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

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: May 24, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

Contents

Federal Register

Vol. 55, No. 86

Thursday, May 3, 1990

Agency for International Development
PROPOSED RULES
Freedom of Information Act; implementation, 18620

Agriculture Department
See also Farmers Home Administration; Food and Nutrition Service; Forest Service; Rural Electrification Administration; Soil Conservation Service
RULES
Debt management:
Debt settlement policies and procedures; setoffs and withholdings of program payments; CFR Part removed, 18591

Air Force Department
RULES
Claims and litigation:
Official records for admission into evidence; authentication; CFR Part removed, 18600

Army Department
NOTICES
Meetings:
Science Board, 18655

Centers for Disease Control
NOTICES
Meetings:
Vital and Health Statistics National Committee, 18668

Coast Guard
RULES
Regattas and marine parades:
City of Fort Lauderdale Whitbread Round the World Race, 18600

Commerce Department
See also Economic Development Administration; Export Administration Bureau; International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Advisory committees; report on closed meetings; availability, 18649
Agency information collection activities under OMB review, 18650
(3 documents)

Defense Department
See also Air Force Department; Army Department; Navy Department
NOTICES
Agency information collection activities under OMB review, 18652
Civilian health and medical program of uniformed services (CHAMPUS):
Chiropractic care demonstration project, CO and WA, 18653
Meetings:
Military Personnel Testing Advisory Committee, 18654

Economic Development Administration
RULES
Financial assistance general requirements:
Electric and gas facilities, 18594
Public works and development facilities program:
Area designations—
Special impact areas, 18593

Education Department
NOTICES
Meetings:
International Education Programs National Advisory Board, 18658
Vocational Education National Council, 18658

Employment and Training Administration
NOTICES
Adjustment assistance:
American Flange & Manufacturing Co., Inc., et al., 18685
End Devices, Inc., 18688
Kelsey-Hays Co. et al., 18686
Reed & Barton Corp., 18688

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Natural gas exportation and importation:
Indeck Energy Services of Corinth, Inc., 18661
Indeck Energy Services of Ilion, Inc., 18664
Long Island Cogeneration Limited Partnership, 18666

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Indiana; correction, 18604
PROPOSED RULES
Hazardous waste:
Identification and listing—
Exclusions, 18643
NOTICES
Agency information collection activities under OMB review, 18666
Superfund; response and remedial actions, proposed settlements, etc.:
U.S. Scrap site, IL, 18667

Executive Office of the President
See Presidential Documents; Trade Representative, Office of United States

Export Administration Bureau
NOTICES
Meetings:
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee, 18651
Transportation and Related Equipment Technical Advisory Committee, 18651

Farmers Home Administration
PROPOSED RULES
Program regulations:
Farmer program loan applicants; eligibility criteria clarification, 18607

Federal Aviation Administration
RULES
Federal Tort Claims Act; implementation:
Aeronautical charts and maps; publishers indemnification, 18704
PROPOSED RULES
Rulemaking petitions; summary and disposition
Correction, 18702

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 18701

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 18701

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Florida Power & Light Co. et al., 18659
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 18660
Texas Gas Transmission Corp., 18661

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
Epping et al., NH, 18699

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
United American Freight, Inc., et al., 18667
Investigations, hearings, petitions, etc.:
Maritime Administration, 18668
Meetings; Sunshine Act, 18701

Federal Reserve System
RULES
Securities credit transactions; OTC margin stocks list (Regulations G, T, U, and X), 18591

Fish and Wildlife Service
NOTICES
Meetings:
Klamath Fishery Management Council, 18681

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Pyrantel tartrate, 18598
Food additives:
Adjuvants, production aids, and sanitizers—
Carbethoxymethyl diethyl phosphonate, 18597
Polymers—
Vinylidene fluoride-hexafluoropropene copolymers, 18595, 18596
(2 documents)
Human drugs:
Antibiotic drugs—
Neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension; pH standard, 18597
PROPOSED RULES
Human drugs:
Antibiotic drugs—
Doxorubicin hydrochloride, 18617

