and Inland rules. This section would require each vessel to have on board adequate up-to-date charts necessary to safely navigate on each voyage. Other navigation information appropriate for an intended voyage would be required, as well. Vessels of 39.4 feet in length or over would be required to maintain, for reference, a copy of the Inland Navigation Rules.

Section 28.230 Compasses. This section would require each vessel subject to this section to be equipped with an operable magnetic steering compass with a compass deviation table at the operating station. More sophisticated equipment such as a gyrocompass could also be fitted at the steering station for primary use; but a magnetic compass would still be required due to its reliability.

Requiring nautical charts and compasses is designed to help vessel operators navigate without grounding. The Master should always know his position and be able to use a chart to determine a safe course to steer using the compass. Charts are also being

proposed to help operating personnel determine their position when assistance is needed.

Section 28.235 Anchors. This section would require that each vessel be fitted with anchors and chains appropriate for the intended voyage. There are many nautical books and classification society rules that could be used as a guide for determining the appropriate size for an anchor as well as the appropriate size and length of cable, rope, or chain which is suitable.

Section 28.240 Radar reflectors. This section would require each nonmetallic hull vessel, such as wooden or fiber reinforced plastic hull vessels, to have a radar reflector. A nonmetallic hull vessel that is fitted with fishing gear and rigging that creates a radar signature from a distance of six nautical miles would not be required to have any other radar reflector. Many small nonmetallic hull vessels have been struck while fishing, especially in inclement weather, because their radar signatures were inadequate to allow them to be detected.

No specific standards are being published for radar reflectors. Vessel owners should satisfy themselves that the radar reflector installed will allow their vessel to be detected by radar in all expected conditions of operation, including, but not limited to, situations where other vessels may be close at hand.

Section 28.245 Communication equipment. This section would require each vessel to be equipped with a VHF radiotelephone capable of transmitting and receiving on the frequency or frequencies within the 156-162 MHz band necessary to communicate with a public coast or a U.S. Coast Guard station serving the area in which the vessel operates.

A vessel that operates more than 20 nautical miles from the coastline would also be required to have a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 2-4 MHz band necessary to communicate with a public coast or a U.S. Coast Guard station serving the area in which the vessel operates.

A vessel that operates more than 100 nautical miles from the coastline would also be required to have a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 4-27.5 MHz band necessary to communicate with a public coast or U.S. Coast Guard station serving the area in which the vessel operates.

A vessel that operates in the waters contiguous to Alaska, regardless of the

distance from the coastline, where communication with a public coast or U.S. Coast Guard VHF coast station is not possible on the 156-162 MHz or 2-4 MHz bands would be required to be equipped with a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 4-27.5 MHz band necessary to communicate with a public coast or U.S. Coast Guard station serving the area in which the vessel operates.

The Committee recommended that alternatives to radiotelephones be permitted, especially in areas of Alaska, where there are no U.S. Coast Guard or public coast stations within range of the 156-162 MHz or the 2-4 MHz bands. The Coast Guard agrees that alternatives to radiotelephones could be effective in establishing a communication link between commercial fishing industry vessels and rescue services. Therefore, satellite communication capability with a system servicing the vessel's operating area or a cellular telephone capable of communicating with a U.S. Coast Guard or public coast station would be permitted as a substitute for the radiotelephones required.

Communication equipment would be required to be located at the operating station and connected to an emergency power source. Communication equipment is considered to be of primary importance. There are numerous cases where communication by radio has been responsible for the timely rescue of individuals on disabled vessels.

This section would also require communication equipment to be installed to ensure safe operation and to protect the equipment from vibration, moisture, extreme temperature, and excessive voltage or currents.

Section 28.250 Bilge alarms. This section would require an audible and visual alarm at the operating station of each vessel of more than 36 feet in length to indicate high water in a normally unmanned space subject to flooding. Such a space includes a space with a through hull fitting below the deepest waterline; a machinery space bilge, bilge well, shaft alley bilge, or other space subject to flooding from sea water piping within the space; or a space with a non-watertight closure on the main deck, if the space is unmanned. For a commercial fishing industry vessel, this would include nearly all spaces below the main deck except cargo holds. This could require some existing vessels to be retrofitted with bilge alarms.

Section 4502(b) of the Act which applies to documented vessels which operate beyond the Boundary Line or

which operate with more than 16 individuals on board does not specifically address bilge alarms. However, the Committee felt strongly that any space below deck which was not under the direct observation of the master or individual in charge, should be fitted with both a bilge alarm and a bilge system to dewater that space. Section 4502(b)(7) authorizes the Secretary of Transportation to require equipment not specifically identified, if that equipment will minimize the risk of serious injury. The Committee felt that bilge alarms and a bilge pumping system is equipment of this type. The Coast Guard agrees and has included requirements in this and the following section for bilge alarms and a bilge pumping system.

Section 28.255 Bilge pumps and piping. This section would require each vessel to be equipped with a pump capable of draining any watertight compartment other than small buoyancy compartments, such as buoyancy air tanks. A portable bilge pump would be required to be provided with suitable suction and discharge hoses.

A vessel of more than 79 feet in length would be required to be equipped with a fixed, powered, self-priming bilge pump. This pump could be used for other purposes, except as a required fire pump, and would have to be fixed to a bilge manifold. Each bilge suction line would be required to be led to a manifold and be fitted with a stop valve and a check valve. The stop valve and the check valve would aid in preventing unintentional back flooding of spaces while using the bilge piping system.

Section 28.260 Electronic position fixing devices. This section proposes requirements for each documented vessel of more than 79 feet in length that operates beyond the Boundary Line or with more than 16 individuals on board to be equipped with an appropriate electronic position fixing device. There is presently no such requirement in 46 CFR subchapter C—Uninspected Vessels, although many commercial fishing industry vessels are so equipped. Acceptable devices would include a LORAN receiver, a satellite navigation receiver, or another electronic device which provides accurate fixes in the area in which the vessel operates.

Section 28.265 Emergency instructions. The Emergency Instructions would be required for a documented vessel that operates with more than 16 individuals on board. They are considered necessary to ensure that the master or individual in charge of the vessel formally assigns crewmembers to specific emergency duties and provides for the contingencies involved with

abandoning the vessel. The Emergency Instructions would be required to list the fire, emergency, and abandon ship signals; the location of the immersion suits; and instructions for donning the immersion suits and to be posted in conspicuous locations accessible to all individuals on board. The Emergency Instructions would result in better organization and less confusion during an emergency.

Section 28.270 Instructions, drills, and safety orientation. This section would require the master or individual in charge to ensure that drills were conducted and instruction given at least once each month and that each individual was familiar with their assigned duties and the proper methods to be used during emergencies and other evolutions. The proper procedures to be followed for emergent and non-emergent evolutions would include, as a minimum, abandoning ship, fighting a fire, recovering an individual from the water, minimizing unintentional flooding, launching survival craft and recovering lifeboats and rescue boats, and donning immersion suits.

The master or individual in charge would not be required to conduct the instruction or drills. A professional trainer or any other qualified individual could conduct the required instruction on the vessel or aid in conducting drills. The Coast Guard believes that the training is most useful if conducted on the vessel; however, the proposed rule would permit training at other locations. Specific comments are requested on the usefulness of instruction carried out at other locations and on the use of prepared training materials such as video tape presentations.

The master or individual in charge of a vessel would be required to give a safety orientation to any individual on board the vessel that had not received instruction and participated in drills. This safety orientation would be required prior to operating with that individual on board. This would provide a minimum level of understanding of emergency procedures for each individual on board regardless of how long they had been on board.

Coast Guard investigation of casualties on commercial fishing industry vessels has shown repeatedly that being unfamiliar with immersion suits, liferaft launching procedures, and proper abandon ship procedures have needlessly resulted in deaths and injuries. This section is meant to ensure that crew members know the proper procedures for the use of the required lifesaving equipment and are familiar

with and practiced in the use of equipment needed during an emergency.

Many comments on the ANPRM pointed out the need for licensed individuals on board commercial fishing industry vessels, especially those carrying large numbers of individuals or those that operate on exposed waters. Crew training and licensing are issues under study by the Coast Guard, in consultation with the Committee; however, the requirements proposed in this section are independent of that study. The requirements proposed here are in keeping with good marine practice.

The Committee was concerned with the quality of the instruction and drills. Discussions by the Committee centered around the inability of an individual to conduct effective training without a thorough knowledge of proper procedures. Therefore, the Committee recommended that the individual providing the training be required to be properly trained prior to instructing others.

Section 4502(b) of the Act requires regulations for installation, maintenance and use of specific equipment. This authority permits requirements for training, instruction, and drills in the use of emergency and lifesaving equipment as recommended by the Committee. Consequently, this section contains a proposed requirement that an individual conducting drills or instruction must have been trained in the proper procedures. A three year period would be provided to allow individuals needing this training to obtain it. Specific comments are requested on the extent, cost, availability, duration, and documentation relative to training proposed in this section.

Subpart D—Requirements for Vessels Which Are Built After or Which Undergo a Major Conversion Completed After [Insert the effective date of these regulations] and That Operate With More Than 16 Individuals On Board

This subpart proposes requirements for commercial fishing industry vessels which are built or converted after the effective date of the regulations and that operate with more than 16 individuals on board. These requirements are in addition to the requirements of subparts A, B, and C. This means that applicable portions of subparts A, B, and C would apply also. For instance, a vessel built after the effective date of the regulations which does not operate with more than 16 individuals on board and does not operate beyond the Boundary Line would not be subject to the requirements of subparts C and D, but would be subject to the requirements of

subparts A, and B. If that same vessel were to operate beyond the Boundary Line, the requirements of subpart C would then apply, and if the vessel operated with more than 16 individuals on board, the requirements of subparts A, B, C, and D would apply.

Section 28.300 Applicability. The requirements proposed in this section are in response to 46 U.S.C. 4502(c). Those proposals, in many cases, are more detailed than those of the other subparts and are targeted at safety improvements that can only be accomplished by building in the safety features during original vessel construction.

Section 28.305 Compliance date for survival craft on new or converted vessels. This section would require that each vessel built after or which undergoes a major conversion completed after the effective date of these regulations be equipped with the survival craft required by § 28.125 on the date that construction or conversion was completed. Paragraph 28.125(b) provides for delayed implementation of the requirements for survival craft for the reasons previously mentioned. Those provisions would not apply to a vessel which was built or which underwent a major conversion completed after the effective date of these regulations.

Section 28.310 Launching of survival craft. This section would require that a gate or other opening be provided in bulwarks, deck rails, or lifelines to facilitate the launching of survival craft which weigh more than 110 pounds.

Section 28.315 Fire pumps, fire main, fire hydrants, and fire hoses. This section would specify the fire fighting equipment required to provide what is considered to be the minimum acceptable level of safety on commercial fishing industry vessels.

Each vessel more than 36 feet in length would be required to be equipped with a fixed, powered, self-priming fire pump connected to a fixed piping system. The pump and the piping system would not be required to be for the exclusive use of fire fighting, but could not be connected to serve as a bilge pump, as previously discussed. In addition, a vessel over 79 feet in length would have performance standards applicable to the fire pump and piping system similar to the performance standards for inspected vessels.

Since it would be uncommon to have a manned engine room on most commercial fishing industry vessels, the powered fire pumps would have to be capable of being started from the fire pump and the operating station, including remotely controlling any

necessary valves. This same performance standard has been proposed for small passenger vessels (CGD 85-080, RIN 2115-AC22.)

Each fire hose on a vessel over 79 feet in length would be required to be of commercial grade fire hose with a corrosion resistant nozzle capable of producing a solid stream and a spray pattern. These requirements, while less specific, are similar to those for inspected vessels. Vessels 79 feet in length or less would be permitted to use good commercial grade hose, if at least $\frac{3}{4}$ nominal diameter and fitted with an appropriate corrosion resistant nozzle capable of both a solid stream and spray pattern. Good commercial grade hose of any size would be fitted with corrosion resistant fittings.

Fire hydrants on vessels of more than 79 feet in length would be required to be so located and in sufficient number that any location on the vessel could be reached with 2 charged fire hoses. Each fire hydrant would also be required to be fitted with a fire hose at all times that the vessel is operating.

Section 28.320 Fixed gas fire extinguishing systems. Each vessel over 79 feet in length would be required to be equipped with a fixed gas fire extinguishing system in a space containing an internal combustion engine of more than 50 horsepower, an oil fired boiler, or a gasoline fuel storage tank. The fixed fire extinguishing system would be required to be approved by the Coast Guard and custom engineered, unless it was an approved pre-engineered system. "Pre-engineered" and "custom engineered" are industry terms and are defined in § 28.050.

Fixed gas fire extinguishing system components would be required to be listed by an independent laboratory, such as Underwriters Laboratories, Inc. The fire extinguishing system design and installation would be required to be in accordance with the Coast Guard approved "Manufacturer's Marine Design, Installation, Operation, and Maintenance Manual." Guidance on design and installation of fixed fire extinguishing systems is contained in Navigation and Vessel Inspection Circular 6-72, Change 1 (NVIC 6-72, Ch-1), "Guide to Fixed Fire Fighting Equipment Aboard Merchant Vessels", dated February 28, 1977. The provisions of this circular are well known to manufacturers of fixed extinguishing systems. A listing of approved fire extinguishing systems is contained in Commandant Instruction M16714.3C, "Equipment Lists" and is available from the Government Printing Office.

Several types of extinguishing system arrangements would be available in choosing a system, depending upon the size of the space protected. A space with a gross volume exceeding 6000 cubic feet would be required to be fitted with a manually actuated and alarmed system; a smaller space could also be so fitted. A system capable of automatic discharge upon heat detection would only be permitted in a normally unoccupied space with a gross volume of 6000 cubic feet or less. A pre-engineered system would be permitted only in a normally unoccupied machinery space, paint locker, or a space containing flammable liquid stores with a gross volume of not more than 1200 cubic feet. A fixed fire extinguishing system would be permitted to protect more than one space, provided the amount of extinguishing agent was sufficient to protect the largest space.

A pre-engineered fire extinguishing system would be required to be fitted so that the system could be manually actuated from outside the space protected in addition to any automatic actuation. The system would also be required to be equipped with a light and audible alarm at the operating station to indicate discharge, an automatic device to shut down ventilation in the protected space, and a means to reset these ventilation systems after discharge.

In developing these proposed requirements for fixed gas fire extinguishing systems, the following requirements and recommendations for other vessels were considered: 46 CFR subchapter H (Passenger Vessels), 1974 Safety of Life at Sea Convention, NVIC 6-72, Ch-1, NVIC 5-86 "Voluntary Standards for U.S. Uninspected Commercial Fishing Vessels", National Fire Protection Association Standard 101 "Life Safety Code", Canadian regulations for small passenger vessels, and the proposed rules for small passenger vessels (CGD 85-080, RIN 2115-AC22.).

Section 28.325 Fire detection systems. This section would require independent smoke detectors in accommodation spaces of vessels which operate with more than 49 individuals on board. As an alternative, a Coast Guard approved smoke detection system could be installed. Independent modular smoke detectors would be required to comply with Underwriters Laboratories Standard UL 217 and to be listed as a "Single Station Smoke Detector—Also Suitable For Use in Recreational Vehicles." Protection of accommodation spaces on vessels with a relatively large number of individuals

is considered necessary, especially in staterooms. This requirement is expected to have a small impact on the commercial fishing industry because of the small number of vessels that operate with more than 49 individuals on board.

Section 28.330 Galley hood and other fire protection equipment. This section would require that each vessel with more than 49 individuals on board to be fitted with a grease extraction hood and a pre-engineered dry or wet extinguishing system over each grill, broiler, and deep fat fryer. The grease extraction hood would be required to comply with UL 710, and the extinguishing system would be required to comply with National Fire Protection Association Standard 17 or 17a. A large portion of vessel fires originate in the galley; this equipment would help prevent fires and quickly control those that start.

Section 28.335 Fuel systems. This section contains requirements for fuel systems on board commercial fishing industry vessels, except fuel systems on outboard engines. Portable fuel tanks would be required to meet the requirements of American Boat and Yacht Council (ABYC) Project H-25, "Portable Fuel Systems and Portable Containers for Flammable Liquids."

Alternatives to the requirements of this section would be permitted for vessels of 79 feet in length or less. The standards of ABYC Project H-33—"Diesel fuel systems", chapter 5 of the National Fire Protection Association (NFPA) Standard 302—"Pleasure and Commercial Motor Craft", or 33 CFR subchapter S—Boating Safety would be permitted as substitutes.

The Committee felt that this class of vessel (those that operate with more than 16 persons on board) should be prohibited from having main propulsion engines or generator prime movers powered by gasoline, because of the explosion hazard of gasoline. The Committee also recommended that bunker C be permitted as a fuel. The Coast Guard agrees with the Committee. Gasoline would be prohibited as a fuel, except for use in outboard engines; and bunker C fuel would be permitted. Because of the viscosity of bunker C, it is frequently heated to permit easier pumping and transfer on board the vessel. This heating can cause safety problems if not done properly. Therefore, bunker C installations would be required to comply with the requirements for fuel systems for inspected vessels, in 46 CFR subchapter F—Marine Engineering.

Vents for integral fuel oil tanks would be required to be fitted to the highest

point in the tank, terminate in a 180 degree bend on the weather deck, and be fitted with a flame screen. These practices are common practice in the marine industry. Also, tanks that could be filled under pressure would have to have a venting area at least equal to the area of the fill line. This would aid in preventing tank overpressurization. A tank that is not filled under pressure would be required to have a venting area of not less than 0.022 square inch.

Fuel piping would be required by this section to be at least 0.035 inch in thickness. It would also be required to be seamless and of steel, annealed copper, copper-nickel, or nickel-copper with two exceptions. Aluminum piping would be permitted in spaces outside a machinery space. Aluminum, with its relatively low melting point, is considered to be unsuitable for fuel oil transfer in machinery spaces. Nonmetallic flexible hose would be permitted in lengths not exceeding 30 inches. Nonmetallic flexible hose is commonly used to provide flexibility in fuel lines, especially at connection points to internal combustion engines.

Nonmetallic flexible hose would not be permitted to penetrate a watertight bulkhead. It would also be required to be in an accessible location so that leaks could be easily detected and repaired.

Fuel piping subject to head pressure from fuel in a tank would require a positive shutoff valve. This shutoff valve would be required to be operable from outside the space in which the valve is located. Many engine room fires could have been quickly brought under control if the supply of fuel oil to the fire was stopped. The fuel shutoff valve will provide that capability.

Section 28.340 Ventilation of enclosed engine and fuel tank spaces. This section proposes requirements for vessels which store gasoline engines or gasoline storage tanks in spaces that could entrap gasoline vapors. Such spaces would be required to be fitted with mechanical ventilation systems with nonsparking fans. As an alternative, vessels of not more than 65 feet in length could meet the standards of NFPA 302, chapter 2, section 2-2 or ABYC Project H-32 "Ventilation of Boats Using Diesel Fuel" and 33 CFR part 183, subpart K.

Section 28.345 Electrical standards for vessels of not more than 79 feet in length. This section would prescribe the requirements and alternative standards for electrical systems on vessels of not more than 79 feet in length. Such vessels could comply with the same electrical standards for vessels of more than 79

feet in length or alternative standards. The alternative standards that could be met are ABYC Projects E-8 "AC Electrical Systems on Boats" or E-1 "Bonding of Direct Current Systems" and E-9 "DC Electrical Systems on Boats," as appropriate for the vessel's electrical system, combined with either NFPA 302 chapter 7 "Electrical Systems Under 50 Volts" and chapter 8 "Alternating Current (AC) Electrical Systems on Boats" or 33 CFR 183, subpart I and § 28.375.

Section 28.350 General requirements for electrical systems. This section would require electrical equipment in the weather or in a location exposed to seas to be waterproof, watertight, or enclosed in a watertight housing. Aluminum would be prohibited as a current carrying part of electrical equipment or as wiring. Metallic enclosures and frames of electrical equipment would be required to be grounded.

This section would require the amount of electrical equipment to be kept to a practicable level in a space likely to contain vapors from flammable or combustible liquids. Electrical equipment required in such spaces would be required to be explosionproof or intrinsically safe. Guidance on explosionproof and intrinsically safe installations is contained in 46 CFR subchapter J and NVIC 2-89 "Guide for Electrical Installations on Merchant Vessels and Mobile Offshore Drilling Units", dated 14 August 1989.

This section would also require a continuous, non-current carrying grounding conductor on each nonmetallic hull vessel. This grounding conductor would be required to connect the enclosures and frames of electrical equipment and other metallic items such as engines, fuel tanks, and electrical equipment enclosures to a common ground point. This grounding conductor would have to meet the requirements of Section 250-95 of the National Electrical Code, NFPA 70.

Section 28.355 Main source of electrical power. This section would require at least 2 sources of electrical power, if any of the essential loads rely on electrical power. Essential loads include interior lighting, steering systems, communication systems, navigation equipment, navigation lights, fire protection equipment, bilge pumps, and the propulsion system and its auxiliaries and controls. If the two sources of electrical power are generators, they would be required to have independent prime movers. Means other than generators could supply the necessary electrical power for the essential loads.

Section 28.360 Emergency source of electrical power. This section would require vessels of more than 36 feet in length to have an emergency source of electrical power which is capable of supplying connected loads for at least 3 hours and which is physically separated from the main machinery space. This separation would help ensure that one casualty did not disable all sources of power. Vessels of 79 feet in length or less would only be required to have emergency lighting, navigation equipment, and communication equipment connected to the emergency source of power, if the propulsion and steering systems did not rely on electrical power. Vessels of 36 feet in length or less would not be required to have an emergency source of power if flashlights are provided, unless required for communication equipment by § 28.245(h). The prime mover of a generator used as an emergency source of power would require a separate fuel supply.

Section 28.365 Distribution systems. This section would require that a distribution system which has a neutral bus or conductor have the neutral bus or conductor grounded. It would also require a grounded distribution system to have only one connection to ground. The one connection to ground would be required to be at the switchboard or, on a nonmetallic vessel, the common ground point.

Section 28.370 Overcurrent protection. This section would require that each source of power be protected against overcurrent and that overcurrent protection for generators not exceed 115% of the full load rating. Steering systems would be required to be protected from short circuits only.

An ungrounded current carrying conductor would be required to be protected against overcurrent in accordance with its current rating by a circuit breaker or a fuse at the switchboard or distribution box from which it leads. Circuit breakers and switches would be required to open all ungrounded conductors. Further, all devices that disconnect a grounded conductor would be required to disconnect ungrounded conductors as well. These measures would ensure that all conductors on the load side of the switch or circuit breaker were electrically neutral.

Navigation light circuits would be required to have the necessary circuits switched so that only the appropriate circuit could be energized. If the vessel was engaged in fishing operations, the appropriate fishing navigation lights could be energized. A separate circuit would be required for each installed

radio transceiver or radiotelephone. This is intended to improve the reliability of power to the communications equipment.

Section 28.375 Wiring methods and materials. This section would require all cable and wire to be insulated, copper, stranded, and appropriately sized. Solid wire conductors, such as are common in household applications, have proven to adversely affect the reliability of connections on board ships. The lack of flexibility offered by solid wire conductors is not compatible with the vibrations in the marine environment. However, stranded wire is not affected by the vibrations to the same degree.

Conductors would be required to be sized so that the voltage drop caused by the conductors did not exceed 10%. Conductors would be required to meet one of several recognized industry standards for material and construction. Metallic cable armor would be required to be electrically continuous and grounded to the metal hull or the common ground point for a nonmetallic hull. Connections for conductors would be required to be made only in fire retardant enclosures, such as junction boxes.

Section 28.380 General structural fire protection. Fire protection, to a large extent, can only be designed and built into a vessel. The requirements proposed in this section are consistent with the Coast Guard's fire protection philosophy of limiting combustibles and containing a fire in the space of origin.

The requirement to insulate heated surfaces is a restatement of good marine practice from the standpoint of personnel safety and fire protection. ABYC standard P-1 is considered an appropriate standard for dry exhaust systems on vessels with combustible hulls, where special care must be taken to prevent ignition of the hull material.

Machinery and fuel tank spaces would be required to be separated from accommodation spaces by a vapor tight boundary. Fires often originate in accommodation spaces. A fire in an accommodation space could easily spread to a fuel tank space or a machinery space with catastrophic results, unless vapor tight boundaries separate them. Another consideration is that flammable vapors could accumulate in accommodation spaces from adjoining machinery or fuel tank spaces and be accidentally ignited in the accommodation space.

Paint and flammable liquid stores present an obvious fire/explosion hazard since there is a concentrated fire load in the possible presence of flammable vapors. Lockers of steel or

with a steel lining would be required for the purpose of containing a fire within a paint or flammable liquid storage space to that space.

Insulation in spaces where flammable vapors are present will absorb the vapors and in time become combustible regardless of the original fire resistance of the insulation. A vapor barrier would be required as a covering for insulation in spaces containing flammable vapors, such as enginerooms and paint lockers, to prevent absorption of those vapors.

Nitrocellulose or noxious fume producing paints or lacquers would not be permitted. There is a similar requirement on all inspected vessels.

Mattresses would be required to meet the flammability standards applicable to all mattresses sold commercially in the U. S. and polyurethane mattresses would be prohibited because of the toxic fumes generated if ignited.

Fiber reinforced plastic vessels would be required to be constructed using fire retardant resin if the vessel operates with more than 16 individuals on board. This requirement would permit the flexibility of using plastic hulls but allow a minimum measure of fire protection for the highly combustible hull material.

A fire alarm system would be required on each vessel to permit rapid notification of all individuals on board in the event of a fire. Early, positive action in the event of a fire is critical to controlling the fire.

Noncombustible surfaces would be required within 3 feet of cooking appliances. Alternatively, combustible surfaces within 3 feet of cooking appliances could be sheathed in metal.

Section 28.385 Structural fire protection for vessels that operate with more than 49 individuals on board. This section proposes additional structural fire protection requirements based upon the Coast Guard's concern for the increased risk to additional personnel present. Additional protection of accommodation spaces would be provided by requiring bulkheads and decks of accommodation spaces which separate them from control stations, machinery spaces, cargo spaces, or service spaces to be constructed of noncombustible material. With more individuals on board there is greater likelihood of fire, and a greater degree of protection is required for accommodation spaces. This requirement would prevent major bulkheads from being constructed of wood. Additionally, major structural components, such as the hull, decks, and columns would be required to be of steel.

The Committee pointed out the need for light weight deck houses and

superstructures. The additional weight of steel used to construct deckhouses and superstructures adversely affects stability (relatively high weight in a relatively high location) and thereby limits the cargo capacity. As a consequence, aluminum would be permitted for the construction of deckhouses and superstructures. This provides a reasonable balance between fire protection and stability, and the economy issues raised by the Committee.

Section 28.390 Means of escape. Escape from interior spaces, whether accommodation spaces or work spaces, is a key safety item and an integral facet of structural fire protection. There are numerous cases of individuals being trapped in interior spaces during fires or sudden capsizing. Noncombustible bulkheads play a key role in protecting escape routes, just as the arrangement of the escape routes does. This section proposes requirements for means of escape. This proposal is intended to minimize the possibility of individuals being isolated in interior spaces in the event of an emergency.

Each space used on a regular basis and which is generally accessible to individuals would be required to have two means of escape, one of which must provide a satisfactory route to weather. These means of escape may take the form of passageways, stairways, ladders, deck scuttles, or windows. A means of escape would be required to be capable of being opened by one individual from either side in light or dark conditions and would be required to open in the direction of expected escape. A deck scuttle used as a means of escape would be required to be quick acting and arranged with a holdback to prevent it from closing unexpectedly while being used for egress. Ladders, footholds, and handholds would be required to be of rigid construction and suitable for emergency use. A window or windshield, suitably located and of sufficient size would be permitted to serve as an emergency means of escape. This would provide a convenient means of ensuring a second means of escape at the operating station of small vessels.

Section 28.395 Embarkation stations. This section would require each vessel to have at least one survival craft embarkation station to allow all personnel to board survival craft in the event the vessel must be abandoned. If work spaces or accommodation spaces are widely separated, additional survival craft embarkation stations would be required. Since survival craft are the last resort for safe refuge in an emergency, adequate arrangements must be provided to allow crew and

workers to quickly and safely board the survival craft.

Section 28.400 Navigation equipment. Each vessel would be required to be fitted with a radar and an echo depth sounding device. It is believed that nearly all of the existing vessels in this class are presently equipped with radar.

The echo sounding device is a navigational device that can improve the safety of navigation. Many groundings would be prevented by the proper use of an echo sounding device. Commercial fishing industry vessels suffer from groundings more frequently than other classes of vessels. A grounding frequently leads to capsizing of the vessel with resultant peril to the individuals on board.

Section 28.405 Hydraulic equipment. Coast Guard investigation of deaths and injuries on commercial fishing industry vessels show that hydraulic equipment is frequently involved. The Committee was concerned for the dangers presented by improper construction and operation of hydraulic equipment. This section proposes design requirements for hydraulic systems to help ensure safe installation and operation. The requirements proposed in this section are considered to address the type of risk contemplated in section 4502(b)(7) of the Act.

Piping systems would be required to be designed with a burst pressure of 4 times the relief pressure on the required pressure relieving device. Suitability of all materials in a piping system in relation to the fluid used and the operating temperature would also be required.

Except for steering systems, controls for hydraulic equipment would have to be located where the equipment operator would be able to have an unobstructed view of the work area. Controls for hydraulic equipment would be required to be arranged so that equipment could be disengaged in an emergency, such as when an individual is caught in a line which is controlled hydraulically. This requirement would also apply to automatically controlled hydraulic equipment. Further, hydraulic equipment would be required to be equipped so that uncontrolled movement of the equipment would be prevented upon loss of hydraulic pressure, such as in the case of a ruptured line. These requirements are intended to reduce the likelihood of injuries associated with operation of hydraulic equipment. These requirements are similar to recommendations in the *Vessel Safety Manual* published by the North Pacific

Fishing Vessel Owners' Association. The manual also contains other valuable recommendations concerning hydraulic equipment.

Section 28.410 Deck rails, lifelines, storm rails, and hand grabs. Deck rails and grab rails would reduce the chance of workers slipping or being washed overboard. These requirements are similar to the requirements for inspected vessels.

This section specifies the minimum height and construction of deck rails, hand grabs, and bulwarks. Two comments to the ANPRM expressed concern that rails would interfere with normal fishing operations. This is not the intent of this section. Therefore, this proposal includes provisions to permit portable stanchions and lifelines as a substitute for fixed rails where fixed rails would impede fishing operations.

Subpart E—Stability

Approximately 70% of deaths involving commercial fishing industry vessels are related to stability. The Act recognized the hazards of improper design or operation as they relate to stability by requiring stability regulations for vessels which are built, or the physical characteristics of which are substantially altered in a manner that affects the vessel's stability, after December 31, 1989.

An examination of search and rescue and casualty data for 1987 and 1988 reveals that the majority of stability related cases can be attributed to watertight hull integrity problems or operational errors. The data clearly shows that unintentional flooding is involved in many major casualties. A one compartment flooding standard would prevent capsizing or sinking in most of these cases.

Casualty data for the years 1982 to 1987 shows that stability related casualty rates are independent of vessel length or vessel hull material. The data also shows that stability related casualties are independent of the geographic area of operation.

Section 28.500 Applicability. This proposed subpart would apply to all vessels built after the effective date of the regulations. The Act specifies that each vessel built after or which is substantially altered after December 31, 1989, be subject to regulations for operational stability. Since regulations were not finalized by December 31, 1989, there will be no stability evaluations required prior to the effective date of these regulations.

There would be an exclusion for a vessel that is issued a Load Line Certificate under 46 CFR subchapter E. The stability of a vessel is reviewed

prior to issuance of a Load Line Certificate.

Section 28.505 Owner's responsibility. This section would place on the owner of a commercial fishing industry vessel the burden of selecting a qualified individual to evaluate stability under this subpart. The owner would be responsible for maintaining calculations and test results from the stability evaluation.

The Coast Guard proposed third party review of stability calculations to the Committee. After long discussions of the benefits and disadvantages of such an arrangement, the Committee recommended that no third party review of calculations be required, arguing that the cost of such verification did not justify the benefits. As a consequence of that recommendation, no third party verification of stability evaluations is proposed in this NPRM. This places the burden for ensuring that stability is evaluated in accordance with this subpart by a qualified person on the owner. Since most vessel owners have only a limited understanding of the technicalities of stability calculations and how small design changes affect stability, selection of an experienced naval architect or other qualified person becomes critical from the owner's standpoint.

Comments concerning this arrangement are specifically requested from owners, designers, naval architects, and underwriters of primary insurance.

Section 28.510 Definitions of stability terms. The meaning of many of the stability terms used in this subpart are similar to those contained in 46 CFR Subchapter S—Subdivision and Stability.

Section 28.515 Submergence test as an alternative to stability calculations. This section proposes a submergence test that would be accepted in lieu of the more complicated and possibly more expensive stability calculations. The submergence test proposed is similar to the submergence test required for some recreational boats under 33 CFR part 183. Alternatively, a plate affixed to a vessel by the manufacturer under 33 CFR part 183 would also be accepted in lieu of calculations or the submergence test described in this section.

In the opinion of the Committee, a simple stability assessment is necessary so as not to place an economic hardship on the owners of small commercial fishing industry vessels.

Specific provisions are included for the weight expected from the loading of fish since this cargo can weigh more than the vessel itself on a small vessel. The Coast Guard believes that owners

of many vessels under 25 feet in length will find the submergence test more suitable than stability calculations. The owner of a decked vessel may find calculations more suitable than this submergence test because of inability of the vessel to survive simultaneous flooding of the two largest compartments or because of the effort and expense necessary to protect the vessel to withstand submergence.

Section 28.520 Alternate simplified stability test for small vessels. This section proposes a simplified stability test to evaluate the intact stability of a vessel in lieu of the more complicated stability test and stability calculations in §§ 28.525 through 28.545 and 28.565 through 28.575. This simplified stability test could be used by owners of vessels of less than 79 feet in length, if the angle of downflooding exceeds 40 degrees.

Both the Committee and the Coast Guard officers serving as Fishing Vessel Safety Coordinators in the Coast Guard District offices have repeatedly stressed the importance of providing a simple method of evaluating stability for small vessels. The simplified stability test proposed here is very similar to the simplified stability test for small passenger vessels in 46 CFR 171.030.

Many comments to the ANPRM stability provisions urged simplified stability regulations, stressing the high cost of a stability test and development of stability calculations compared to the cost of a small vessel.

A vessel which would meet the proposed requirements for a simplified stability test would not be exempt from the subdivision requirements of § 28.580, however, unless compliance with the alternative subdivision requirements in § 28.525 could provide a simplified means of demonstrating adequate subdivision.

Section 28.525 Alternative subdivision. This section proposes a means of ensuring adequate subdivision for vessels less than 79 feet in length, which would be much simpler than the calculations required by § 28.580 and, therefore, less costly. The method proposed by this section would require only a simple calculation to determine the spacing of watertight bulkheads. This section, when used in conjunction with the simplified stability test (for vessels of less than 79 feet in length), would permit the majority of commercial fishing industry vessels to dispense with a stability test and stability calculations.

Section 28.530 Stability instructions for operating personnel. This section would require stability instructions for personnel who operate commercial fishing industry vessels to ensure that

those personnel can maintain loading so that the applicable stability criteria are met. These stability instructions would be required to be in a form readily usable by the master or the individual in charge of the vessel. For inspected vessels, the Coast Guard reviews stability information to ensure that the information provided to operating personnel is suitable and accurate. With no regulatory body examination of stability evaluations or stability instructions for commercial fishing industry vessels proposed in this NPRM, the responsibility for determining the accuracy and detail of stability instructions rests with the owner.

The necessary instructions will vary with vessel design, outfitting, fishing methods, and operating personnel experience and training. A list of items that must be considered for inclusion in the stability instructions is offered to help ensure needed information is provided. Much of the information in this list would not be necessary on many vessels.

The Committee recommended that the Coast Guard require pictorial guidance and a one page summary for each vessel. This could be appropriate for some vessels, but not for other vessels. Therefore, determining the best form for presenting the required information would be left to the owner. The Coast Guard expects that for most vessels, the stability evaluator and the owner will jointly decide on the content and form of the stability information necessary so that operators have the information necessary to properly load the vessel.

Section 28.535 Inclining test. This section would require an inclining experiment when accurate determination of a vessel's weight and locations of the centers of gravity is necessary to determine compliance with the applicable stability requirements. Provision is made for using less accurate procedures, such as a deadweight survey, when the stability of a vessel is sufficient to assume margins of safety in the stability criteria, and for using the stability test results for a vessel of the same arrangement, outfitting, and loading. Navigation and Vessel Inspection Circular 15-81 "Guidelines for Conducting Stability Tests" provides valuable information for those conducting inclining experiments.

Section 28.540 Free surface. This section provides for calculating the effect of liquids that shift within or between tanks as a vessel heels. The minimum number of slack tanks (tanks which are not full) to be considered and the method of selecting tanks to be considered is described in § 28.540(a). Consideration of the effects of shifting

liquids is necessary for all vessels as the liquids on board are continually changing and can have an adverse effect, if not given proper attention. Methods of calculating the effect of shifting liquids vary in ease of use and accuracy. The normally used surface inertia method is relatively conservative but is easy to use. More accurate methods could be used by the owner or the stability evaluator.

The effects on intact stability of shifting fluids are required to be addressed in stability evaluations reviewed by the Coast Guard for inspected vessels. Those who develop stability instructions for operating personnel would be expected to consider guidance on limiting the adverse effects of shifting liquids, as required by § 28.530(b)(4).

Section 28.545 Intact stability when using fishing gear. This section would require an evaluation of heeling moments imposed on a vessel by suspended weights, such as fishing nets. A vessel with a certain lifting moment, as specified by a formula, would perform further evaluation. This standard is similar to the lifting criterion of 46 CFR subchapter S and would apply to only a small number of vessels due to the threshold for further evaluation. The requirements of this section are considered necessary since lifting weights adversely affects stability and can result in sudden capsizing, if done improperly.

Section 28.550 Icing. This section would require that the effects of ice on a vessel's structure be considered during the stability evaluation, if a vessel operates in the specified regions during the specified times. Icing of a vessel results in a topside weight addition and a consequent rise in the vertical center of gravity. This method of evaluation is recommended in NVIC 5-86 and is similar to the recognized international standard for commercial fishing industry vessels. Those concerned with the stability instructions for operating personnel should consider providing guidance on the meteorological conditions which favor icing and the best methods to minimize icing and the effects of icing in accordance with § 28.530(b)(9).