Food and Nutrition Service
NOTICES
Child nutrition programs:
Meals and milk, free and reduced price; income eligibility guidelines, 18646

Forest Service
NOTICES
Environmental statements; availability, etc.:
Deerlodge National Forest, MT, 18647
Meetings:
Mount St. Helens Scientific Advisory Board, 18648

General Services Administration
RULES
Federal property management:
World-Wide Real Property Inventory System; real property owned by or leased to United States, annual report; correction, 18702

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration

Health Care Financing Administration
NOTICES
Medicare:
Physician performance standard rate of increase; surgical services definition, 18668

Housing and Urban Development Department
NOTICES
Agency information collection activities under OMB review, 18672–18675
(4 documents)

Indian Affairs Bureau
NOTICES
Organization, functions, and authority delegations:
Indian Education Programs Office, Area and Agency Field Offices; consultation hearings, 18676

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Foreign sales corporations; adjusted current earnings, alternative minimum tax, 18626
Hearing, 18639

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Portlant cement, other than white, nonstaining Portland cement, from Dominican Republic, 18651

International Trade Commission
NOTICES
Import investigations:
Air impact wrenches, 18682
Dynamic random access memories, static random access memories, components, and products containing same, 18683
Gray Portland cement and cement clinker from Mexico, 18683
Industrial nitrocellulose from Brazil, 18685

Justice Department
See Juvenile Justice and Delinquency Prevention Office

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Private sector options for juvenile corrections program; correction, 18685

Labor Department
See Employment and Training Administration; Veterans Employment and Training, Office of Assistant Secretary

Land Management Bureau
RULES
Minerals management:
Oil, gas, and geothermal resources leasing; correction, 18604
NOTICES
Committees; establishment, renewal, termination, etc.:
Grazing Advisory Boards, 18677
Meetings:
Boise District Advisory Council, 18677
Montrose District Advisory Council, 18677
Rawlins District Advisory Council, 18678
Oil and gas leases:
Wyoming, 18678
(2 documents)
Realty actions; sales, leases, etc.:
Arizona; correction, 18702
California, 18678
California; correction, 18702
Idaho, 18679
Nevada; correction, 18680
Resource management plans, etc.:
Big Dry Resource Area, MT, 18680
Survey plat filings:
Nevada, 18680
Withdrawal and reservation of lands;
South Dakota; correction, 18702

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
Drilling; well-completion and well-workover operations; blowout preventer systems tests, etc., 18639
NOTICES
Agency information collection activities under OMB review, 18681
(3 documents)

National Credit Union Administration
PROPOSED RULES
Credit unions:
State-chartered credit unions; uninsured membership shares; prohibition, 18613

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic sea scallop, 18604
Gulf of Alaska groundfish, 18605
NOTICES
Permits:
Marine mammals, 18652
(2 documents)

Navy Department
NOTICES
Environmental statements; availability, etc.:
Base realignments and closures—
Naval Air Station Chase Field, TX, 18655
Inventions, Government-owned; availability for licensing, 18655
Meetings:
Chief of Naval Operations Executive Panel Advisory Committee, 18657
Naval Research Advisory Committee, 18658

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
Yankee Atomic Electric Co., 18608
NOTICES
Agency information collection activities under OMB review, 18689
Environmental statements; availability, etc.:
University of Arizona, 18689
Operating licenses, amendments; no significant hazards considerations; biweekly notices; correction, 18690
Applications, hearings, determinations, etc.:
Cleveland Electric Illuminating Co. et al., 18690
System Energy Resources, Inc., et al., 18692

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
NOTICES
Meetings:
Federal Prevailing Rate Advisory Committee, 18692

Presidential Documents
PROCLAMATIONS
Special observances:
Law Day, U.S.A. (Proc. 6125), 18715
Physical Fitness and Sports Month, National (Proc. 6124), 18585
ADMINISTRATIVE ORDERS
Nicaragua; Export-Import Bank restrictions lifted Presidential Determination No. 90-17 of April 25, 1990), 18587
Nicaragua; U.S. emergency economic assistance (Presidential Determination No. 90-18 of April 25, 1990), 18589