Section 28.555 Freeing ports. This section proposes requirements for the drainage of weather decks, to minimize the added weight and free surface effects of boarding seas. Few vessels can meet the proposed stability criteria unless boarding seas are assumed to be rapidly removed. This standard for freeing ports was suggested in NVIC 5-86 and is similar to that required by the American Bureau of Shipping for small

vessels and to that of recognized international standards for commercial fishing industry vessels. A reduction in freeing port area would be provided for vessels that operate exclusively on protected waters, where boarding seas are not expected.

Section 28.560 Watertight integrity above the main deck. This section would require watertight coamings and weathertight closures to prevent the inadvertent entry of sea water into the interior of the vessel. Coamings help ensure that water on deck will not normally enter openings in decks and bulkheads during normal operation.

Section 28.565 Water on deck. The proposed requirements of this section would guard against vessel capsizing due to water trapped on deck by bulwarks. This section would not apply to a vessel that did not have bulwarks. This standard was originally presented in NVIC 5-86 and is similar to recognized international standards for commercial fishing industry vessels. Specific comments from designers are requested on alternative methods of analyzing the effect of large quantities of trapped water on deck.

Section 28.570 Intact righting energy. This section contains the basic stability criteria proposed for fishing vessels and were developed internationally 20 years ago. It has been successfully applied in the United States for many years to many different vessel types. However, the range of positive stability proposed here, 60°, is greater than that for other vessel types, 50°. The larger range of positive stability is critical to the ability of a small vessel, such as many commercial fishing industry vessels, to remain upright in relatively large or breaking waves.

There was concern by the Committee that too little is known about the stability of commercial fishing industry vessels of less than 79 feet in length. Other countries have applied similar criteria to vessels of over 40 feet (12m) in length. Comments from designers are specifically requested concerning their experiences with applicability of these criteria or similar criteria for vessels of less than 79 feet in length.

Section 28.575 Severe wind and roll. This section proposes an intact stability criterion for fishing industry vessels to ensure that the wind area is not mismatched to the vessel's intact stability. It was recommended in NVIC 5-86, in a slightly different form, and is similar to recognized international standards. This criterion evaluates the possibility of a vessel capsizing in a beam wind.

Section 28.580 Unintentional flooding. This section proposes requirements for evaluation of unintentional flooding from leaking hull penetrations or collision damage. Calculations would be necessary for vessels of over 40 feet in length, the lower length limit for flooding standards applied to small passenger vessels. The transverse extent of damage, 30 inches, is similar to the standards proposed in 46 CFR Subchapter L—Offshore Supply Vessels Including Liftboats (54 FR 20006), CGD 82-004, RIN 2115-AA77 and international standards for Offshore Support Vessels, and was recommended in NVIC 5-86.

As an alternative to meeting the requirements of this section, a vessel may be examined annually by a surveyor of the American Bureau of Shipping, a similarly qualified organization, or an accepted organization. Many cases of unintentional flooding are the result of leaking through-hull penetrations caused by poor maintenance or inappropriate material selection. Annual examinations by qualified persons should help alleviate these problems. The annual examination would include an examination of the hull and a check for compliance with applicable provisions of title 46 Code of Federal Regulations and the reporting requirements of § 28.610 would apply, as well.

Definitions of a "similarly qualified organization" and an "accepted organization" are contained in § 28.090.

Subpart F—Fish Processing Vessels

This subpart would apply to all fish processing vessels in addition to the requirements of subparts A through E. The requirements proposed in this subpart are in response to sections 4502(f) and 4503 of the Act.

Section 28.600 Applicability. Fish processing vessels of over 5,000 gross tons are subject to inspection under the provisions of 46 U.S.C. 3301(11) and would not be subject to this subchapter. All other fish processing vessels, as defined in § 28.090, would be subject to this subpart.

Section 28.610 Examination and certification of compliance. This section proposes to require each fish processing vessel to be examined for compliance with Title 46, Code of Federal Regulations at least once every two years. Most of the requirements applicable to fish processing vessels of less than 5,000 gross tons are contained in this part (46 CFR part 28).

The examination would have to be performed by the American Bureau of Shipping, a similarly qualified organization, or an accepted

organization. The organization performing the examination would be required to provide the owner and the cognizant Coast Guard District Commander with a copy of the signed certification letter, if the examination determined that the vessel was in compliance with 46 CFR. A copy of a certification letter would also be required to be maintained on board the vessel.

Section 28.620 Survey and classification. This proposed section would require each fish processing vessel built after, or which undergoes a major conversion completed after, July 27, 1990, to be classed by the American Bureau of Shipping or another organization determined by the Commandant to be similarly qualified. Fish processing vessels subject to this section would have to satisfactorily complete all required surveys and maintain certificates required by the classification society.

Implementation of Regulations

Although commercial fishing industry vessels are uninspected vessels, the Coast Guard will continue to do underway law enforcement boardings. Additionally, an uninspected commercial fishing industry vessel dockside boarding program is being contemplated as an aid in implementing the final rules, helping to educate commercial fishing industry personnel on the provisions of the regulations, and ensuring safety on commercial fishing industry vessels. A similar effort, the Uninspected Towing Vessel Examination Program, was successful in the 1970s on uninspected commercial towing vessels. The Coast Guard is considering conducting safety examinations after assistance has been rendered and during law enforcement boardings.

The Coast Guard is also considering issuance of distinctive decals to identify those vessels that have been boarded, as part of the dockside boarding program. A vessel with a valid decal could be excluded from further random safety examinations, or, if the vessel is boarded, the safety review could be less time consuming, since compliance with the regulations would have already been demonstrated. However, a decal would not grant a vessel immunity from future boardings for law enforcement activities, such as for fisheries verification or drug interdiction.

The Coast Guard is considering authorizing accepted classification societies and accepted organizations, as well as the Coast Guard Auxiliary for small commercial fishing industry vessels, to conduct voluntary safety

examinations. The voluntary examinations would be conducted at a time chosen by the owner. Normally this would be when a vessel was not actively engaged in fishing or fishing associated activities. Vessels found to be in compliance with the regulations would be issued a decal identical to that issued by the Coast Guard.

During public meetings with the Committee, the Coast Guard discussed the efforts of the National Association of Marine Surveyors (NAMS) and the scope of surveys of commercial fishing industry vessels. NAMS presently conducts surveys of commercial fishing industry vessels for a myriad of reasons and frequently includes checking for compliance with the applicable Coast Guard regulations as a service to their clients. They could include similar checks for compliance with the final rules on a routine basis.

NAMS surveyors annually examine approximately 20 percent of the 30,000 documented and 10 percent of the 100,000 state numbered commercial fishing industry vessels. The Coast Guard would like to take advantage of the efforts of private surveyors which belong to organizations, such as NAMS, as a supplement to the uninspected commercial fishing industry vessel boarding program.

Owners of commercial fishing industry vessels could benefit from these examinations by having experienced, professional surveyors verify compliance with the regulations. Third party examinations are required by many underwriters of primary insurance for commercial fishing industry vessels, and those inspections could serve a dual role.

Permitting third party surveyors to issue decals would allow the Coast Guard to more effectively enhance the safety of commercial fishing industry vessels by concentrating its efforts on vessels that did not have decals for random safety checks.

Specific comments are requested from interested parties on any phase of the uninspected commercial fishing industry vessel boarding program, third party examinations, or decals for voluntary examinations.

National Transportation Safety Board Recommendations

In 1986, the National Transportation Safety Board (Safety Board) undertook a safety study to examine actions undertaken by agencies and organizations to address uninspected commercial fishing vessel safety. The Safety Board's study reviewed the results of its investigation activities over

the preceding 18 years and the responses of organizations (public and private) to the Board's recommendations.

On September 1, 1987, Uninspected Fishing Vessel Safety (NTSB/SS-87/02) was published. This safety study is available from the National Technical Information Service, Springfield, VA 22161.

The study focused on review of over 200 uninspected fishing vessel casualty investigations conducted by the Safety Board and over 70 interviews with individuals from all facets of the commercial fishing industry including representatives of commercial fishing vessel associations, educational experts in fishing vessel safety, fishing vessel designers, insurers of commercial fishing industry vessels, equipment manufacturers, marine surveyors, and others.

As a result of the safety study, the Safety Board made 16 new recommendations to the Coast Guard, reiterated two recommendations previously made to the Coast Guard, and highlighted two other recommendations previously made to the Coast Guard. Of those 20 recommendations, 15 involved seeking legislative authority to develop regulations relating to commercial fishing industry vessels. With passage of the Act, the authority to develop regulations in 12 of the 15 areas addressed in those recommendations has been provided (authority has been obtained separately to satisfy one of the recommendations), and they are addressed in this NPRM. Three of the 20 recommendations are pending completion of studies mandated by the Act, including two that require legislative authority; one has been addressed by a separate rulemaking; two are addressed in this NPRM; and one has been classified by the Safety Board as "Closed acceptable action."

M-85-067 Resume research into seakeeping characteristics of small vessels to develop stability standards for fishing vessels such as the AMAZING GRACE.

The Coast Guard intends to approach this recommendation in two phases. Phase one is a contract for a comprehensive study of commercial fishing industry vessel casualties, characteristics, stability information in literature, and existing stability criteria. The Coast Guard is currently in the process of letting the contract. The second phase is to further pursue areas identified as problem areas in the first phase. The second phase may include model testing.

M-86-011 Seek legislative authority to require that stability tests be conducted and that complete stability information be provided to the captains of commercial fishing vessels.

Sections 28.515, 28.520, and 28.535 propose different forms of stability tests for commercial fishing industry vessels built, or the physical characteristics of which are substantially altered in a manner that affects the vessel's operating stability, after the effective date of these regulations. Further, 28.530 requires stability instructions for operating personnel for those same vessels. Authority for these requirements is derived from the Act.

M-87-52 Seek legislative authority to require uninspected commercial fishing vessel captains/owners to provide safety training to all crewmembers.

Section 28.270 would require the master or person in charge of the vessel to ensure that each month drills are conducted and instruction is given to all individuals on board. Also, the master or individual in charge of the vessel would be required to give a safety orientation for any individual on board that had not received the instruction and drills, prior to operating the vessel. The authority for this requirement is the Act.

M-87-53 Seek legislative authority to require exposure suits for each crewmember on an uninspected commercial fishing industry vessel when the vessel operates in cold waters.

Section 28.110 would require immersion suits for each individual on board for such vessels operating north of 32°N or south of 32°S. Authority for these requirements is derived from the Act.

M-87-54 Seek legislative authority to require flooding detection alarms and automatic dewatering systems on uninspected commercial fishing industry vessels.

Sections 28.250 and 28.255 would require bilge alarms and bilge pumping systems for documented commercial fishing industry vessels that operate outside the Boundary Line or that operate with more than 16 individuals on board, regardless of the date of construction. This would involve retrofits for some vessels. Flooding detection alarms and automatic dewatering systems are felt to be somewhat redundant. Automatic bilge pumps are not considered practical for fear of providing a false sense of security on vessels where maintenance appears to be a problem and because of the threat that unknowingly, oil could be pumped overboard. Automatic alarms in conjunction with bilge pumps

provide an adequate level of safety and the level of simplicity considered appropriate for commercial fishing industry vessels.

M-87-55 Seek legislative authority to require fire detection alarms and fixed firefighting systems for engine rooms on uninspected commercial fishing industry vessels.

The Act provides authority for fire protection and firefighting equipment for commercial fishing industry vessels which are built after or which undergo a major conversion completed after December 31, 1988, and which operate with more than 16 individuals on board. Section 28.320 requires, for a vessel of more than 79 feet in length, a fixed gas extinguishing system in each space with an internal combustion engine which exceeds 50 HP, an oil fired boiler, or a gasoline storage tank. It is believed that the majority of damage caused by fires in machinery spaces is a result of inadequate fire extinguishing equipment. Most such fires are detected in a timely fashion; therefore, fire detection alarms are considered to be unnecessary. Authority for these requirements is derived from the Act.

M-87-56 Seek legislative authority to require Coast Guard approved lifeboats or liferafts sufficient to carry all persons on board uninspected commercial fishing industry vessels.

The Act addressed survival craft, specifically in sections 4502(a), 4502(b), and 4506(b) and lifesaving equipment in section 4502(c). Sections 28.125 and 28.305 of this NPRM propose requirements for survival craft for all individuals on board commercial fishing industry vessels which are dependent upon the area in which the vessel operates. As explained previously, there would be a phase-in period for inflatable survival craft due to the expected problems with manufacturers supplying a large number of inflatable survival craft in a short period of time.

M-87-57 Seek legislative authority to require emergency radios with an independent power source on uninspected commercial fishing industry vessels.

The Act provides limited authority to impose such requirements on certain commercial fishing industry vessels. Section 28.245 would require a means of communication suitable for communicating with a public coast or U.S. Coast Guard station for a documented commercial fishing industry vessel that operates beyond the Boundary Line or that operates with more than 16 persons on board. The communication equipment would have

to be provided with an emergency source of electrical power.

M-87-58 Seek legislative authority to require exposure suits for each crewmember on a fish processing vessel built before January 1, 1988, when the vessel operates in cold waters.

Authority for regulations addressing this recommendation is provided by the Act. See the discussion of recommendation *M-87-53*.

M-87-59 Seek legislative authority to require flooding detection alarms and automatic dewatering systems on a fish processing vessel built before January 1, 1988.

Authority for regulations addressing this recommendation is provided by the Act. See the discussion of recommendation *M-87-54*.

M-87-60 Seek legislative authority to require fire detection alarms and fixed firefighting systems for engine rooms on fish processing vessels built before January 1, 1988.

Authority for regulations addressing this recommendation is provided by the Act. See the discussion of recommendation *M-87-55*.

M-87-61 Seek legislative authority to require Coast Guard approved lifeboats or liferafts sufficient to carry all persons on fish processing vessels built before January 1, 1988.

Authority for regulations addressing this recommendation is provided by the Act. See the discussion of recommendation *M-87-56*.

M-87-62 Seek legislative authority to require emergency radios with an independent power source on fish processing vessels built before January 1, 1988.

Authority for regulations addressing this recommendation is provided by the Act. See the discussion of recommendation *M-87-57*.

M-87-63 Establish standards for the implementation and use of the new 406.025 MHz emergency position indication radiobeacon for uninspected commercial fishing vessels, including proper handling, placement on the vessel, maintenance, and inspection practices.

This recommendation is similar to recommendation *M-80-023*. Section 28.155 of this NPRM in conjunction with the NPRM for emergency position indicating radiobeacons (EPIRBs) for uninspected vessels (CGD 88-016a, RIN 2115-AC69) would require EPIRBs for all commercial fishing industry vessels that operate on the high seas (defined in 33 CFR 2.05-1(a)) or beyond three nautical miles from the coastline in the Great Lakes to be equipped with an EPIRB.

The 406 MHz EPIRBs would not be mandatory until after August 17, 1994, if a 121.5/243 MHz EPIRB was operable and placed on board a vessel on or before October 3, 1988.

Draft Regulatory Evaluation

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulatory and significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. The projected capital costs estimated for the 110,000 existing commercial fishing industry vessels is \$71.6 million dollars. The annualized capital costs are estimated to be \$12.0 million, with an additional \$9.4 million annual operating and maintenance costs for a total annualized cost to the industry of \$21.4 million.

It is estimated that 4,000 new fishing vessels will be constructed annually. Three thousand of these vessels will not be documented vessels under 46 CFR Subchapter G. The compliance costs for all new vessels is estimated to be \$1.8 million annually. Undocumented vessels would account for \$1.1 million of this figure and documented vessels would account for the other \$700,000.

The economic benefits of these regulations consist of vessel casualties prevented and a reduction in the number of injuries and fatalities that could be expected to occur without these regulations. The commercial fishing industry has a fatality rate estimated to be nearly 7 times the national industry average. The annual number of fatalities that may be prevented in response to the provisions of this proposal as they relate to existing commercial fishing industry vessels is estimated to be 26 per annum. These regulations could prevent up to 29 existing commercial fishing industry vessels from sinking annually. In addition, 10 major injuries could be avoided. The Coast Guard estimates that the portion of this proposal associated with new vessel construction will prevent an additional 3 fatalities annually as well as 19 vessel losses and 10 additional serious injuries.

Environmental Analysis

The Coast Guard has considered the environmental impact of this proposed rulemaking, and it has been determined to be categorically excluded from further environmental documentation in accordance with sections 2.B.2.c and

2.B.2.1 of Commandant Instruction (COMDTINST) M16475.1. A categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

Federalism Assessment

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

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, a regulatory flexibility analysis which describes the impact of the proposed regulation on small entities is included in the regulatory evaluation available for inspection. An estimated 90-95 percent of the total number of commercial fishing industry vessels are independently owned. Even investor and company owned vessels are predominately associated with small businesses. Therefore, virtually the entire industry can be said to be composed of small businesses. Although the cost of the regulations is estimated to be minor when compared to the total annual revenues of the domestic industry of over \$2.5 billion, compliance costs fall disproportionately on a number of individual classes of vessels.

The cost of the proposed regulations is estimated to be minor with respect to virtually all small and large vessels operating in waters inside the Boundary Line. The cost is estimated to be moderate for larger vessels operating outside of the Boundary Line. Relative to the revenues of these vessels, the costs are considered to be negligible.

The economic impact of these regulations on smaller vessels that operate beyond the Boundary Line may be significant. Examples of smaller vessels that operate beyond the Boundary Line include New England lobster boats, swordfish vessels, bottom long-line vessels, offshore gillnetters, and virtually all of the small vessels that operate on the West Coast of the United States. A 26 foot boat operating far offshore would incur capital costs of over \$1,200. This is a significant amount to invest in a vessel worth \$10,000 to \$20,000. The largest impact would be to vessels that operate in the Northern waters. A small salmon gillnet boat in Alaska could have capital costs as high as \$4,000 with annualized costs of \$1,400 per boat. This is a relatively high economic burden for a vessel that may

earn less than \$10,000 annually from commercial fishing.

Part-time and seasonal operators represent a significant proportion of many fisheries. The cost of complying with the regulations is the same for part-time and seasonal operators as it is for full-time operators. Therefore, these regulations may lead some part-time and seasonal operators to discontinue commercial fishing activities.

Stability is also an area that may adversely impact small vessel owners, which are all believed to qualify as small entities. The cost of stability tests alone can be from \$1,000 to \$5,000 per vessel. Since most commercial fishing industry vessels are custom built and would be required to have a stability test of some form, the economic burden could be relatively high. However, if vessels are built from the same production run, the bulk of the cost of stability tests could be amortized over all the vessels in the run since only one prototype per run needs to be tested.

If you feel that your business qualifies as a small entity and would suffer significant, negative, economic impact, please explain why your business qualifies as a small entity and to what degree the proposed regulations would economically affect your business. Cost data submitted will be thoroughly evaluated before publication of the final rule.

Paperwork Reduction Act

This rulemaking contains information collection requirements in the following sections of 46 CFR: § 28.080; § 28.090; § 28.140; § 28.185; § 28.260; § 28.525; § 28.580; § 28.610; § 28.620.

The information collection requirements have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Persons desiring to comment on the information collection requirements of these regulations should identify this rulemaking docket (CGD 88.079) and submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, attn: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 28

Administrative practice and procedures, Authority delegation, Electric power, Fire prevention, Fishing Vessels, Incorporation by reference, Insurance, Lifesaving equipment, Main

and auxiliary machinery, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen, and Stability.

Proposed Rules

In view of the foregoing, the Coast Guard proposes to amend title 46, Code of Federal Regulations, chapter I, subchapter C, by adding part 28 to read as follows:

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

Subpart A—General Provisions

- Sec.
- 28.010 Authority.
 - 28.020 OMB control numbers.
 - 28.030 Applicability.
 - 28.040 Incorporation by reference.
 - 28.050 Definitions.
 - 28.070 Approved equipment and material.
 - 28.080 Report of casualty.
 - 28.090 Report of injury.
 - 28.095 Right of appeal.

Subpart B—Requirements for All Vessels

- 28.100 Applicability.
- 28.105 Lifesaving equipment—general requirements.
- 28.110 Life preservers or other personal flotation devices.
- 28.115 Ring lifebuoys.
- 28.125 Survival craft.
- 28.130 Stowage of survival craft.
- 28.135 Survival craft equipment.
- 28.140 Lifesaving equipment markings.
- 28.145 Operational readiness, maintenance, and inspection of lifesaving equipment.
- 28.150 Distress signals.
- 28.155 Emergency Position Indicating Radiobeacons (EPIRBs).
- 28.160 Excess fire detection and protection equipment.
- 28.165 Portable fire extinguishers.
- 28.170 Injury placard.

Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Line or with More Than 16 Individuals On Board

- 28.200 Applicability.
- 28.205 Fireman's outfit.
- 28.210 First aid equipment and training.
- 28.215 Guards for exposed hazards.
- 28.225 Nautical charts and Inland Rules.
- 28.230 Compasses.
- 28.235 Anchors.
- 28.240 Radar reflectors.
- 28.245 Communication equipment.
- 28.250 Bilge alarms.
- 28.255 Bilge pumps and piping.
- 28.260 Electronic position fixing devices.
- 28.265 Emergency instructions.
- 28.270 Instruction, drills, and safety orientation.

Subpart D—Requirements for Vessels Which Are Built After or Which Undergo a Major Conversion Completed After [Insert the effective date of these regulations] and That Operate With More Than 16 Individuals On Board

- 28.300 Applicability.
- 28.305 Compliance date for survival craft on new or converted vessels.
- 28.310 Launching of survival craft.
- 28.315 Fire pumps, fire mains, fire hydrants, and fire hoses.
- 28.320 Fixed gas fire extinguishing systems.
- 28.325 Fire detection systems.
- 28.330 Galley hood and other fire protection equipment.
- 28.335 Fuel systems.
- 28.340 Ventilation of enclosed engine and fuel tank spaces.
- 28.345 Electrical standards for vessels of not more than 79 feet in length.
- 28.350 General requirements for electrical systems.
- 28.355 Main source of electrical power.
- 28.360 Emergency source of electrical power.
- 28.365 Distribution systems.
- 28.370 Overcurrent protection and switched circuits.
- 28.375 Wiring methods and materials.
- 28.380 General structural fire protection.
- 28.385 Structural fire protection for vessels that operate with more than 49 individuals on board.
- 28.390 Means of escape.
- 28.395 Embarkation stations.
- 28.400 Navigation equipment.
- 28.405 Hydraulic equipment.
- 28.410 Deck rails, lifelines, storm rails, and hand grabs.

Subpart E—Stability

- 28.500 Applicability.
- 28.505 Owner's responsibility.
- 28.510 Definitions.
- 28.515 Submergence test as an alternative to stability calculations.
- 28.520 Alternate simplified stability test for small vessels.
- 28.525 Alternative subdivision.
- 28.530 Stability instructions for operating personnel.
- 28.535 Inclining test.
- 28.540 Free surface.
- 28.545 Intact stability when using lifting gear.
- 28.550 Icing.
- 28.555 Freeing ports.
- 28.560 Watertight integrity above the main deck.
- 28.565 Water on deck.
- 28.570 Intact righting energy.
- 28.575 Severe wind and roll.
- 28.580 Unintentional flooding.

Subpart F—Fish Processing Vessels

- 28.600 Applicability.
- 28.610 Examination and certification of compliance.
- 28.620 Survey and classification.

Authority: 46 U.S.C. 3318, 4502, 4506, 6104, 10603; 49 U.S.C. App. 1804; 49 CFR 1.46.

Subpart A—General Provisions**§ 28.010 Authority.**

The regulations in this part are prescribed by the Commandant of the Coast Guard, pursuant to a delegation of authority by the Secretary of Transportation set forth in 49 CFR 1.46(b), to carry out the intent and purpose of title 46, United States Code, section 3316 which authorizes the Secretary to rely on reports, documents, and certificates issued by the American Bureau of Shipping or a similar United States classification society, or an agent of the Bureau or society, sections 4502 and 4506 which require safety equipment and operational stability for certain vessels in the commercial fishing industry, section 6104 which requires the Secretary of Transportation to compile statistics concerning marine casualties compiled from vessel insurers and to delegate that authority to compile statistics from insurers to a qualified person, and section 10603 which requires seamen on commercial fishing industry vessels to give notice of illness, injury, or disability to their employer.

§ 28.020 OMB control numbers.

(a) This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) Display.

46 CFR Section Where Identified or Described and Current OMB Control No.

§ 28.XXX: 2115-YYYY.

§ 28.ZZZ: 2115-UUUU.

§ 28.030 Applicability.

(a) Except as provided in paragraph (b) of this section, this part is applicable to all United States flag vessels not inspected under this chapter that are commercial fishing, fish processing or fish tender vessels. This includes vessels documented under the provisions of Subchapter G of this chapter and vessels numbered by a state or the Coast Guard under the provisions of 33 CFR chapter I, subchapter S. Certain regulations in this part apply only to limited categories of vessels. Specific applicability statements are

provided at the beginning of those regulations.

(b) This part does not apply to a small boat that is deployed from a fishing industry vessel for the purpose of handling fishing gear.

§ 28.040 Incorporation by reference.

(a) In this part portions or the entire text of certain industrial and government agency standards and specifications are referred to as the governing requirements for materials, equipment, tests, or procedures to be followed. These standards and specification requirements specifically referred to in this subchapter are the governing requirements for the subject matters covered unless specifically limited, modified, or replaced by other regulations in this subchapter.

(b) Materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (c) of this section, notice of this change must be published in the **Federal Register** and the material made available to the public. Copies of the approved material may be inspected at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in paragraph (c) of this section.

(c) The material approved for incorporation by reference in this part, and the sections affected, are:

American Boat and Yacht Council (ABYC),
P.O. Box 747, 405 Headquarters Dr., Suite
3, Millersville, MD 21108-0747

E-1-1972—Bonding of Direct Current
Systems, § 28.345

E-8-1985—AC Electrical Systems on Boats,
§ 28.345

E-9-1981—DC Electrical Systems on Boats,
§ 28.345

H-25-1986—Portable Fuel Systems and
Portable Containers for Flammable
Liquids § 28.335

H-32-1987—Ventilation of Boats Using
Diesel Fuel § 28.335

H-33-1984—Diesel Fuel Systems § 28.335

P-1-1986—Installation of Exhaust Systems
for Propulsion and Auxiliary Engines
§ 28.380

International Maritime Organization (IMO),
Publications Section, 4 Albert
Embankment, London SE1 7SR, England
Maritime Safety Committee Circular 513
"Guidelines Concerning the Use and
Fitting of Retro-Reflective Materials in
Lifesaving Appliances", June 1987
§ 28.140

National Fire Protection Association (NFPA),
60 Batterymarch Park, Quincy, MA 02269

70-1984—National Electrical Code (also
known as ANSI/NFPA 70-1984) § 28.350

302-1989—Pleasure and Commercial Motor

Craft § 28.335, § 28.340, § 28.345

17-1985—Dry Chemical Extinguishing

Systems § 28.330

17A-1986—Wet Chemical Extinguishing

Systems § 28.330

Society of Automotive Engineers (SAE), 400
Commonwealth Drive, Warrendale, PA
15096

SAE J 1942-1989—Hose and Hose
Assemblies for Marine Applications
§ 28.345

Underwriters Laboratories, Inc. (UL), 333

Pfingsten Rd., Northbrook, IL 60062

UL 217-1985—Standard for Single and

Multiple Station Smoke Detectors

§ 28.325

UL 710-1984—Grease Extractors for

Exhaust Ducts § 28.330

§ 28.050 Definitions.

Accepted organization means an organization—

(1) With a Code of Ethics;

(2) Familiar with the requirements of this chapter related to commercial fishing industry vessels;

(3) Familiar with the operations and equipment on board commercial fishing industry vessels;

(4) Whose only interest in the fishing industry is in ensuring the safety of commercial fishing industry vessels and surveying commercial fishing industry vessels;

(5) That has grievance procedures;

(6) That has procedures for accepting and terminating membership of an individual;

(7) That maintains a roster of present and past accepted members;

(8) That has an Apprentice/Associate program; and

(9) That has been accepted by the Commandant for the purpose of performing examinations of commercial fishing industry vessels.

Accommodations include:

(1) A space used as a messroom.

(2) A lounge.

(3) A sitting area.

(4) A recreation room.

(5) Quarters.

(6) A toilet space.

(7) A shower room.

Approved means approved by the Commandant unless otherwise stated.

Boundary Line means the lines set forth in 46 CFR part 7. In general, they follow the trend of the seaward high water shorelines and cross entrances to small bays, inlets and rivers. In some areas, they are along the 12 mile line which marks the seaward limits of the contiguous zone.

Coastal waters means coastal waters as defined in 33 CFR 175.105.

Cold water means water where the monthly mean low water temperature is normally 59 degrees F. or less.

Commandant means the Commandant of the Coast Guard or an authorized representative of the Commandant of the Coast Guard.

Commercial fishing industry vessel means a fishing vessel, fish tender vessel, or a fish processing vessel.

Documented vessel means a vessel for which a certificate of documentation has been issued under the provisions in Subchapter G of this chapter.

Fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds.

Fishing vessel means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, or harvesting of fish.

Fish processing vessel means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling.

Fish tender vessel means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing or fish tender vessel or a fish processing facility.

Gasoline as used in this part includes gasoline-alcohol blends and any other fuel having a flash point of 110 degrees F. or lower.

High seas means international waters as defined in 33 CFR 2.05-1(a).

Length means the length listed on the vessel's certificate of documentation or certificate of number.

Major conversion means a conversion of a vessel that—

- (1) Substantially changes the dimensions or carrying capacity of the vessel;
- (2) Changes the type of the vessel;
- (3) Substantially prolongs the life of the vessel; or
- (4) Otherwise so changes the vessel that it is essentially a new vessel, as decided by the Commandant.

Mile means a nautical mile.

Open to the atmosphere means a space that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net volume of the space.

Operating station means the principal steering station on the vessel from which the vessel is normally navigated.

Protected waters is a term used in connection with stability criteria and means sheltered waters presenting no

special hazards such as most rivers, harbors, and lakes.

Pre-engineered means, when referring to a fixed gas fire extinguishing system, a system that is designed and tested to be suitable for installation as a complete unit in a space of a set volume, without modification, regardless of the vessel installed on.

Similarly qualified organization means an organization which:

(1) Publishes standards for vessel construction which are widely available as and which are of similar content to the standards published by the American Bureau of Shipping.

(2) Performs periodic surveys in a wide range of localities during and after construction to ensure compliance with published standards, including drydock examinations, in a manner similar to the American Bureau of Shipping.

(3) Issues certificates testifying to compliance with the published standards.

(4) Has as its primary concern, the survey and classification of vessels.

(5) Has no interest in owning or operating fishing, fish processing, or fish tender vessels.

(6) Maintains records of surveys and makes such records available to the Coast Guard upon request in a manner similar to the American Bureau of Shipping.

(7) Has been accepted by the Commandant for the purposes of classing or examining commercial fishing industry vessels.

Switchboard means an electrical panel which receives power from a generator, battery, or other electrical power source and distributes power directly or indirectly to all equipment supplied by the generation plant.

Substantially altered means the vessel is physically altered in a manner that affects the vessel's stability and includes:

(1) Alterations to the fishing or processing equipment for the purpose of catching, landing, or processing fish in a manner different than previously accomplished.

(2) Alterations that result in a change of the vessel's lightweight vertical center of gravity of more than two inches, a change in the vessel's lightweight displacement of more than three percent, or an increase of more than five percent in the vessel's projected lateral area.

(3) Alterations which change the vessel's underwater shape.

(4) Alterations which change a vessel's angle of downflooding.

(5) Alterations which change a vessel's buoyant volume.

Warm water means water where the monthly mean low water temperature is normally more than 59 degrees F.

Watertight means designed and constructed to withstand a static head of water without any leakage, except that "watertight" for the purposes of electrical equipment means enclosed so that equipment does not leak when a stream of water from a hose with a nozzle one inch in diameter that delivers at least 65 gallons per minute is played on the enclosure from any direction from a distance of ten feet for five minutes.

Weather deck means the uppermost deck exposed to the weather to which a weathertight sideshell extends.

Weathertight means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment constructed or protected so that exposure to a beating rain will not result in the entrance of water.

§ 28.070 Approved equipment and material.

(a) Equipment and material that is required by this subchapter to be approved or of an approved type, must have been manufactured and approved in accordance with the design and testing requirements in subchapter Q of this chapter or as otherwise specified by the Commandant.

(b) Notice regarding equipment approvals is published in the *Federal Register*. Coast Guard publication COMDTINST M16714.3, "Equipment Lists, Items Approved, Certificated or Accepted under Marine Inspection and Navigation Laws," lists approved equipment by type and manufacturer. COMDTINST M16714.3 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

§ 28.080 Report of casualty.

(a) Except for a casualty which has been reported to the Coast Guard on Form CG 2692, in accordance with part 4 of this chapter, the owner, agent, operator, master, or individual in charge of a vessel involved in a casualty must submit a report in accordance with paragraph (c) of this section, as soon as possible after the casualty, to the underwriter of primary insurance for the vessel or to an organization listed in paragraph (d) of this section whenever the casualty involves any of the following:

(1) Loss of life.

(2) An injury to an individual that causes that individual to remain incapacitated for a period in excess of 72 hours.

(3) Loss of a vessel.

(4) Damage to or by a vessel, its cargo, apparel or gear, except for fishing gear while not on board a vessel, that impairs the seaworthiness of the vessel, or that is initially estimated at \$2,500.00 or more.

(b) Each underwriter of primary insurance for a commercial fishing industry vessel must submit a report of each casualty involving that vessel within 90 days of receiving notice of the casualty and whenever it pays a claim resulting from the casualty. Each report must be submitted to an organization listed in paragraph (d) of this section. Initial reports must be in accordance with paragraph (c) of this section. Subsequent reports must contain sufficient information to identify the casualty and any new or corrected casualty data.

(c) Each report of casualty must include the following information:

(1) The name and address of the vessel owner and vessel operator, if different than the vessel owner.

(2) The name and address of the underwriter of primary insurance for the vessel.

(3) The name, registry number, call sign, federal and state fishery license numbers, gross tonnage, year of build, length, hull material, and fishing gear of the vessel.

(4) The date, time, location, primary cause, and nature of the casualty.

(5) The specific fishery, intended catch, and length of fishery opening when applicable.

(6) The date that the casualty was reported to the underwriter of primary insurance for the vessel, or to an organization acceptable to the Commandant.

(7) The activity of the vessel and the weather conditions at the time of the casualty.

(8) The damages to or by the vessel, its apparel, gear, or cargo.

(9) The monetary amounts paid for damages.

(10) The seaworthiness of the vessel after the casualty.

(11) The name, birth date, social security number, address, job title, length of disability, activity at the time of injury, type of injury, and medical treatment required for each individual incapacitated for more than 72 hours, or deceased as a result of the casualty.

(12) The name, registry number, and call sign of every other vessel involved in the casualty.

(13) The monetary amount paid for an injury or a death.

(d) A casualty to a commercial fishing industry vessel must be reported to an organization that has knowledge and experience in the collection and processing of statistical insurance data and that has been accepted by the Commandant to receive and process casualty data under this part. The following organizations have been accepted by the Commandant for this purpose:

(1) Marine Index Bureau, Inc., P. O. Box 1964, New York, NY 10156-0612.

Note: Information collected under this section from underwriters of primary insurance is exempt from disclosure under the Freedom of Information Act because it is commercial and financial information which, if disclosed, would be likely to cause substantial harm to the competitive position of the underwriter.

§ 28.090 Report of injury.

Each individual employed on a commercial fishing industry vessel must notify the master, individual in charge of

the vessel, or other agent of the employer of each illness, disability, or injury suffered when in service to the vessel not later than seven days after the date on which the illness, disability, or injury arose.

§ 28.095 Right of appeal.

Any individual directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

Subpart B—Requirements For All Vessels

§ 28.100 Applicability.

Each commercial fishing industry vessel must meet the requirements of this subpart.

§ 28.105 Lifesaving equipment—general requirements.

(a) In addition to the requirements of this subpart, each commercial fishing industry vessel must comply with the requirements of subpart 25.25 of this chapter.

(b) Except as provided in § 28.125(c), each item of lifesaving equipment carried on board a vessel to meet the requirements of this part, must be approved by the Commandant.

§ 28.110 Life preservers or other personal flotation devices.

(a) Each vessel must be equipped with an immersion suit, exposure suit, or wearable personal flotation device for each individual on board as specified in Table 28.110 and subpart 25.25 of this chapter. Notwithstanding the provisions of § 25.25-1(c) of this chapter, this requirement also applies to a commercial fishing industry vessel propelled by sail.

TABLE 28.110.— PERSONAL FLOTATION DEVICES AND IMMERSION SUITS

Area	Vessel length	Devices required	Regulation
Ocean, beyond Boundary Line and North of 32° N or south of 32° S; or Great Lakes.	All	Immersion suit or exposure suit; each with PFD light and retroreflective material.	25.25-9(a), 25.25-13, 25.25-15, 28.140.
Ocean, inside Boundary Line;	Less than 40 feet	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit; each with PFD light and retroreflective material.	25.25-5(b), (e), (f), 25.25-9(a), 25.25-13, 25.25-15, 28.110 & 140.
or			
Ocean, between 32° N and 32° S	40 feet and longer	Type I, Type V commercial hybrid, immersion suit, or exposure suit; each with PFD light and retroreflective material.	25.25-5(b), (e), (f), 25.25-9(a), 25.25-13, 25.25-15, 28.110, 28.140.
Lakes, bays sounds, or rivers	Less than 40 feet	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit; each with retroreflective material ¹ .	25.25-5(b), (e), (f), 25.25-9(a), 25.25-15, 28.125(a), 28.140.
Do	40 feet and longer	Type I, Type V commercial hybrid, immersion suit, or exposure suit; each with retroreflective material ¹ .	25.25-5(b), (e), (f), 25.25-9(a), 25.25-15, 28.110, 28.140.

¹ Certain Type V Personal Flotation Devices are approved for substitution for Type I, II, or III Personal Flotation Devices, when used in accordance with the conditions stated in the Coast Guard approval label.

§ 28.115 Ring lifebuoys.

Each vessel must be equipped with a throwable flotation device or a ring lifebuoy as specified in Table 28.115. If the vessel is equipped with a ring lifebuoy, at least one ring lifebuoy must be equipped with a line which is at least 90 feet in length.

TABLE 28.115—THROWABLE FLOTATION DEVICES

Vessel length	Devices required
Under 16 feet.....	None.
16 feet or more, but less than 26 feet.	1 Buoyant Cushion, or Ring Life Buoy (Type IV PFD).
Over 26 feet but less than 65 feet.	1 Ring Life Buoy approval number starting with 160.009 or 160.050; orange; at least 24" size.
Over 65 feet.....	3 Ring Life Buoys, approval number 160.050; orange; at least 24" size.

Note: Certain Type V Personal Flotation Devices are approved for use in substitution for Type IV Personal Flotation Devices, when used in accordance with the conditions stated in the Coast Guard approval label.