Public Health Service
See Centers for Disease Control; Food and Drug Administration

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 18696

Resolution Trust Corporation
NOTICES
Meetings; Sunshine Act, 18701

Rural Electrification Administration
PROPOSED RULES
Telecommunications contracts; standard forms:
Miscellaneous construction work and maintenance services contract, 18606

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 18696
Philadelphia Stock Exchange, Inc., 18696

Small Business Administration
PROPOSED RULES
Business loan policy:
Alter ego holding companies; options exercisable exclusively by operating concern, 18614
Minority small business and capital ownership development:
Business Opportunity Development Reform Act; tribally-owned concerns, 18615
NOTICES
Disaster loan areas:
Alabama, 18697
(2 documents)
California, 18697
Florida, 18698
Tennessee, 18698
Texas, 18698

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Big and Double Creeks Watershed, NC, 18649

Thrift Supervision Office
PROPOSED RULES
Savings associations:
Securities offerings, 18610

Trade Representative, Office of United States
NOTICES
Meetings:
Industry Policy Advisory Committee et al., 18693
Trade liberalization priorities; identification, 18693

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration
PROPOSED RULES
Nondiscrimination on basis of handicap in—
Federally-assisted programs and activities
Correction, 18644
NOTICES
Committees; establishment, renewal, termination, etc.:
Commercial Space Transportation Advisory Committee, 18698

Treasury Department
See also Internal Revenue Service; Thrift Supervision Office
NOTICES
Agency information collection activities under OMB review, 18700
Notes, Treasury:
Y-1992 series, 18700

Veterans Affairs Department
RULES
Adjudication; pensions, compensation, dependency, etc.:
Independent medical opinions, 18601
Vocational rehabilitation and education:
Veterans education—
Montgomery GI Bill-Active Duty; qualification through Selected Reserve service, 18603
PROPOSED RULES
Vocational rehabilitation and education:
Mitigating circumstances; subsistence allowance payments, 18641
Veterans education—
Montgomery GI Bill-Active Duty; due process procedures, 18642

Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Meetings:
Veterans' Employment Committee, 18689

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, 18704

Part III
The President, 18715

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

6124 18585
6125 18715

Administrative Orders:

Presidential Determinations:
No. 90–17
of Apr. 25, 1990 18587
No. 90–18
of Apr. 25, 1990 18589

7 CFR

3 18591
13 18591

Proposed Rules:

1762 18606
1941 18607
1943 18607
1945 18607

10 CFR

Proposed Rules:

50 18608

12 CFR

207 18591
220 18591
221 18591
224 18591

Proposed Rules:

563g 18610
741 18613

13 CFR

302 18593
309 18594

Proposed Rules:

120 18614
124 18615

14 CFR

15 18704

Proposed Rules:

Ch. I 18702

21 CFR

177 (2 documents) 18595, 18596
178 18597
444 18597
558 18598

Proposed Rules:

450 18617

22 CFR

Proposed Rules:

212 18620

26 CFR

Proposed Rules:

1 (2 documents) 18626, 18639

30 CFR

Proposed Rules:

250 18639

32 CFR

847 18600

33 CFR

100 18600

38 CFR

3 18601
21 18603

Proposed Rules:

21 (2 documents) 18641, 18642

40 CFR

52 18604

Proposed Rules:

261 18643

41 CFR

101–3 18702

43 CFR

3100 18604

49 CFR

Proposed Rules:

27 18644

50 CFR

650 18604
672 18605

Federal Register
Vol. 55, No. 86
Thursday, May 3, 1990

Presidential Documents

Title 3—

The President

Proclamation 6124 of May 1, 1990

National Physical Fitness and Sports Month, 1990

By the President of the United States of America

A Proclamation

We know that individuals can influence their health, fitness, and productive performance of life through the active pursuit of regular exercise programs. Those who participate in physical activities or sports programs also know the exhilaration and sense of satisfaction that come from regular exercise.

With increasing awareness of these benefits, the number of physically active men and women has continued to grow over the last decade. Today, nearly one of every two American adults participates regularly in some form of exercise and sports.

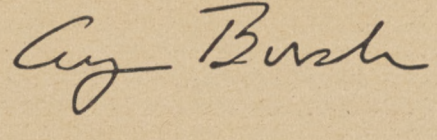
There is great support for daily exercise for youngsters, regardless of physical capabilities. Physically fit persons generally live longer, perform better, and participate more fully in life. Moreover, habits formed at an early age tend to stay with a person for life.

Many communities are demonstrating their support for physical fitness as a family activity by sponsoring athletic programs that involve the entire family. Indeed, the realization that fitness improves the quality of life has gained increasing popularity with senior citizens, and we are seeing a proliferation of organized exercise programs for our older citizens.

Despite the progress that has been made, too many Americans—of all ages—do not exercise regularly. Of particular concern is the number of young Americans who are not physically fit. Our challenge is to instill youngsters with a sense of the value of physical fitness and a desire to get in shape and remain fit. It is essential that fitness and sports programs be made increasingly available in schools, at the workplace, and during leisure time so that our citizens will be able to experience the joys and benefits they offer.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the month of May 1990 as National Physical Fitness and Sports Month. I urge all Federal, State, and local government agencies and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

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



[FR Doc. 90-10447
Filed 5-1-90; 2:56 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of May 1 on signing Proclamation 6124, see the *Weekly Compilation of Presidential Documents* (vol. 26, no. 18).

Presidential Documents

Presidential Determination No. 90–17 of April 25, 1990

Determination Under Section 2(b)(2) of the Export-Import Bank Act of 1945, as Amended in 1986—Nicaragua

Memorandum for the Secretary of State

Pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended in 1986, I determine that Nicaragua is no longer a "Marxist-Leninist" country; it is therefore in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to Nicaragua.

Please transmit this determination to the Speaker of the House and to the President of the Senate.

You are authorized and directed to publish this determination in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, April 25, 1990.

[FR Doc. 90–10462
Filed 5–1–90; 3:59 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 90–18 of April 25, 1990

Determination To Authorize Assistance for Nicaragua

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 451 of the Foreign Assistance Act of 1961, as amended, I hereby authorize the use of up to $2.5 million in funds made available under Chapter 4 of Part II of the act in fiscal year 1990 for emergency assistance to Nicaragua, notwithstanding any other provision of law.

You are requested to report this determination to the Speaker of the House of Representatives, the House Appropriations Committee, and the Senate Committees on Foreign Relations and Appropriations immediately.

You are authorized and directed to publish this determination in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, April 25, 1990.

[FR Doc. 90-10463
Filed 5-1-90; 4:00 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 55, No. 86
Thursday, May 3, 1990

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 3 and 13

Debt Settlement Policies and Procedures

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: On December 22, 1989, a final rule (54 FR 52876) was published which sets forth at 7 CFR part 1403 the debt management policies and procedures of the Commodity Credit Corporation (CCC). 7 CFR part 13 currently sets forth the previous provisions which were used by CCC to make setoffs and withholdings of program payments. In addition, 7 CFR part 3 sets forth the debt management policies and procedures of other Department of Agriculture agencies. This final rule deletes 7 CFR part 13 in its entirety and deletes references to CCC in 7 CFR part 3 since such provisions have been superseded by 7 CFR part 1403.

EFFECTIVE DATE: May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Annette Race, Claims Administration and Contract Procedures Branch, Fiscal Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013. (202) 447–6614.

SUPPLEMENTARY INFORMATION: On December 22, 1989, a final rule was published in the **Federal Register** (54 FR 52876) to set forth at 7 CFR part 1403 the debt management policies and procedures of CCC. Accordingly, this rule makes conforming changes in the Code of Federal Regulations by deleting obsolete references to CCC in 7 CFR part 3, and also by deleting entirely 7 CFR part 13 which is also obsolete due to the issuance of the December 22, 1989 final rule. Since the action made by this final rule is merely administrative, no proposed rule making activities are required.