§ 28.125 Survival craft.

(a) Except as provided in paragraphs (b) through (e) of this section, each vessel must carry the survival craft specified in Table 28.125 in an aggregate capacity to accommodate the total number of persons on board, in accordance with the provisions of paragraph (b) of this section.

(b) Compliance dates. Except as provided by § 28.305 of this chapter, compliance dates for the requirements for the number and type of survival craft in Table 28.125 are—

(1) For a documented vessel that operates in the North Pacific Area, as defined by the National Marine Fisheries Service at 50 CFR 210.1, [Insert date 1 year after effective date of these regulations];

(2) For a documented vessel that operates in the Great Lakes or in the Atlantic Ocean, north and east of a line drawn at a bearing 150 degrees true from Watch Hill Light, Rhode Island, [Insert date 2 years after effective date of these regulations];

(3) For each documented vessel, [Insert date 3 years after effective date of these regulations]; and

(4) For each vessel, [Insert date 4 years after effective date of these regulations].

(c) Each survival craft installed on board a vessel before [Insert effective date of these regulations] may continue to be used to meet the requirements this section provided the survival craft is—

(1) Of the same type as required in Table 28.125; and

(2) Maintained in good and serviceable condition.

(d) An approved lifeboat may be substituted for any survival craft required by this section, provided it is arranged and equipped in accordance with subchapter W of this chapter.

(e) The capacity of a small boat carried on board a vessel may be counted toward the capacity of a required buoyant apparatus, life float, or inflatable buoyant apparatus provided the boat meets the applicable requirements for safe loading and flotation in 33 CFR part 183. The capacity of such a boat may not be counted toward the capacity required for an inflatable liferaft.

TABLE 28.125—SURVIVAL CRAFT

Area	Vessel type	Survival craft required
Ocean, beyond 50 miles from coastline.....	Documented or more than 16 persons on board.....	Inflatable liferaft with SOLAS A Pack.
Do.....	Not documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Ocean, high seas, between 20-50 miles of coastline, cold waters.	Documented or more than 16 persons on board.....	Inflatable liferaft with SOLAS A or SOLAS B Pack.
Do.....	Not documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Ocean, high seas, between 20-50 miles of coastline, warm waters.	Documented or more than 16 persons on board.....	Inflatable liferaft.
Do.....	Not documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Ocean, high seas, within 20 miles of coastline, cold waters.	Documented or more than 16 persons on board.....	Inflatable liferaft.
Do.....	Not documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Ocean, high seas, within 20 miles of coastline, warm waters.	All.....	Inflatable liferaft, or life float, or inflatable buoyant apparatus.
Ocean, not on high seas, but beyond Boundary Line, cold waters.	36 feet or more in length and Documented; or 36 feet or more in length and more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Do.....	36 feet or more in length and not Documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.
Do.....	Less than 36 feet in length.....	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.
Ocean, not on high seas, but beyond Boundary Line, warm waters.	36 feet or more in length and Documented; or 36 feet or more in length and more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.
Do.....	36 feet or more in length and not Documented and not more than 16 persons on board.	None.
Do.....	Less than 36 feet in length.....	None.
Ocean, inside Boundary Line cold waters; or Great Lakes, cold waters; or Lakes, bays, sounds or rivers, cold waters.	36 feet or more in length and documented; or 36 feet or more in length and more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus.
Do.....	36 feet or more in length and not documented and not more than 16 persons on board.	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.
Do.....	Less than 36 feet in length.....	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.
Great Lakes, warm waters beyond 3 miles of coastline.	All.....	Inflatable liferaft, or inflatable buoyant apparatus, or life float, or buoyant apparatus.

TABLE 28.125—SURVIVAL CRAFT—Continued

Area	Vessel type	Survival craft required
Ocean, inside Boundary Line, warm waters; or Great Lakes, warm waters within 3 miles of coastline; or Lakes, bays sounds or rivers, warm waters.	All.....	None.

§ 28.130 Stowage of survival craft.

(a) Each inflatable liferaft required to be equipped with a SOLAS A or a SOLAS B equipment pack must be stowed so as to float free and automatically inflate in the event the vessel sinks.

(b) Each inflatable liferaft, inflatable buoyant apparatus, and any boat used in their place, must be kept readily accessible for launching or be stowed so as to float free in the event the vessel sinks.

(c) Each hydrostatic release unit used in a float-free arrangement must be approved under subpart 160.062 of this chapter.

(d) Each float free link used with a buoyant apparatus or life float must be certified to meet subpart 160.073 of this chapter.

§ 28.135 Survival craft equipment.

(a) General. Each item of survival craft equipment must be of good quality, efficient for the purpose it is intended to serve, and secured to the craft.

(b) Inflatable liferafts. Each inflatable liferaft must have one of the following equipment packs as shown by the markings on its container:

- (1) Coastal Service;
- (2) SOLAS B Pack (formerly "Limited Service"); or
- (3) SOLAS A Pack (formerly "Ocean Service").

(c) Each life float, inflatable buoyant apparatus, and buoyant apparatus must be fitted with a lifeline, pendants, a painter, and a light.

(d) Other survival craft. A vessel must not carry survival craft other than inflatable liferafts, life floats, inflatable buoyant apparatus, or buoyant apparatus, such as lifeboats or rigid

liferafts, unless the survival craft and launching equipment comply with the requirements for installation, arrangement, equipment, and maintenance contained in Subchapter W of this chapter.

§ 28.140 Lifesaving equipment markings.

(a) After [Insert date 1 year after effective date of these regulations] lifesaving equipment carried aboard a vessel pursuant to the requirements of this subpart or subpart 25.25 of this chapter must be marked as specified in Table 28.140.

(b) Lettering must be in block capital letters.

(c) Retroreflective markings required by this section must be with material approved under Subpart 164.018 of this chapter. The arrangement of the retroreflective material must meet IMO MSC/Circ. 513.

TABLE 28.140—LIFESAVING EQUIPMENT MARKINGS

ITEM	Markings required		
	Name of vessel.	Either name of vessel or individual to whom assigned	Retro-reflective material
Wearable Personal Flotation Device (Type I, II, III, or wearable Type V); Immersion suit or exposure suit.....		X	Type I or Type II.
Ring Life Buoy.....	X		Type II.
Inflatable liferaft.....	None required		
Inflatable buoyant apparatus.....	None required		
Life Float.....	X		Type II.
Buoyant Apparatus.....	X		Type II.
EPIRB.....	X		Type II.

§ 28.145 Operational readiness, maintenance, and inspection of lifesaving equipment.

(a) Each item of lifesaving equipment must be in good working order, ready for immediate use, and readily accessible before the vessel leaves port and at all times when the vessel is operated.

(b) Except for an inflatable liferaft or an inflatable buoyant apparatus less than two years of age, each item of lifesaving equipment must be maintained and inspected in accordance with—

- (1) Table 28.145;

(2) The servicing procedure under the subpart of this chapter applicable to the item's approval; and

(3) The manufacturer's guidelines.

(c) An inflatable liferaft or inflatable buoyant apparatus, must be serviced at a facility specifically approved by the Commandant.

TABLE 28.145—SCHEDULED MAINTENANCE AND INSPECTION OF LIFESAVING EQUIPMENT

Item	Interval		Expiration date	Regulation
	Monthly	Annually		
Inflatable Wearable Personal Flotation Device (Type V commercial hybrid).....		Servicing.....		28.145
Personal Flotation Devices, exposure suits and immersion suits.....		Inspect, clean and repair as necessary.		28.145

TABLE 28.145—SCHEDULED MAINTENANCE AND INSPECTION OF LIFESAVING EQUIPMENT—Continued

Item	Interval		Expiration date	Regulation
	Monthly	Annually		
Buoyant apparatus and life floats.....		Inspect, clean and repair as necessary.		28.145
Inflatable liferaft.....		Servicing.....		28.145
Inflatable buoyant apparatus.....		Servicing.....		28.145
Hydrostatic Release.....		Servicing.....		28.145
Disposable Hydrostatic Release.....			Replace.....	28.145
EPIRB.....	Test.....			25.26-5(b)
Dated batteries ¹ and other items.....			Replace.....	25.26-5(b)
Updated batteries.....		Replace.....		28.145

¹ Water activated batteries must be replaced whenever they are used.

§ 28.150 Distress signals.

Each vessel must be equipped with the distress signals specified in Table 28.150.

TABLE 28.150—DISTRESS SIGNALS

Area	Devices required
Ocean, more than 50 miles from coastline.....	3 parachute flares, approval series 46 CFR 160.136, plus 6 hand flares, approval series 46 CFR 160.121, plus 3 smoke signals, approval series 46 CFR 160.122.
Ocean, beyond Boundary Line, 3-50 miles from coastline; or more than 3 miles from coastline on the Great Lakes.....	3 parachute flares, approval series 46 CFR 160.136, or 160.036; plus 6 hand flares, approval series 46 CFR 160.021 or 160.021; plus 3 smoke signals, approval series 46 CFR 160.122, 160.022, or 160.037
Coastal waters; or within 3 miles of coastline on the Great Lakes.....	Night visual distress signals consisting of one electric distress light or 3 approved flares plus Day visual distress signals consisting of one distress flag, or 3 approved flares, or 3 approved smoke signals. ¹

¹ If flares are carried, the same 3 flares may be counted toward meeting both the day and night requirement.

§ 28.155 Emergency Position Indicating Radiobeacons (EPIRBs).

(a) Each vessel that operates on the high seas after May 17, 1990, or beyond three nautical miles from the coastline of the Great Lakes after [Insert date 1 year after the effective date of these

regulations], must carry an EPIRB as specified in Table 28.155 and Subpart 25.26 of this chapter.

(b) Until August 17, 1994, a Coast Guard approved 121.5/243 MHz EPIRB will satisfy the requirement of paragraph (a) of this section and may be

on board a vessel that operates on the high seas under § 25.26-1(a)(2) of this chapter, if the EPIRB is operable and was installed on the vessel on or before October 3, 1988.

TABLE 28.155

[Emergency Position Indicating Radiobeacons (EPIRBs)]

Area	Vessel type	Device required	Regulation
Ocean, high seas.....	All vessels without accommodations.....	Category 1 or Category 2 satellite EPIRB (Certain Class A EPIRBs allowed).	28.155(a); 28.155(b); 25.26.
	All other vessels.....	Category 1 satellite EPIRB (Certain Class A EPIRBs allowed).	28.155; 25.26.
Great Lakes, beyond 3 miles from coastline.	All vessels without accommodations.....	Category 1 or Category 2 satellite EPIRB (Certain Class A EPIRBs allowed until [Insert date 6 years after effective date of these regulations]).	28.155; 28.155; 25.26.
	All other vessels.....	Category 1 satellite EPIRB (Certain Class A EPIRBs allowed until [Insert date 6 years after effective date of these regulations]).	28.155; 25.26.

(c) Under rules published by the Federal Communications Commission at 47 CFR 80.1053, Class A EPIRBs manufactured prior to October 1, 1988 do not meet signal coherency and stability standards, and may not be used to meet the requirements of this section after August 1, 1991.

§ 28.160 Excess fire detection and protection equipment.

Installation of fire detection and protection equipment in excess of that required by the regulations in this subchapter is permitted provided that the excess equipment does not endanger the vessel or individuals on board in any

way. The excess equipment must, at a minimum, be listed and labeled by a nationally recognized testing laboratory.

§ 28.165 Portable fire extinguishers.

(a) In addition to the requirements of this section, each vessel must meet the

requirements of subpart 25.30 of this chapter.

(b) Each vessel more than 65 feet in length must be equipped with the minimum number, location, and type of portable fire extinguishers specified in Table 28.165.

TABLE 28.165

[Portable Fire Extinguishers for Vessels More Than 65 Feet in Length]

Space	Classification	Quantity and location
Safety areas		
Communicating corridors.	A-II	1 in each main corridor not more than 150 feet apart. (May be located in stairways.)
Pilothouse.....	C-I	2 in vicinity of exit.
Service spaces		
Galley.....	B-II or C-II.	1 for each 2,500 square feet or fraction thereof suitable for hazards involved.
Paint lockers.....	B-II	1 outside space in vicinity of exit.
Accessible baggage and storerooms.	A-II	1 for each 2,500 square feet or fraction thereof located in the vicinity of exits, either inside or outside the spaces.
Work shops and similar spaces.	A-II	1 outside the space in vicinity of exit.
Machinery spaces		
Internal combustion propelling machinery space.	B-II	1 for each 1,000 brake horsepower, but not less than 2 nor more than 6.
Electric propulsion motors or generators of open type.	C-II	1 for each propulsion motor or generator unit.
Auxiliary spaces		
Internal combustion.	B-II	1 outside the space in vicinity of exit.
Electric emergency motors or generators.	C-II	1 outside the space in vicinity of exit.

§ 28.170 Injury placard.

Each vessel must have posted in a prominent place accessible to the crew a placard measuring at least 8½ inches by 11 inches which reads:

Report All Injuries

United States law, 46 United States Code 10603, requires each seaman on a fishing vessel, fish processing vessel, or fish tender vessel to notify the master or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or

injury suffered by the seaman when in service to the vessel not later than seven days after the date on which the illness, disability, or injury arose.

Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Line or With More Than 16 Individuals on Board

§ 28.200 Applicability.

Each documented commercial fishing industry vessel that operates beyond the Boundary Line or that operates with more than 16 individuals on board must, in addition to the requirements of subparts A and B of this part, meet the requirements of this subpart.

§ 28.205 Fireman's outfit.

(a) Each vessel that operates with more than 49 individuals on board must be equipped with at least one fireman's outfit.

(b) A fireman's outfit must consist of one self-contained breathing apparatus with lifeline attached, one flashlight, a rigid helmet, boots, gloves, protective clothing, and one fire axe.

(c) Each self-contained breathing apparatus must be approved in accordance with subpart 160.011 of this chapter.

§ 28.210 First aid equipment and training.

(a) Each vessel must have a complete first aid manual and medicine chest of a size suitable for the number of individuals on board, stowed in a location accessible to all individuals on board.

(b) First aid and cardiopulmonary resuscitation (CPR) course certification. Certification in first aid and cardiopulmonary resuscitation (CPR) must be as described in this paragraph.

(1) First aid—a certificate indicating completion of a first aid course from:

(i) The American National Red Cross "Standard First Aid and Emergency Care" or "Multi-media Standard First Aid" course; or

(ii) A course approved by the Coast Guard under § 10.205(h)(1)(ii) of this chapter.

(2) CPR—A certificate indicating completion of a course from:

(i) The American National Red Cross;

(ii) The American Heart Association;

or

(iii) A course approved by the Coast Guard under § 10.205(h)(2)(iii) of this chapter.

(c) After [Insert date two years after the effective date of these regulations], each vessel that operates with more than 2 individuals on board must have at least 1 individual certified in first aid and at least 1 individual certified in

cardiopulmonary resuscitation (CPR). An individual certified in both first aid and cardiopulmonary resuscitation (CPR) will satisfy both of these requirements.

(d) After [Insert date two years after the effective date of these regulations], each vessel that operates with more than 16 individuals on board must have at least 2 individuals certified in first aid and at least 2 individuals certified in cardiopulmonary resuscitation (CPR). An individual certified in both first aid and cardiopulmonary resuscitation (CPR) may be counted against both requirements.

(e) After [Insert date two years after the effective date of these regulations], each vessel that operates with more than 49 individuals on board must have at least 4 individuals certified in first aid and at least 4 individuals certified in cardiopulmonary resuscitation (CPR). An individual certified in both first aid and cardiopulmonary resuscitation (CPR) may be counted against both requirements.

§ 28.215 Guards for exposed hazards.

(a) Suitable hand covers, guards, or railing must be installed in way of machinery which can cause injury to personnel, such as gearing, chain or belt drives, and rotating shafting. This is not meant to restrict necessary access to fishing equipment such as winches, drums, or gurdies.

(b) All hot exhaust pipes within reach of personnel must be insulated or otherwise guarded to prevent burns.

§ 28.225 Nautical charts and inland rules.

(a) Each vessel must have on board adequate and up-to-date marine charts of large enough scale to make safe navigation possible and must have on board any other navigation information appropriate for the intended voyage.

(b) Each vessel of 39.4 feet (12 meters) or more in length that operates on the U.S. inland waters or the Great Lakes must carry on board and maintain for ready reference a copy of the Inland Navigation Rules as set forth in 33 CFR chapter I, subchapter E.

§ 28.230 Compasses.

Each vessel must have an operable magnetic steering compass and a compass deviation tables at the operating station.

§ 28.235 Anchors.

Each vessel must be fitted with anchors and chains, cable, or rope appropriate for the waters of the intended voyage.

§ 28.240 Radar reflectors.

Except for a vessel rigged with gear that provides a radar signature from a distance of 6 nautical miles, each nonmetallic hull vessel must have a radar reflector.

§ 28.245 Communication equipment.

(a) Except as provided in paragraphs (b) through (d) of this section, each vessel must be equipped as follows:

(1) Each vessel must be equipped with a VHF radiotelephone capable of transmitting and receiving on the frequency or frequencies within the 156-162 MHz band necessary to communicate with a public coast station or U.S. Coast Guard station serving the area in which the vessel is operating.

(2) Each vessel that operates more than 20 nautical miles from the coastline, in addition to the VHF radiotelephone required by paragraph (a)(1) of this section, must be equipped with a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 2-4 MHz band necessary to communicate with a public coast station or U.S. Coast Guard station serving the area in which the vessel is operating.

(3) Each vessel operating more than 100 nautical miles from the coastline, in addition to the communication equipment required by paragraphs (a)(1) and (a)(2) of this section, must be equipped with a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 4-27.5 MHz band necessary to communicate with a Public coast station or U.S. Coast Guard station serving the area in which the vessel is operating.

(4) Each vessel that operates in waters contiguous to Alaska where no public or U.S. Coast Guard VHF coast stations are within communications range of a VHF radio transceiver operating on the 156-162 MHz band or the 2-4 MHz band, in addition to the VHF radio communication equipment required by paragraph (a)(1) of this section, must be equipped with a radio transceiver capable of transmitting and receiving on the frequency or frequencies in the 2-27.5 MHz band necessary to communicate with a public coast station or a U.S. Coast Guard station serving the area in which the vessel is operating.

(b) A single radio transceiver capable of meeting the requirements of paragraphs (a)(2) and (a)(3), or paragraphs (a)(2), (a)(3), and (a)(4) of this section, is acceptable.

(c) Satellite communication capability with a system servicing the area in which the vessel is operating is acceptable as an alternative to the

requirements of paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(d) A cellular telephone capable of communicating with a public coast station or a U.S. Coast Guard station serving the area in which the vessel is operating is acceptable as an alternative to the requirements of paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(e) The principle operating position of the communication equipment must be at the operating station.

(f) Communication equipment must be installed to ensure safe operation of the equipment and to facilitate repair. It must be protected against vibration, moisture, extreme temperatures, and excessive currents and voltages.

(g) Communication equipment must comply with the technical standards and operating requirements issued by the Federal Communications Commission, as set forth in 47 CFR part 80.

(h) Each vessel which uses radio equipment to meet the communication requirements of this section must have a Ship Radio Station License issued by the Federal Communications Commission, as set forth in 47 CFR part 80.

(i) All communication equipment must be provided with an emergency source of power that complies with § 28.360.

§ 28.250 Bilge alarms.

On a vessel greater than 36 feet in length, a visual and audible alarm must be provided at the operating station to indicate high water level in each of the following normally unmanned spaces:

(a) A space with a through-hull fitting below the deepest load waterline.