List of Subjects

7 CFR Part 3

Debt management.

7 CFR Part 13

Setoffs and withholdings.

Accordingly, title 7 of the Code of Federal Regulations is amended as follows:

PART 3—[AMENDED]

1. The authority citation for 7 CFR part 3 continues to read as follows:

Authority: Sec 1, 58 Stat. 836; 12 U.S.C. 1150.

Subpart A—Settlement of Small or Old Debts

2. Section 3.2 is amended by revising paragraph (b) to read as follows:

§ 3.2 Definitions.

* * * * *

(b) *Indebtedness* with respect to any person, means his debt to the Government under each of the acts and programs listed in § 3.10.

* * * * *

§ 3.5 [Amended]

3. In § 3.5, in the first sentence the phrase "Commodity Credit Corporation and" is removed.

§ 3.10 [Amended]

4. In § 3.10, item 49 is removed and items 50 and 51 are redesignated as items 49 and 50, respectively.

PART 13—[REMOVED]

5. 7 CFR part 13 is removed.

Signed at Washington, DC, on April 26, 1990.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 90–10244 Filed 5–2–90; 8:45 am]
BILLING CODE 3410–05–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

[Regs. G, T, U, and X]

Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List which was effective February 12, 1990, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: May 14, 1990.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781. For the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. This supersedes the last List which was effective February 12, 1990. Additions and deletions for that List were published on January 26, 1990 (55 FR 2631). A copy of the complete List incorporating these additions and deletions is available from the Federal Reserve Banks.

The List of Marginable OTC Stocks includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in

the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(s) and 220.17(e) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the Board's List of Marginable OTC Stocks:

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Alpha 1 Biomedicals, Inc.
$.001 par common
Ambassador Financial Group, Inc.
$.01 par common
Atlantic Financial Federal
$1.00 par common
Series A, $1.00 par cumulative convertible preferred
Benj. Franklin Federal Savings and Loan Association, the
$1.00 par common
Brae Corporation
$1.00 par common
California Biotechnology, Inc.
Warrants (expire 12–31–91)
Cambridge Instrument Company, PLC, the
American Depositary Receipts
Canal-Randolph Limited Partnership
Units of limited partnership
Cityfed Financial Corp.
Series C, $.40 junior preferred
Cobb Resources Corporation
$.10 par common
Commercial National Corp.
$5.00 par common
Continental General Corporation
$.01 par common
Detroit & Canada Tunnel Corporation
$5.00 par common
Diversified Investment Group, Inc.
$.01 par common
Empire-Orr, Inc.
$.01 par common
Fairfield-Noble Corporation
$.10 par common
Florida Federal Savings Bank
$.01 par common
Germania Bank, a Federal Savings Bank (Illinois)
$.01 par common
Goodheart-Wilcox Company, Inc.
$1.00 par common
Hamilton Oil Corporation
Series A, $1.00 par cumulative preferred
Hughes Homes, Inc.
$.01 par common
Warrants (expire 06–08–93)
Hytex Microsystems, Inc.
No par common
IMREG, Inc.
Class A, $.05 par common
Louisville Gas and Electric Company
7.45% cumulative preferred
McGill Manufacturing Co., Inc.
No par common
Megadata Corporation
$.01 par common
Merchants Capital Corporation
Class B, $.10 par common
Miniscribe Corporation
$.01 par common
7½% convertible subordinated debentures
National Properties Corporation
$1.00 par common
Old Kent Financial Corporation
Series A, 14% convertible preferred
Old Repoblic International Corporation
Series E, $1.00 par convertible preferred
P&F Industries, Inc.
$10.00 par cumulative preferred
Pharmacontrol Corporation
$.01 par common
Pioneer Savings Bank, FSB
$1.00 par common
Q-MED, Inc.
$.001 par common
Resdel Industries
No par common
Robeson Industries Corp.
$.10 par common
Seagull Energy Corporation
$1.00 par convertible preferred
Silver Hart Mines, Ltd.
No par common
Simmons First National Corporation (Arkansas)
Class A, $5.00 par common
Texcel International, Inc.
$.01 par common
TGX Corporation
$.01 par common
TM Communications, Inc.
$.01 par common
Tons of Toys, Inc
$.01 par common
Total Assets Protection
$.002 par common
United Education & Software
No par common
Universal Voltronics Corporation
$.05 par common
Virginia First Savings Bank, F.S.B.
$4.00 par common
Zentec Corporation
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

American Vaccine Corporation
$.01 par common
American Western Corporation
$.10 par common
Carme, Inc.
$.0001 par common
Cheyenne Software Inc.
$.01 par common
Citizens Bank (North Carolina)
$2.50 par common
Clairson International Corporation
$.01 par common
Dallas Semiconductor Corporation
$.02 par common
Damon Biotech, Inc.
$.01 par common
Epitope, Inc.
No par common
Equitable Bancorporation
$5.00 par common
Exchange Bancorp, Inc.
$1.00 par common
First Financial Management Corp.
$.10 par common
Florida National Banks of Florida, Inc
$4.1666 par common
GTECH Corporation
$.01 par common
Jaguar, PLC
Sponsored American Depositary Receipts
Merry-Go-Round Enterprises, Inc.
$.01 par common
Metropolitan Bancorp, Inc.

$5.00 par common
MicroAmerica, Inc.
$.01 par common
Mindscape, Inc.
$.00001 par common
North Fork Bancorporation, Inc.
$2.50 par common
Northwestern States Portland Cement Company
$10.00 par common
Novar Electronics Corporation
No par common
Paxton, Frank Company
Class A, non-voting, $2.50 par common
Plains Resources Inc.
$.02 par common
QED Exploration, Inc.
No par common
Robert Half International, Inc.
$1.00 par common
Santa Monica Bank
$3.00 par common
Silicon Graphics, Inc.
$.001 par common
Strategic Planning Associates, Inc.
Class B, $.10 par common
Syracuse Supply Company
$4.00 par common
Telecommunications Network, Inc.
$.01 par common
Telos Corporation
$.01 par common
United Investors Management Co.
Non-voting, $1.00 par common
United Savings Bank (Oregon)
$1.00 par common
Vipont Pharmaceutical, Inc.
$.001 par common

Additions to the List of Marginable OTC Stocks

Aerovox Incorporated
$1.00 par common
Al Copeland Enterprises, Inc.
Series 1, 17.5% exchangeable preferred
America's All Season Fund, Inc.
$.01 par common
American Bancorporation
No par common
American Insured Mortgage Investors
Depositary units of limited partnership interest
Bankers Corporation
$.01 par common
BI Incorporated
No par common
Block Development Corporation
$.001 par common
Boral Limited
American Depositary Receipts
CAL Graphite Corporation
No par common
CII Financial, Inc.
No par common
Cisco Systems, Inc.
No par common
Civic Bancorp
No par common
Community Financial Corporation
$.01 par common
Delphi Financial Group, Inc.
Class A, $.01 par common
Devlieg—Bullard, Inc.
$.01 par common
Digital Sound Corporation
No par common
Elm Financial Services, Inc.
$.01 par common
Elron Electronic Industries Ltd.
Rights (expire 04–06–90)
Farmers Capital bank Corporation
$.25 par common
Forest Oil Corporation
$2.125 par convertible preferred
Hadson Energy Resources Corporation
$.10 par common
Helian Health Group, INc.
$1.00 par common
Warrants (expire 11–22–92)
Henley International, Inc.
$.001 par common
Hologic, Inc.
$.01 par common
Hornbeck Offshore Services, Inc.
$.01 par common
Immunex Corporation
Warrants (expire 01–31–95)
Integrated Resources American Insured Mortgage Investors—85
Depositary units of limited partnership interest
Integrated Systems, Inc.
No par common
Intera Information Technologies Corporation
Class A, no par common
Martech USA, Inc.
$.01 par common
Mass Microsystems, Inc.
No par common
Metropolitan Federal Savings & Loan Association (Washington)
$1.00 par common
Micro Health Systems, Inc.
$.01 par common
Momentum Distribution Inc.,
$1.00 par common
Neogen Corporation
$.16 par common
Peoples First Corporation
No par common
Pharmacy Management Services, Inc.
$.01 par common
Pickett Suite Hotel Master
Units of limited partnership interest
Pinkerton's, S., Inc.
$.001 par common
Poe & Associates, Inc.
$.10 par common
Presstek, Inc.
$.01 par common
RCM Technologies, Inc.
$.05 par common
Roberts Pharmaceutical Corporation
$.01 par common
Scherer Healthcare, Inc.
$.01 par common
Security Savings bank, ESB
$1.00 par common
Sequoia Systems, Inc.
$.40 par common
Super Rite Foods Holdings Corporation
$.01 par exchangeable preferred
Syntellect, Inc.
$.01 par common
Tetra Technologies, Inc.
$.01 par common
Tokos Medical Corporation
$.001 par common
Tricare, Inc.
$.01 par common
Tuboscope Corporation
$.01 par common
Unilab Corporation
$.01 par common
Verifone, Inc.
$.01 par common
Vicor Corporation
$.01 par common
Viking Office Products, Inc.
No par common
Wolverine Exploration Company
$1.00 par convertible exchangeable preferred