(b) A machinery space bilge, bilge well, shaft alley bilge or other space subject to flooding from sea water piping within the space.

(c) A space with a non-watertight closure (such as a hatch) on the main deck.

§ 28.255 Bilge pumps and piping.

(a) Each vessel must be equipped with a bilge pump capable of draining any watertight compartment (other than small buoyancy compartments) under all service conditions.

(b) Except as provided by paragraph (e) of this section, each vessel of more than 79 feet in length must be equipped with a fixed, self-priming, powered, bilge pump connected to a bilge manifold.

(c) If a bilge pump required by paragraph (a) of this section is portable, it must be provided with suitable suction and discharge hoses capable of reaching the bilges of each watertight compartment, other than a small buoyancy compartment.

(d) Except for a fire pump required by § 28.315, a bilge pump may be used for other purposes.

(e) Except where individual pumps are provided for separate spaces, individual bilge suction lines must be led to a manifold. Each bilge suction line must be provided with a stop valve at the manifold and a check valve at some accessible point in the bilge line to prevent unintended flooding of a space.

(f) Each vessel must comply with the oil pollution prevention requirements of parts 151 and 155, title 33, Code of Federal Regulations.

§ 28.260 Electronic position fixing devices.

Each vessel of more than 79 feet in length must be equipped with an electronic position fixing device capable of providing accurate fixes for the area in which the vessel operates.

§ 28.265 Emergency instructions.

(a) Each vessel that operates with more than 16 individuals on board must have posted emergency instructions in conspicuous locations accessible to the individuals on board.

(b) The emergency instructions required by this section must identify:

(1) The survival craft embarkation stations aboard the vessel.

(2) The survival craft to which each individual is assigned.

(3) Essential action that must be taken in an emergency by each individual, such as closing hatches, launching survival craft, mustering crew, and actions necessary in extinguishing a fire.

(4) The fire and emergency signal and the abandon ship signal.

(5) If immersion suits are provided, the location of the suits and illustrated instructions on the method for donning the suits.

§ 28.270 Instruction, drills, and safety orientation.

(a) The master or individual in charge of each vessel must ensure drills are conducted and instruction is given to each individual on board at least once each month and that each individual is familiar with their duties and the proper methods to be used during the following evolutions:

(1) Abandoning ship.

(2) Fighting a fire.

(3) Recovering an individual from the water.

(4) Minimizing the affects of unintentional flooding.

(5) Launching survival craft and recovering lifeboats and rescue boats.

(6) Donning immersion suits and other wearable personal floatation devices.

(b) After [Insert the date 3 years after the effective date of these regulations], no individual may conduct the drills or instructions required by this section unless that individual has been trained in the proper procedures for conducting the activity.

(c) The master or individual in charge of a vessel must give a safety orientation to any individual on board that has not received the instruction and drills required by paragraph (a) of this section before the vessel may be operated.

(d) The safety orientation must explain the emergency instructions required by § 28.265 and cover the specific evolutions listed in paragraph (a) of this section.

Subpart D—Requirements for Vessels Which Are Built After or Which Undergo a Major Conversion Completed After [Insert the effective date of these regulations] and That Operate With More Than 16 Individuals On Board

§ 28.300 Applicability.

Each commercial fishing industry vessel which is built after or which undergoes a major conversion completed after [Insert the effective date of these regulations] and that operates with more than 16 individuals on board must comply with the requirements of this subpart in addition to the requirements of subparts A, B, and C of this part.

§ 28.305 Compliance date for survival craft on new or converted vessels.

Section 28.125(b) does not apply to a vessel to which this subpart applies. Each vessel to which this subpart applies must meet the requirements for survival craft in § 28.125 on the date that its construction or major conversion is completed.

§ 28.310 Launching of survival craft

A gate or other opening must be provided in the deck rails, lifelines, or bulwarks adjacent to the stowage location of each survival craft which weighs more than 110 pounds, to allow the survival craft to be pushed overboard.

§ 28.315 Fire pumps, fire mains, fire hydrants, and fire hoses.

(a) Each vessel of more than 36 feet in length must be equipped with a self-priming, powered fire pump connected to a fixed piping system.

(1) A fire pump on a vessel of more than 79 feet in length must be capable of delivering water simultaneously from the two highest hydrants, or from both branches of the fitting if the highest

hydrant has a siamese fitting, at a pitot tube pressure of at least 50 psi and a flow rate of at least 80 gpm.

(2) Each vessel with a power driven fire pump must be equipped to permit energizing the fire main from the operating station and from the pump.

(b) Fire main, hydrants, hoses and nozzles.

(1) A vessel required to have a fixed firemain system must have a sufficient number of fire hydrants to reach any part of the vessel using a single length of fire hose.

(2) A fire hose must be connected to each fire hydrant at all times that the vessel is operating.

(3) A fire hose on a vessel of not more than 79 feet in length must be at least 1/2 inch nominal diameter, be of good commercial grade and be fitted with a nozzle of corrosion resistant material and capable of providing a solid stream and a spray pattern.

(4) A fire hose on a vessel of more than 79 feet in length must be lined commercial fire hose and be fitted with a nozzle made of corrosion resistant material and capable of providing a solid stream and a spray pattern.

§ 28.320 Fixed gas fire extinguishing systems.

(a) Requirements for vessels of more than 79 feet in length. A vessel of more than 79 feet in length must be fitted with a fixed gas fire extinguishing system in the following enclosed spaces:

(1) A space containing an internal combustion engine of more than 50 hp.

(2) A space containing an oil fired boiler.

(3) A space containing a gasoline storage tank.

(b) System types and alternatives (1) A pre-engineered fixed gas fire extinguishing system may only be installed in a normally unoccupied machinery space, a paint locker, or a space containing flammable liquid stores, which has a gross volume of not more than 2000 cubic feet.

(2) A fixed gas fire extinguishing system, which is capable of automatic discharge upon heat detection, may only be installed in a normally unoccupied space with a gross volume of not more than 6000 cubic feet.

(3) A space with a gross volume exceeding 6000 cubic feet must be fitted with a manually actuated and alarmed, fixed gas, fire extinguishing system.

(c) General requirements. (1) A fixed gas fire extinguishing system aboard a vessel must be approved by the Commandant and be custom engineered, unless the system meets the requirements for a pre-engineered fixed

gas fire extinguishing system in paragraph (d) of this section.

(2) System components must be listed and labeled by an independent laboratory for the system being installed.

(3) System design, and installation must be in accordance with the Manufacturer's Marine Design, Installation, Operation, and Maintenance Manual approved for the system by the Commandant.

(4) A fixed gas fire extinguishing system may protect more than one space. The quantity of extinguishing agent must be at least sufficient for the space requiring the greatest quantity.

(d) Pre-engineered fixed gas fire extinguishing system. (1) A pre-engineered fixed gas fire extinguishing system must:

(i) Be approved by the Commandant.

(ii) Be capable of manual actuation from outside the space in addition to any automatic actuation devices.

(iii) Automatically shut down all power ventilation systems serving the protected space and all engines that draw intake air from within the protected space.

(2) A vessel on which a pre-engineered fixed gas fire extinguishing system is installed must have the following equipment at the operating station:

(i) A light to indicate discharge of the extinguishing agent.

(ii) An audible alarm to sound upon discharge of the extinguishing agent.

(iii) A means to reset devices used to automatically shut down ventilation systems and engines as required by paragraph (d)(1)(iii) of this section.

§ 28.325 Fire detection systems.

(a) Each accommodation space on a vessel that operates with more than 49 individuals on board must be equipped with an independent modular smoke detector or a smoke actuated fire detecting unit installed in accordance with § 76.33 of this chapter.

(b) An independent modular smoke detector must meet UL Standard 217 and be listed as a "Single Station Smoke Detector—Also suitable for use in Recreational Vehicles."

§ 28.330 Galley hood and other fire protection equipment.

(a) Each vessel that operates with more than 49 individuals on board must be fitted with a grease extraction hood complying with UL 710 above each grill, broiler, and deep fat fryer.

(b) Each grease extraction hood must be equipped with a pre-engineered dry or wet chemical fire extinguishing

system meeting the applicable sections of NFPA Standard 17 or 17A, and must be listed by an independent laboratory.

(c) A vessel of more than 79 feet in length must have at least one fire axe located in or adjacent to the operating station.

§ 28.335 Fuel systems.

(a) *Applicability.* Except for the components of an outboard engine, each vessel must meet the requirements of this section.

(b) *Portable fuel systems.* Portable fuel systems including portable tanks and related fuel lines and accessories are prohibited except where used for outboard engines. The design, construction, and stowage of portable tanks and related fuel lines and accessories must meet the requirements of ABYC Project H-25—Portable Fuel Systems and Portable Containers for Flammable Liquids.

(c) *Fuel restrictions.* Except for outboard engines, the use of fuel other than bunker C or diesel is prohibited. An installation using bunker C must comply with the requirements of subchapter F of this chapter.

(d) *Vent pipes for integral fuel tanks.* Each integral fuel tank must meet the requirements of this paragraph.

(1) Each fuel tank must be fitted with a vent pipe connected to the highest point of the tank terminating in a 180 degree bend on a weather deck and fitted with a flame screen or flame arrester.

(2) Except where provision is made to fill a tank under pressure, the net cross-sectional area of the vent pipe for a fuel tank must not be less than 0.022 square inches.

(3) Where provision is made to fill a tank under pressure, the net cross-sectional area of the vent pipe must not be less than that of the fill pipe.

(e) *Fuel piping.* Fuel lines must be seamless and must be of steel, annealed copper, nickel-copper, or copper-nickel. The fuel lines must have a wall thickness of not less than 0.035 inches except that:

(1) Aluminum piping is acceptable on aluminum hull vessel provided it is installed outside a machinery space and is at least Schedule 80 in thickness.

(2) Nonmetallic flexible hose must—

(i) Not be used in lengths of more than 30 inches;

(ii) Be visible, easily accessible, and must not penetrate a watertight bulkhead; and

(iii) Be fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid.

(f) Piping subject to internal head pressure from fuel in the tank must be fitted with positive shutoff valve located at the tank operable from a safe location outside the space in which the valve is located.

(g) A vessel of not more than 79 feet in length may comply with paragraphs (g)(1), (g)(2), or (g)(3) of this section in lieu of the requirements of paragraphs (e) and (f) of this section.

(1) ABYC Project H-33.

(2) Chapter 5 of NFPA Standard 302.

(3) 33 CFR, subchapter S (Boating Safety).

§ 28.340 Ventilation of enclosed engine and fuel tank spaces.

(a) *Applicability.* Each vessel with a gasoline outboard engine or gasoline storage tank must comply with the requirements of this section.

(b) *Ventilation of spaces containing gasoline.* Each space that contains a gasoline engine, a gasoline storage tank, or gasoline piping connected to an integral gasoline tank must be so open to the atmosphere and so arranged as to prevent the entrapment of vapors or be ventilated by a mechanical exhaust system with a nonsparking fan.

(c) *Alternative standards.* A vessel of not more than 65 feet in length with ventilation installations in accordance with NFPA Standard 302, chapter 2, section 2-2, or ABYC Project H-32 and 33 CFR part 183, subpart K, will be considered as meeting the requirements of this section.

§ 28.345 Electrical standards for vessels of not more than 79 feet in length.

A vessel of not more than 79 feet in length may comply with the requirements of paragraph (a) of this section and either paragraph (b) or (c) of this section in lieu of meeting the requirements of §§ 28.350 through 28.375.

(a) The following ABYC Projects are applicable—

(1) For a vessel with an alternating current system, E-8—AC Electrical Systems on Boats; or

(2) For a vessel with a direct current system, E-1—Bonding of Direct Current Systems and E-9—DC Electrical Systems on Boats.

(b) The following chapters of NFPA Standard 302:

(1) Chapter 7—Electrical Systems Under 50 Volts.

(2) Chapter 8—Alternating Current (AC) Electrical Systems on Boats.

(c) 33 CFR part 183, subpart I and § 28.395 of this part.

§ 28.350 General requirements for electrical systems.

(a) Electrical equipment in the weather or in a location exposed to seas must be waterproof, watertight, or enclosed in a watertight housing.

(b) Aluminum must not be used for current carrying parts of electrical equipment or wiring.

(c) As far as practicable, electrical equipment must not be installed in lockers used to store paint, oil, turpentine, or other flammable or combustible liquid. If electrical equipment, such as lighting, is necessary in these spaces, it must be explosionproof or intrinsically safe.

(d) Explosionproof and intrinsically safe equipment must meet the requirements of subpart 111.105 of this chapter.

(e) Metallic enclosures and frames of electrical equipment must be grounded.

(f) Each vessel with a nonmetallic hull, e.g. wood and fiber reinforced plastic, must have a continuous, non-current carrying grounding conductor which connects together the enclosures and frames of electrical equipment and which connects metallic items such as engines, fuel tanks, and equipment enclosures to a common ground point.

(g) The equipment grounding conductor required by paragraph (f) of this section, must be sized in accordance with NFPA Standard 70, section 250-95.

§ 28.355 Main source of electrical power.

(a) *Applicability.* Each vessel that relies on electricity to power any of the following essential loads must have at least two sources of electrical power to supply these loads—

(1) The propulsion system and its necessary auxiliaries and controls;

(2) Interior lighting;

(3) Steering systems;

(4) Communication systems;

(5) Navigation equipment and navigation lights;

(6) Fire protection equipment; or

(7) Bilge pumps.

(b) Each generator must be attached to an independent prime mover.

§ 28.360 Emergency source of electrical power.

(a) Except as provided in paragraph (c) of this section, each vessel must have an emergency source of power which is independent of the main sources of electrical power and which is located outside the main machinery space.

(b) The emergency source of power must be capable of supplying all connected loads continuously for at least 3 hours.

(c) Except as required by § 28.245(h), a vessel of not more than 36 feet in length need not have an emergency source of power if flashlights are provided.

(d) A vessel of not more than 79 feet in length which is not dependent upon electrical power for propulsion or steering, need only supply emergency power to emergency lighting, navigation equipment, and communication systems.

(e) Where the emergency source of power is a generator, the generator prime mover must have a fuel supply which is independent of other prime movers.

§ 28.365 Distribution systems.

(a) Each distribution system which has a neutral bus or conductor must have the neutral bus or conductor grounded.

(b) A grounded distribution system must have only one connection to ground. This ground connection must be at the switchboard or, on a nonmetallic vessel, at the common ground point.

§ 28.370 Overcurrent protection and switched circuits.

(a) Each power source must be protected against overcurrent. Overcurrent devices for generators must be set at a value not exceeding 115 percent of the generator full load rating.

(b) Except for a steering circuit, each circuit must be protected against both overload and short circuit. Each overcurrent device in a steering system power and control circuit must provide short circuit protection only.

(c) Each ungrounded current carrying conductor must be protected in accordance with its current carrying capacity by a circuit breaker or fuse at the connection to the switchboard or distribution panel bus.

(d) Each circuit breaker and each switch must simultaneously open all ungrounded conductors.

(e) The grounded conductor of a circuit must not be disconnected by a switch or an overcurrent device unless all ungrounded conductors of the circuit are simultaneously disconnected.

(f) Navigation light circuits must be separate, switched circuits having fused disconnect switches or circuit breakers so that only the appropriate navigation lights can be switched on.

(g) A separate circuit, with overcurrent protection at the main distribution panel or switchboard, must be provided for each radio installation.

§ 28.375 Wiring methods and materials.

(a) All cable and wire must have insulated, stranded copper conductors of the appropriate size and voltage rating for the circuit.

(b) Each conductor must be No. 22 AWG or larger. Conductors in power and lighting circuits must be No. 14 AWG or larger. Conductors must be sized so that the voltage drop at the load terminals is not more than 10 percent.

(c) Cable and wiring not serving equipment in a high fire risk area such as a galley, laundry or machinery space must be routed as far as practicable from these spaces. As far as practicable, cables serving duplicated essential equipment must be separated so that a casualty that affects one cable does not affect the other.

(d) Cable and wire for power and lighting circuits must:

(1) For circuits of less than 50 volts, meet 33 CFR 183.425 and 183.430; and

(2) For circuits of 50 volts or greater: (i) Meet §§ 310.13 and 310.15 of NFPA Standard 70—National Electrical Code, except that asbestos insulated cable and dry location cables must not be used;

(ii) Be listed by Underwriters Laboratories Inc. as UL Boat or UL Marine Shipboard cable; or

(iii) Meet subpart 111.60 of this chapter.

(e) All metallic cable armor must be electrically continuous and grounded to the metal hull or the common ground point at each end of the cable run, except that final sub-circuits (those supplying loads) may be grounded at the supply end only.

(f) A wiring termination and connection must be made in a fire retardant enclosure such as a junction box, fixture enclosure or panel enclosure. A fire retardant plastic enclosure is acceptable.

§ 28.380 General structural fire protection.

(a) *Fire hazards to be minimized.* Each vessel must be constructed so as to minimize fire hazards insofar as is reasonable and practicable.

(b) *Combustibles insulated from heated surfaces.* An internal combustion engine exhaust, galley uptake, and similar source of ignition must be kept clear of and suitably insulated from combustible material. A dry exhaust system for an internal combustion engine on a wooden or fiber reinforced plastic vessel must be installed in accordance with ABYC Project P-1—Installation of Exhaust Systems for Propulsion and Auxiliary Engines.

(c) *Separation of machinery and fuel tanks spaces from accommodation spaces.* (1) Each accommodation space must be separated from each machinery and fuel tank space by a fire resistant boundary which will prevent the passage of vapors.

(2) Each pipe and cable penetration between an accommodation space and a

machinery or a fuel tank storage space must be sealed.

(d) *Paint and flammable liquid lockers.* Each vessel carrying paint and flammable liquids must be equipped with a steel or a steel lined storage locker.

(e) *Insulation.* Except as provided in paragraphs (e)(1) and (e)(2) of this section, insulation must be noncombustible.

(1) In machinery spaces combustible insulation may be used for pipe and machinery lagging.

(2) In cargo spaces and refrigerated compartments of service spaces, insulation need not be noncombustible.

(f) *Vapor barrier.* Where insulation of any type is used in spaces where flammable and combustible liquids or vapors are present, e.g., machinery spaces and paint lockers, a vapor barrier which covers the insulation must be provided.

(g) *Paint.* Nitrocellulose or other highly flammable or noxious fume producing paints or lacquers must not be used.

(h) *Mattresses.* Each mattress must comply with 16 CFR part 1632, subpart A, the U.S. Department of Commerce Standard for Mattress Flammability (FF4-72.16). Polyurethane foam mattresses are prohibited.

(i) *Fire alarm system.* Each vessel must have a fire alarm system.

(j) *Fiber reinforced plastic.* When the hull, a deck, deckhouse, or superstructure of a vessel is partially or completely constructed of fiber reinforced plastic, the resin used must be fire retardant resin.

(k) *Cooking areas.* Vertical or horizontal surfaces within three feet of cooking appliances must be composed of noncombustible material or sheathed in metal. Curtains, draperies, or free hanging fabrics are not permitted within three feet of cooking appliances.

§ 28.385 Structural fire protection for vessels that operate with more than 49 individuals on board.

(a) *Applicability.* Each vessel that operates with more than 49 individuals on board must comply with the requirements of this section in addition to the requirements of § 28.380.

(b) *Construction of bulkheads, decks, and deckhouses.* The hull, structural bulkheads, columns and stanchions must be composed of steel.

Superstructures and deckhouses must be constructed of noncombustible material.