By order of the board of Governors of the Federal Reserve System, acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), April 27, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–10272 Filed 5–2–90; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 302

[Docket No. 80991–0089]

Area Designation; Special Impact Areas

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts as final, the Economic Development Administration's (EDA) interim regulations at 13 CFR part 302 on Designation of Areas; "Designation of Special Impact Areas" at § 302.8(a)(3). This rule removes reference to average unemployment rates based upon the calendar year. Only the most recent 12-month annual average unemployment rates will be used as a qualifier for designation as a Special Impact Area, in order to assure that designations are based on the most current unemployment data.

EFFECTIVE DATE: December 13, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., room 7001, Washington, DC (202) 377–4687.

SUPPLEMENTARY INFORMATION: EDA published an interim rule concerning designation of special impact areas on December 14, 1988 (53 FR 50206), and allowed interested persons 60 days to comment. No comments were received.

EDA is adopting as a final rule 13 CFR part 302 "Designation of Areas" § 302.8 "Designation of Special Impact Areas" at paragraph (a)(3).

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it 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 significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

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

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 13 CFR Part 302

Community development.

Under authority of section 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1–105, Department of Commerce Organization Order 10–4, as amended (40 FR 56703, as amended), the interim regulation amending 13 CFR part 302 which was published on December 14, 1988 (53 FR 50206), is adopted as final without changes.

Dated: April 25, 1990.

James L. Perry,

Acting Assistant Secretary for Economic Development.

[FR Doc. 90–10235 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–24–M

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13 CFR Part 309

[Docket No. 91292–9292]

Electric and Gas Facilities

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule change will amend EDA's rule at 13 CFR 309.4 so that it conforms to the Public Works and Economic Development Act of 1965, as amended. The amended rule will clarify the statutory interpretation that it is the project, not the electric or gas energy, that is the primary focus of the requirement.

DATES: Effective Date: May 3, 1990. Submit comments by July 2, 1990.

ADDRESSES: Send comments to Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., room 7001, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, (202) 377–4687.

SUPPLEMENTARY INFORMATION: EDA is amending 13 CFR 309.4 to delete references to funding primary and secondary sources of electric and gas energy, and to state instead that funding for specific projects is the primary focus of the requirement.

Section 309.4(a) is amended to delete references to primary and secondary functions of the facility;

Section 309.4(a)(2)(ii) is amended to change "through an assured supply of electrical energy" to "through the project";

Section 309.4(b) is amended to delete references to primary and secondary functions of the facility; and

Section 309.4(b)(2)(ii) is amended to change "through an assured supply of gas energy" to "through the project."