(c) *Protection of accommodation spaces.* A bulkhead or deck separating an accommodation space from a control station, machinery space, cargo space,

or service space must be constructed of noncombustible material.

§ 28.390 Means of escape.

(a) Each space which is used by an individual on a regular basis or which is generally accessible to an individual must have at least two widely separated means of escape. At least one of the means of escape must be independent of watertight doors. Subject to the restrictions of this section, means of escape include normal exits and emergency exits, passageways, stairways, ladders, deck scuttles, and windows.

(b) At least one of the means of escape from each space must provide a satisfactory route to weather.

(c) Each door, hatch or scuttle used as a means of escape must be capable of being opened by one person, from either side, in both light and dark conditions and must open towards the expected direction of escape from the space served.

(d) Each a deck scuttle which serves as a means of escape, must be fitted with a quick-acting release and a holdback to hold the scuttle in an open position.

(e) Each foothold, handhold, ladder, etc., provided to aid escape, must be suitable for use in emergency conditions and must be of rigid construction.

(f) A window or windshield of sufficient size and proper accessibility may be used as one of the required means of escape from an enclosed space.

§ 28.395 Embarkation stations.

Each vessel must have at least one designated survival craft embarkation station and any additional embarkation stations necessary so that an embarkation station is readily accessible from each accommodation space and work space. Each embarkation station must be arranged to allow the safe boarding of survival craft.

§ 28.400 Navigation equipment.

(a) Each vessel must be fitted with a general marine radar system for surface navigation with a radar screen mounted at the operating station.

(b) Each vessel must be fitted with a suitable echo depth sounding device.

§ 28.405 Hydraulic equipment.

(a) Each hydraulic system must be so designed and installed that proper operation of the system is not affected by back pressure in the system.

(b) Piping and piping components must be designed with a burst pressure of not less than four times the system maximum operating pressure.

(c) Each hydraulic system must be equipped with at least one pressure relieving device set to relieve at the system's maximum operating pressure.

(d) All material in a hydraulic system must be suitable for use with the hydraulic fluid used and must be of such chemical and physical properties as to remain ductile at the lowest operating temperature likely to be encountered by the vessel.

(e) Except for hydraulic steering equipment, controls for hydraulic equipment must be located where the operator has an unobstructed view of the hydraulic equipment and the adjacent working area.

(f) Controls for hydraulic equipment must be so arranged that the operator is able to quickly disengage the equipment in an emergency.

(g) Hydraulically operated machinery must be equipped with a holding device to prevent uncontrolled movement due to loss of hydraulic system pressure.

(h) A nonmetallic flexible hose must only be used between two points of relative motion and must meet SAE Standard J 1942—Hose and Hose Assemblies for Marine Applications.

(i) Each nonmetallic flexible hose and hose assembly must be installed in accordance with the manufacturer's rating and guidelines and must be limited to a reasonable length, in an application not subject to torsional loading.

§ 28.410 Deck rails, lifelines, storm rails, and hand grabs.

(a) Except as otherwise provided in paragraph (d) of this section, deck rails, lifelines, grab rails, or equivalent protection must be installed near the periphery of all weather decks accessible to individuals. Where space limitations make deck rails impractical, such as at narrow catwalks in way of deckhouse sides, hand grabs may be substituted.

(b) The height of deck rails, lifelines, or bulwarks must be at least 39½ inches from the deck, except where this height would interfere with the normal operation of the vessel, a lesser height may be substituted.

(c) All deck rails or lifelines must be permanently supported by stanchions at intervals of not more than 7 feet. Stanchions must be through bolted or welded to the deck.

(d) Portable stanchions and lifelines may be installed in locations where permanently installed deck rails would impede normal fishing operations or emergency recovery operations.

(e) Deck rails or lifelines must consist of evenly spaced courses. The spacing between courses must not be greater

than 15 inches. The opening below the lowest course must not be more than 9 inches. Lower courses are not required where all or part of the space below the upper rail is fitted with a bulwark, chain link fencing, wire mesh, or an equivalent.

(f) A suitable storm rail or hand grab must be installed where necessary in a passageway, at a deckhouse side, at a ladder, and a hatch where an individual might have normal access.

(g) A stern trawler must have doors, gates, or other protective arrangements at the top of the stern ramp as high as adjacent bulwarks.

Subpart E—Stability

§ 28.500 Applicability.

This subpart applies to each commercial fishing industry vessel that is not issued a load line under subchapter E of this chapter and that—

(a) Is built after [Insert the effective date of these regulations]; or

(b) Has the physical characteristics substantially altered after [Insert the effective date of these regulations] in a manner that affects the vessel's operating stability.

§ 28.505 Owner's responsibility.

(a) Where a test or calculations are necessary to evaluate stability, it is the owner's responsibility to select a suitably qualified individual to perform the test or calculations.

(b) Test results and calculations developed in evaluating stability must be maintained by the owner.

§ 28.510 Definitions.

Definitions of stability terms used in this subpart are found in §§ 170.050 and 171.010 of this chapter. Definitions of stability terms used in specific sections of this subpart are provided in those regulations.

§ 28.515 Submergence test as an alternative to stability calculations.

(a) A vessel may comply with this section in lieu of the requirements of §§ 28.530 through 28.580. A certification plate installed under 33 CFR part 183, subpart B is acceptable evidence of compliance with this section.

(b) A vessel which is fitted with inboard engines and loaded as described in paragraph (e) of this section must float in calm water, after being submerged for 18 hours, so that—

(1) For an open vessel, any portion of the vessel's gunwale is above the water's surface; or

(2) For a decked vessel, any portion of the main deck is above the water's surface.

(c) A vessel which is fitted with an outboard engine must be loaded as described in paragraph (e) of this section and must float in calm water after being submerged for 18 hours so that—

(1) The vessel has an equilibrium heel angle of less than 10 degrees;

(2) Any portion of the vessel's hull is above the water's surface; and

(3) Any portion of the lowest 3 feet of the vessel's hull is not more than 6 inches below the water's surface as measured at the lowest point on—

- (i) The gunwale, for an open boat; or
- (ii) The main deck, for a decked vessel.

(d) A vessel which is fitted with an outboard engine must be loaded as described in paragraph (f) of this section and must survive the submergence described in paragraph (c) of this section, except that the equilibrium heel angle must not exceed 30 degrees and the vessel must float with the lower end of the vessel not more than 12 inches below the water's surface in calm water.

(e) For the tests described in paragraphs (b) and (c) of this section, a vessel must be complete in all respects, except that machinery which would be damaged by water may be replaced with equivalent fixed weight in the same location as the machinery it replaces. The vessel must be loaded with weight to represent the most adverse loading condition. (The most adverse loading condition normally includes the maximum weight of fish in its highest possible location. Weights must be substituted for operating personnel and may be substituted for fishing gear. The substitute weights may be located transversely so that the vessel floats level prior to being submerged. The two largest air chambers, or compartments of a decked vessel, not used as fuel tanks, that contribute buoyancy to the vessel must be flooded.)

(f) For the test described in paragraph (d) of this section, a vessel must be complete and loaded as described in paragraph (e) of this section, except that the center of gravity of the equivalent maximum fish load must be located to one side of the vessel's centerline by a distance equal to one-fifth of the maximum transverse dimension of the fish storage space.

§ 28.520 Alternate simplified stability test for small vessels.

(a) A vessel of less than 79 feet in length which has a downflooding angle of not less than 40 degrees in all loading conditions may comply with this section in lieu of the requirements of §§ 28.535 through 28.545 and §§ 28.565 through 28.575.

(b) Each vessel must be in the following condition when the test in paragraph (c) of this section is performed:

(1) Construction of the vessel must be complete in all respects.

(2) Permanent ballast, if to be installed on the vessel, must be solid and on board in its final position.

(3) Each fuel and water tank must be approximately ¾ full.

(4) Each fish hold must be approximately ¾ full of water. A fish hold that will only carry fish or a fish product that can not shift when operating, may be fitted with solid weight equal to that of water when the hold is ¾ full.

(5) The weight of personnel, fishing equipment, and the maximum load of fish to be carried on deck must be on board and distributed so as to provide normal operating trim and to simulate the vertical center of gravity causing the least stable condition that is likely to occur in service.

(6) Each non-return closure on a weather deck drain must be kept open during the test.

(c) Each vessel must not exceed the limitations in paragraph (d) of this section, when subject to the following heeling moment:

$M = (P)(A)(H)$, where—

M = wind heel moment, in foot-lbs;

P = wind pressure equal to—

15.0 lbs/square foot except for operation on protected waters;

7.5 lbs/square foot for operation on protected waters;

A = Area, in square feet, of the projected lateral surface of the vessel above the waterline; and

H = Height, in feet, of the center of area (A) above the waterline.

(d) A vessel must not exceed the following limits of heel after the heeling moment of paragraph (c) of this section is imposed:

(1) On a flush deck or well deck vessel, no more than ½ the freeboard measured to the top of the weather deck at the side of the vessel may be immersed, except that on a well deck vessel with scuppers operating on protected waters, the full freeboard may be immersed if the full freeboard is not more than ¼ of the distance from the waterline to the gunwale.

(2) On an open boat, no more than ¼ of the freeboard may be immersed.

(3) The angle of heel must not exceed 14 degrees, in any case.

(e) The heel must be measured at—

(1) The point of minimum freeboard; or

(2) At a point ¼ of the vessel's length from the bow if the point of minimum freeboard is aft of this point.

§ 28.525 Alternative subdivision.

(a) A vessel of less than 79 feet in length may comply with this section in lieu of meeting the requirements of § 28.580.

(b) The maximum distances between adjacent main transverse bulkheads must not be greater than the smaller of—

(1) One third of the length of the vessel; or

(2) A distance equal to—

$d = (F)(f)(L)/D$, where—

d = the maximum distance between adjacent main transverse watertight bulkheads, in feet.

F = the nondimensional floodable length factor from Table 28.525.

f = the effective freeboard calculated for each pair of adjacent bulkheads in accordance with paragraph (c) of this section, in feet.

L = length of the vessel, in feet.

D = the distance from the inside of the shell plating or planking measured from the vessel's centerline at a point that is ¼ of the maximum beam amidships, vertically upward to the horizontal plane that intersects the point where the side shell intersects the bulkhead deck at amidships, in feet.

(c) The effective freeboard for each compartment is calculated by the following equation:

$f = (a + b)/2$, where—

f = the effective freeboard, in feet.

a = the freeboard, in feet, measured—

- (1) at the forward main transverse watertight bulkhead; and
- (2) from the deepest load line to the lowest of—

- (i) the top of the bulkhead deck on a flush deck vessel; or
- (ii) the lower edge of a step in the bulkhead deck; or

(iii) the horizontal plane located three inches below the lowest opening portlight in the vessel's side that is below the bulkhead deck and serves the compartment.

b = the freeboard, in feet, measured—

- (1) at the aft main transverse watertight bulkhead; and
- (2) from the deepest load line to the lowest point as described for a.

TABLE 28.525

Table of Floodable Length Factors

(s/L) × 100	Floodable length factor ¹
0-15	0.33
20	0.34
25	0.36
30	0.38
35	0.43
40	0.48
45	0.54
50	0.61
55	0.63
60	0.58

TABLE 28.525—Continued

Table of Floodable Length Factors

(s/L) × 100	Floodable length factor ¹
65.....	0.53
70.....	0.48
75.....	0.44
80.....	0.40
85.....	0.37
90-100.....	0.34

s=distance from the midpoint of the compartment to the forwardmost point on the bulkhead deck excluding sheer, in feet; and

L=length of the vessel, in feet.

¹ Intermediate values of the floodable length factor can be determined by interpolation.

§ 28.530 Stability instructions for operating personnel.

(a) Each vessel must be provided with sufficient information in a readily usable form to allow the master or individual in charge of the vessel to determine the conditions of loading and operation that meet the intact and damage stability requirements of this subpart. Units of measure and the language used must be consistent with the ability of the master or individual in charge of the vessel.

(b) In developing the stability instructions, consideration must be given to including the following information:

(1) A general description of the vessel, including lightweight data.

(2) Instructions on the use of the information.

(3) General arrangement plans showing watertight compartments, closures, vents, downflooding angles, and allowable weights.

(4) Capacity plan or tank sounding tables showing tank and hold capacities, centers of gravity, and free surface effects.

(5) Loading restrictions, such as diagrams, tables, descriptions and maximum KG curves.

(6) Sample loading conditions.

(7) A rapid and simple means for evaluating any specific loading condition.

(8) General precautions for preventing unintentional flooding

(9) General precautions for limiting the adverse affects of vessel icing.

(10) The amount and location of fixed ballast.

(11) Any other necessary guidance for maintaining adequate stability under normal and emergency conditions.

(12) A general description of the stability criteria that are used in developing the instructions.

(13) Guidance on the use of roll limitation devices such as stabilizers.

§ 28.535 Inclining test.

(a) Except as provided in paragraphs (b) and (c) of this section, each vessel for which the lightweight displacement and centers of gravity must be determined in order to do the calculations required in this subpart must have an inclining test performed.

(b) A deadweight survey may be substituted for the inclining test if there is a record of a inclining test of a sister vessel. A vessel qualifies as a sister vessel if it is built to the same basic drawings and the undocumented weight difference between the two vessels is less than 3 percent of the lightweight displacement of the original vessel and the location of the longitudinal center of gravity differs less than 1 percent of the vessel's length.

(c) A deadweight survey may be substituted for the inclining test, or the inclining test may be dispensed with if an accurate estimate of the vessel's lightweight characteristics can be made and the precise location of the position of the vessel's vertical center of gravity is not necessary to ensure that the vessel has adequate stability in all probable loading conditions.

(d) Each inclining test conducted under this section must be in accordance with § 170.185 of this chapter.

§ 28.540 Free surface.

(a) When doing the stability calculations required by this subpart, the virtual increase in the vessel's vertical center of gravity due to liquids in tanks must be determined by calculating—

(1) For each type of consumable liquid, the maximum free surface effect of the transverse pair of tanks, or single centerline tank, that have the greatest free surface effect; and

(2) The free surface effect of each partially filled tank and hold containing liquids that are not consumables or containing fish or fish products that can shift as the vessel heels.

(b) The free surface effect of tanks fitted with cross connection piping must be calculated assuming the tanks are one common tank, unless valves that will be kept closed to prevent the transfer of liquids as the vessel heels are installed in the piping.

(c) The moment of transference method may be used in lieu of the inertia method when calculating free surface effects.

§ 28.545 Intact stability when using lifting gear.

(a) Each vessel which lifts fish or fish products, or that uses fishing gear that can impose an overturning moment on

the vessel, such as trawls and seines, must meet the requirements of this section if that maximum heeling moment exceeds—

$0.67(W)(GM)(F/B)$, in foot-long tons, where—

W=displacement of the vessel with the lifted weight or the force on the fishing gear included, in long tons.

GM=metacentric height with the lifted weight or force on the fishing gear included, in feet.

F=freeboard to the lowest weather deck, measured at amidships in feet.

B=maximum beam, in feet.

(b) Except as provided in paragraph (f) of this section, each vessel must meet the requirements of § 28.570 or have at least 15 foot-degrees of area under the righting arm curve, after correcting the righting arms for the heeling arm caused by lifting or fishing gear, from the angle of equilibrium to the least of—

(1) The angle corresponding to the maximum righting arm;

(2) The angle of downflooding; or

(3) 40 degrees.

(c) The angle of intersection of the heeling arm curve resulting from the lifting moment or the moment of fishing gear and the righting arm curve must not be at an angle of more than 10 degrees.

(d) The heeling arm curve resulting from the lifting moment or the moment of fishing gear must be calculated as the resultant of the upright heeling moment divided by the vessel's displacement multiplied by the cosine of the angle of heel.

(e) For the purposes of this section, the weight of suspended loads must be assumed to act at the tip of the boom.

(f) A vessel that operates on protected waters, as defined in § 170.050 of this chapter, must comply with the requirements of this section, except that the area described in paragraph (b) of this section must be at least 10 foot-degrees.

§ 28.550 Icing.

(a) *Applicability.* Each vessel that operates north of 42 degrees North latitude between November 15 and April 15 or south of 42 degrees South latitude between April 15 and November 15 must meet the requirements of this section.

(b) Except as provided in paragraphs (c) and (d) of this section, the weight of ice on each surface above the waterline must be assumed to be at least—

(1) 6.14 pounds per square foot of horizontal projected area; and

(2) 3.07 pounds per square foot of vertical projected area.

(c) The weight of assumed ice on a vessel that operates south of 66-30 North latitude or north of 66-00 South latitude

may be calculated by assuming values one half of the values required by paragraphs (b)(1) and (b)(2) of this section.

(d) In calculating the weight of assumed ice in accordance with paragraphs (b) and (c) of this section, the horizontal and vertical projected areas of discontinuous surfaces of rigging, spars, booms, and rails must be increased by 15 percent.

(e) The weight and location of ice specified in paragraphs (d) and (b) or (c) of this section must be included in the vessel's weight and centers of gravity in each condition of loading when performing the stability calculations required by this subpart.

§ 28.555 Freeing ports.

(a) Except as provided in paragraph (i) of this section, each decked vessel fitted with bulwarks must be fitted with freeing ports.

(b) Freeing ports must be located to allow the rapid clearing of water in all probable conditions of list and trim.

(c) Except as provided by paragraphs (d) through (h) of this section, the aggregate clear area of freeing ports on each side of the vessel, in square feet, must not be less than 7.6 plus 0.115 times the length of the bulwark, measured in feet, on that side.

(d) Except as provided in paragraphs (e) through (h) of this section, for bulwarks which exceed 66 feet in length, the aggregate clear area of freeing ports on each side of the vessel, in square feet, must not be less than 0.23 times the length of the bulwark, measured in feet, on that side of the vessel.

(e) For a bulwark more than 48 inches in height, the required freeing port area required by paragraph (c) or (d) of this section must be increased in accordance with the following formula:

$$i = (h-48)0.04m, \text{ where—}$$

i = increase in freeing port area, in square feet;

h = bulwark height, in inches; and
 m = length of bulwark exceeding 48 inches in height.

(f) For a bulwark less than 36 inches in height, the required freeing port area, required by paragraph (c) or (d) of this section, may be decreased in accordance with the following formula:
 $r = (36-h)0.04m$, where:
 r = permitted reduction in freeing port area, in square feet.

h = bulwark height, in inches.

m = length of bulwark which is less than 36 inches in height.

(g) For a vessel without sheer, the freeing port area must be increased by 50 percent.

(h) The area of the freeing ports on a vessel that operates on protected waters need only be 50 percent of the area required by paragraph (b) or (c) of this section.

(i) Freeing port covers are permitted provided that the freeing port area required by this section is not diminished and the covers are constructed and fitted so that water will readily flow outboard but not inboard.

§ 28.560 Watertight integrity above the main deck.

(a) Each opening in a deck or a bulkhead that is exposed to weather must be fitted with a weathertight or a watertight closure device.

(b) Except as provided in paragraphs (c) through (f) of this section, each opening in a deck or a bulkhead that is exposed to weather must be fitted with a watertight coaming as follows:

(1) For a vessel of more than 79 feet in length, the coaming must be at least 12 inches in height.

(2) For a vessel of not more than 79 feet in length, the coaming must be at least 24 inches in height.

(c) A coaming to a fish hold that is under constant attention when the closure is not in place, need only be 6 inches in height.

(d) The coaming of an opening fitted with a quick-acting watertight closure device need only be of sufficient height to accommodate the device.

(e) Except on an exposed forecandle deck, a coaming is not required on a deck above the lowest weather deck.

(f) A permanently installed deadlight cover must be provided for each window and each portlight located below the first deck above the lowest weather deck.

§ 28.565 Water on deck.

(a) Each vessel with bulwarks must comply with the requirements of this section.

(b) Except for a vessel that operates on protected waters, the residual righting energy, "b" in figure § 28.565, must not be less than the water on deck heeling energy, "a" in figure § 28.565.

(c) The water on deck heeling energy must be determined assuming—

(1) Water fills the well area created by the deck, the bulwarks, and superstructure to the height of the bulwarks;

(2) Water does not run off through the freeing ports;

(3) Vessel trim and displacement are constant and equal to the values for the vessel without the water on deck; and

(4) Water in the well is free to run off over the top of the bulwark.

(d) The residual righting energy is the righting energy from the value where the righting arm equals the water on deck heeling arm up to the lesser of the values of 40 degrees of heel or the downflooding angle.

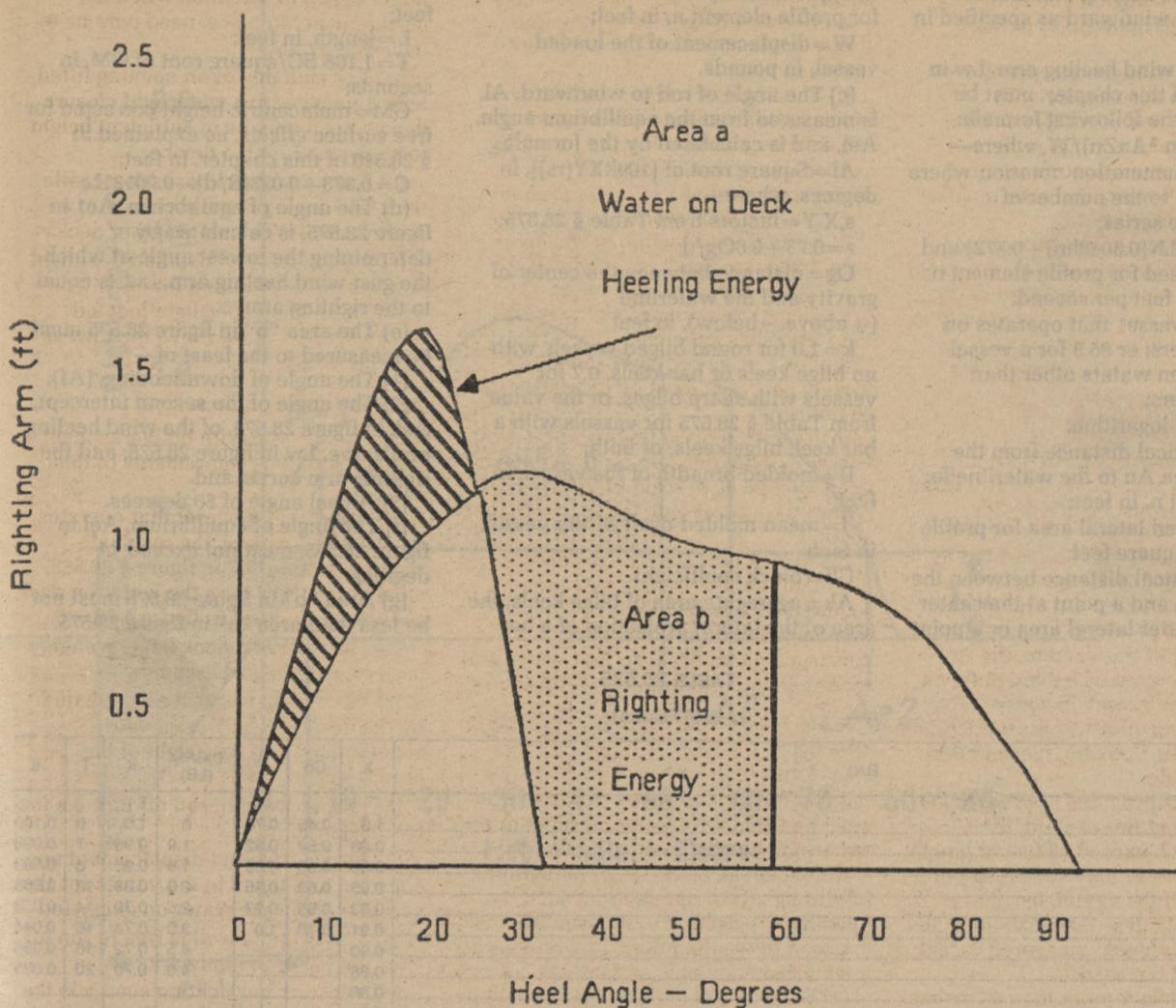


Figure 28.565

§ 28.570 Intact righting energy.

(a) Except as provided in paragraph (b) of this section, each vessel must have the following properties in each condition of loading—

- (1) An initial metacentric height (GM) of at least 1.15 feet;
- (2) A righting arm (GZ) of at least 0.66 feet at an angle of heel not less than 30 degrees;
- (3) A maximum righting arm that occurs at an angle of heel not less than 25 degrees;

(4) An area under each righting arm curve of at least 16.9 foot-degrees up to the lesser of 40 degrees or the angle of downflooding;

(5) An area under each righting arm curve of at least 10.3 foot-degrees up to an angle of heel of 30 degrees;

(6) An area under each righting arm curve of at least 5.6 foot-degrees between 30 degrees and the lesser of 40 degrees or the angle of downflooding; and

(7) Positive righting arm through an angle of heel of 60 degrees

(b) A vessel may comply with the provisions of § 170.173(c) of this chapter, provided that righting arms are positive to an angle of heel of not less than 50 degrees, in lieu of meeting the requirements of paragraph (a) of this section.

§ 28.575 Severe wind and roll.

(a) Each vessel must meet paragraphs (f) and (g) of this section when subjected

to the gust wind heeling arm and the angle of roll to windward as specified in this section.

(b) The gust wind heeling arm, L_w in figure 28.575 of this chapter, must be calculated by the following formula:

$$0.00216E_n(V_n^2 A_n Z_n) / W, \text{ where—}$$

E_n = series summation notation where n varies from 1 to the number of elements in the series;

$V_n = S(0.124LN(0.3048hn) + 0.772)$ and is the wind speed for profile element n on a vessel, in feet per second;

$S = 64$ for a vessel that operates on protected waters; or 85.3 for a vessel that operates on waters other than protected waters;

LN = natural logarithm;

hn = the vertical distance from the centroid of area A_n to the waterline for profile element n , in feet;

A_n = projected lateral area for profile element n , in square feet;

Z_n = the vertical distance between the centroid of A_n and a point at the center of the underwater lateral area or a point

at approximately one-half of the draft, for profile element n , in feet;

W = displacement of the loaded vessel, in pounds.

(c) The angle of roll to windward, A_1 , is measured from the equilibrium angle, A_{e1} , and is calculated by the formula .

A_1 = Square root of $[109kXY(rs)]$, in degrees, where—

s, X, Y = factors from Table § 28.575;

$r = 0.73 + 0.6Og/d$;

Og = distance between the center of gravity and the waterline (+ above, - below), in feet

$k = 1.0$ for round bilged vessels with no bilge keels or bar keels, 0.7 for vessels with sharp bilges, or the value from Table § 28.575 for vessels with a bar keel, bilge keels, or both;

B = molded breadth of the vessel, in feet;

d = mean molded draft of the vessel, in feet;

C_b = block coefficient

A_k = aggregate area of bilge keels, the area of the lateral projection of a bar

keel, or the sum of these areas, in square feet;

L = length, in feet;

$T = 1.108 BC/\text{square root of } GM$, in seconds;

GM = metacentric height corrected for free surface effects, as explained in § 28.540 of this chapter, in feet;

$C = 0.373 + 0.023(B/d) - 0.00131L$;

(d) The angle of equilibrium, A_{e1} in figure 28.575, is calculated by determining the lowest angle at which the gust wind heeling arm, L_w , is equal to the righting arm.

(e) The area "b" in figure 28.575 must be measured to the least of—

(1) The angle of downflooding, (A_f);

(2) The angle of the second intercept, A_{e2} in figure 28.575, of the wind heeling arm curve, L_w in figure 28.575, and the righting arm curve; and

(3) A heel angle of 50 degrees.

(f) The angle of equilibrium, A_{e1} in figure 28.575, must not exceed 14 degrees.

(g) Area "b" in figure 28.575 must not be less than area "a" in figure 28.575.

TABLE 28.575

[Roll Factors]

B/d	X	C _b	Y	100A _k / (LB)	K	T	s
2.4	1.0	0.45	0.75	0	1.0	6	0.100
2.5	0.98	0.50	0.82	1.0	0.98	7	0.098
2.6	0.96	0.55	0.89	1.5	0.95	8	0.093
2.7	0.95	0.60	0.95	2.0	0.88	12	0.065
2.8	0.93	0.65	0.97	2.5	0.79	14	0.053
2.9	0.91	0.70	1.0	3.0	0.74	16	0.044
3.0	0.90			3.5	0.72	18	0.038
3.1	0.88			4.0	0.70	20	0.035
3.2	0.86						
3.3	0.84						
3.4	0.82						
3.5	0.80						

Note: Intermediate values must be obtained by interpolation.

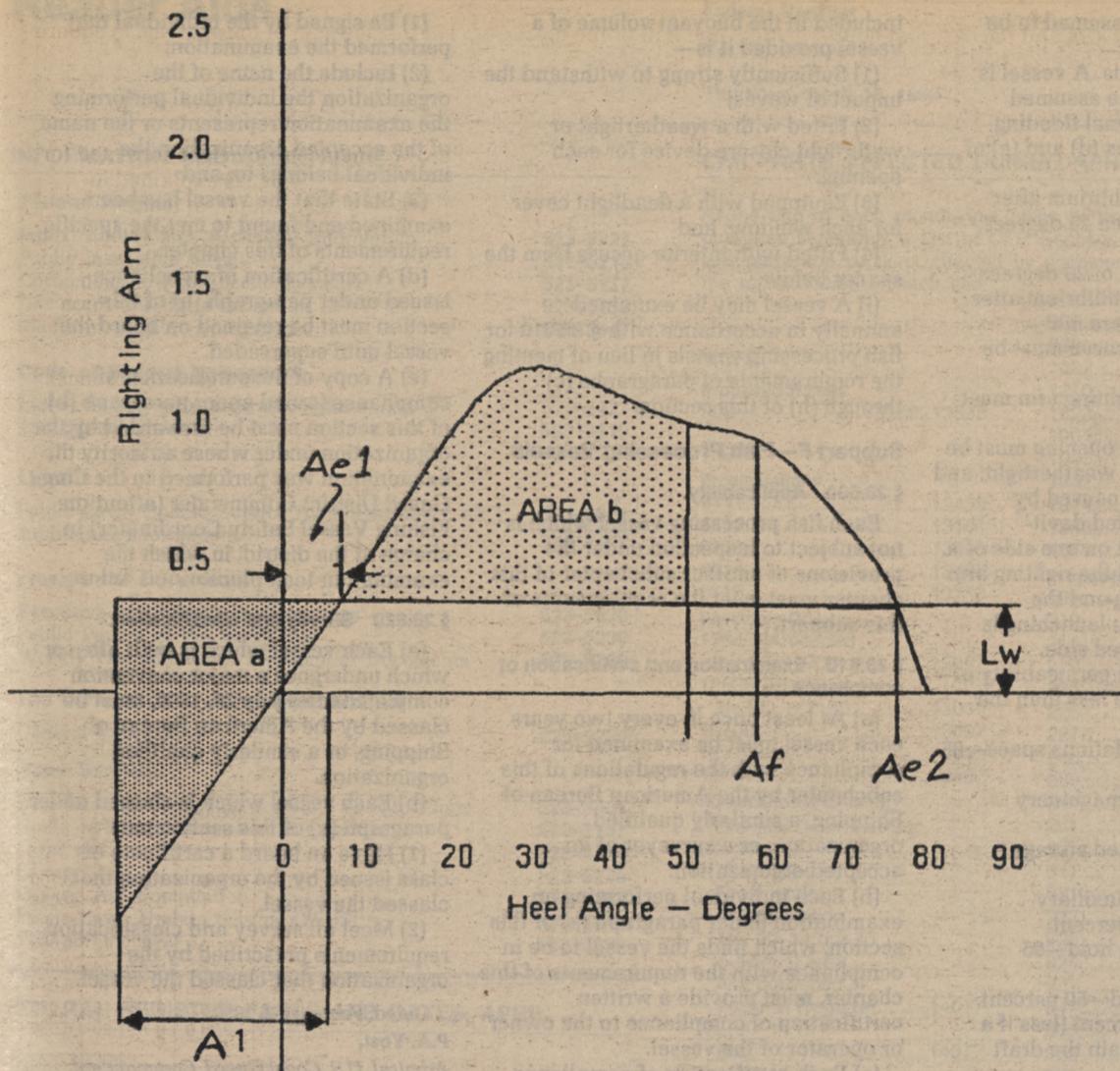


Figure 28.575

§ 28.580 Unintentional flooding.

(a) Applicability. Except for an open boat that operates on protected waters and as provided by paragraph (i) of this section, each vessel built after *[Insert the effective date of these regulations]* and which is more than 40 feet in length must comply with the requirements of this section.

(b) Collision bulkhead. A watertight collision bulkhead must be fitted and—

(1) Openings in the collision bulkhead must be kept to a minimum, and each must be fitted with a watertight closure device;

(2) A collision bulkhead must not be fitted with a door below the bulkhead deck;

(3) A penetration or opening in a collision bulkhead must be—

(i) Located as high and as far inboard as practicable; and

(ii) Fitted with a means to rapidly make it watertight which is operable from a location aft of the collision bulkhead;

(4) The collision bulkhead must be located at least 5 percent of the length from the forward perpendicular; and

(5) The collision bulkhead must not be stepped below the bulkhead deck.

(c) Each vessel must meet the survival conditions in paragraph (f) of this section in each condition of loading and operation with the extent and character of damage specified in paragraphs (d) and (e) of this section.

(d) Extent and character of damage. Except where a lesser extent of damage or a smaller penetration would be more disabling, in evaluating the damage stability of a vessel the following penetration must be assumed:

(1) Longitudinal extent— $L/10$, or 10 feet plus $0.03L$, whichever is less.

Transverse watertight bulkheads that are separated by at least this distance may be assumed to remain effective.

(2) Transverse extent—30 inches from the side measured at right angles to the centerline at the level of the deepest operating waterline.

(3) Vertical extent—from the baseline upward without limit.

(e) Each space containing a through hull fitting, such as the lazarette and the

engineer room, must be assumed to be flooded.

(f) Survival conditions. A vessel is presumed to survive the assumed damage and unintentional flooding described in paragraphs (d) and (e) of this section if—

- (1) The angle of equilibrium after flooding does not exceed 25 degrees; and
- (2) Through an angle of 20 degrees beyond the angle of equilibrium after flooding the following are met—
 - (i) The righting arm curve must be positive;
 - (ii) The maximum righting arm must be at least 4 inches;
 - (iii) Each submerged opening must be capable of being made weathertight; and
 - (iv) The heeling arm caused by deploying all fully loaded davit-launched survival craft on one side of a vessel does not exceed the righting arm at any angle of heel beyond the equilibrium angle when launching is assumed on the damaged side.
- (g) Permeability. The permeability of each space must not be less than the following:
 - (1) For an accommodations space—95 percent.
 - (2) For a propulsion machinery space—85 percent.
 - (3) For a tightly packed storage space—60 percent.
 - (4) For a void or an auxiliary machinery space—95 percent.
 - (5) For an empty fish hold—95 percent.
 - (6) For a full fish hold—50 percent.
 - (7) For tanks—95 percent (less if a tank must be full to attain the draft under consideration).
 - (h) Buoyancy of superstructure. A deckhouse or a superstructure may be

included in the buoyant volume of a vessel provided it is—

- (1) Sufficiently strong to withstand the impact of waves;
- (2) Fitted with a weathertight or watertight closure device for each opening;
- (3) Equipped with a deadlight cover for each window; and
- (4) Fitted with interior access from the spaces below.
 - (i) A vessel may be examined annually in accordance with § 28.610 for fish processing vessels in lieu of meeting the requirements of paragraphs (c) through (h) of this section.

Subpart F—Fish Processing Vessels

§ 28.600 Applicability.

Each fish processing vessel which is not subject to inspection under the provisions of another subchapter of this chapter must meet the requirements of this subpart.

§ 28.610 Examination and certification of compliance.

- (a) At least once in every two years each vessel must be examined for compliance with the regulations of this subchapter by the American Bureau of Shipping, a similarly qualified organization, or a surveyor of an accepted organization.
- (b) Each individual performing an examination under paragraph (a) of this section, which finds the vessel to be in compliance with the requirements of this chapter, must provide a written certification of compliance to the owner or operator of the vessel.
- (c) Each certification of compliance issued under paragraph (b) of this section must—

- (1) Be signed by the individual that performed the examination;
 - (2) Include the name of the organization the individual performing the examination represents or the name of the accepted organization the individual belongs to; and
 - (3) State that the vessel has been examined and found to meet the specific requirements of this chapter.
- (d) A certification of compliance issued under paragraph (b) of this section must be retained on board the vessel until superseded.

(e) A copy of the certification of compliance issued under paragraph (b) of this section must be forwarded by the organization under whose authority the examination was performed to the Coast Guard District Commander (attention: Fishing Vessel Safety Coordinator) in charge of the district in which the examination took place.

§ 28.620 Survey and classification.

- (a) Each vessel which is built after or which undergoes a major conversion completed after July 27, 1990, must be classed by the American Bureau of Shipping, or a similarly qualified organization.
- (b) Each vessel which is classed under paragraph (a) of this section must:
 - (1) Have on board a certificate of class issued by the organization that classed the vessel.
 - (2) Meet all survey and classification requirements prescribed by the organization that classed the vessel.

Dated: February 2, 1990.

P.A. Yost,
Admiral, U.S. Coast Guard, Commandant.
[FR Doc. 90-8631 Filed 4-18-90; 8:45 am]

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The National Commission on Presidential Documents A Division of George Bush

The National Commission on Presidential Documents is a non-profit organization that was established in 1962. Its mission is to collect, preserve, and make available to the public the documents, records, and other materials that are important to the study of the Presidency. The Commission is headed by a Chairman and a Vice Chairman, and it has a staff of approximately 100 people. The Commission's headquarters are located in College Park, Maryland, and it has several regional offices around the country.

The Commission's work is divided into several areas. One of its primary responsibilities is to collect and preserve the documents and records of the President and his staff. This includes the President's personal papers, the papers of his staff, and the records of his official activities. The Commission also collects and preserves the records of the Vice President and the members of the Cabinet. In addition, the Commission is responsible for making these documents and records available to the public. It does this through a variety of means, including the publication of books and articles, the creation of websites, and the holding of public hearings and exhibitions.

The Commission's work is supported by a variety of sources. The primary source of funding is the federal government, which provides the Commission with an annual appropriation. The Commission also receives funding from private foundations and individuals. In addition, the Commission has a number of special projects that are funded by other sources. For example, the Commission has recently received funding from the National Endowment for the Humanities to support a project to digitize the records of the President John F. Kennedy.

The Commission's work is essential to the study of the Presidency and to the preservation of our nation's history. By collecting and preserving the documents and records of the President and his staff, the Commission ensures that these important materials are available to future generations. The Commission's work is also essential to the public's understanding of the Presidency. By making these documents and records available to the public, the Commission helps to ensure that the public has access to the information it needs to make informed decisions about the country's future.