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it 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 significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

However, because the Department is interested in receiving comments from those who will benefit from the amendment, this rule is being issued as interim final. Public comments on the interim rule are invited and should be sent to the address listed in the "**ADDRESSES**" section above.

Comments received by July 2, 1990, will be considered in promulgating a final rule.

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

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511).

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

List of Subjects in 13 CFR Part 309

Community development; Grant programs—community development; Loan programs—community development; Penalties.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. The authority citation continues to read as follows:

Authority: Sec. 701, Pub. L. 89–136; 79 Stat. 570 (42 U.S.C. 3211); Sec. 1–105, DOC Organization Order 10–4, as amended (40 FR 56702, as amended).

2. Section 309.4 is amended by revising paragraphs (a) introductory text, (a)(2)(ii) introductory text, (b) introductory text, and (b)(2)(ii) to read as follows:

§ 309.4 Electric and gas facilities.

(a) Except for those types of facilities listed in paragraph (a)(2) of this section, no financial assistance authorized under the Act will be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy.

* * * * *

(2) * * *

(ii) Local facilities serving industrial parks or industrial commercial areas of communities which have lost or are threatened with a loss of jobs due to the interruption or curtailment, or threat thereof, of electrical supplies, or which could create new jobs through the project, providing the following requirements are met:

* * * * *

(b) Except for those types of facilities listed in paragraph (b)(2) of this section, no financial assistance authorized under the Act will be used to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed).

* * * * *

(2) * * *

(ii) Local facilities servicing industrial parks or industrial or commercial areas of communities which have lost or are threatened with a loss of jobs due to the interruption or curtailment or threat thereof, of gas energy supplies or which could create new jobs through the project: Provided, the following requirements are met.

* * * * *

Dated: April 25, 1990.

James L. Perry,

Acting Assistant Secretary for Economic Development.

[FR Doc. 90-10236 Filed 5-2-90; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 89F-0343]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a copolymer of vinylidene fluoride and hexafluoropropene as an adjuvant for ethylene-vinyl acetate copolymers for food-contact use. This action responds to a petition filed by Minnesota Mining & Manufacturing Co.

DATES: Effective May 3, 1990; written objections and requests for a hearing by June 4, 1990.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 5, 1989 (54 FR 36901), FDA announced that a food additive petition (FAP 9B4154) had been filed by Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, MN 55144-1000, proposing that § 177.1350 *Ethylene-vinyl acetate copolymers* (21 CFR 177.1350) of the food additive regulations be amended to provide for the safe use of a copolymer of vinylidene fluoride and hexafluoropropene as an adjuvant for ethylene-vinyl acetate copolymers for food-contact use.

FDA has evaluated data in the petition and other relevant material. The agency concludes that these data and material establish the safety of the additive for the petitioned food-contact use, and that the regulations should be amended in § 177.1350 by adding new paragraph (a)(6) as set forth below.

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

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

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

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

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

2. Section 177.1350 is amended by adding new paragraph (a)(6) to read as follows:

§ 177.1350 Ethylene-vinyl acetate copolymers.

* * * * *

(a) * * *

(6) The copolymer of vinylidene fluoride and hexafluoropropene (CAS Reg. No. 9011-17-0), containing 65 to 71

percent fluorine and having a Mooney Viscosity of at least 28, for use as a processing aid at a level not to exceed 0.2 percent by weight of ethylene-vinyl acetate copolymers.

* * * * *

Dated: April 24, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–10284 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 177

[Docket No. 89F–0051]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for an increase in the permitted fluorine content of vinylidene fluoride-hexafluoropropene copolymers, for an increase in the weight-percent of vinylidene fluoride-hexafluoropropene copolymers used as adjuvants in the production of olefin polymers, and for the use of vinylidene fluoride-hexafluoropropene copolymers in olefin polymers in contact with alcoholic foods. This action responds to a petition filed by Minnesota Mining and Manufacturing Co.

DATES: Effective May 3, 1990; written objections and requests for a hearing by June 4, 1990.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 15, 1989 (54 FR 10727), FDA announced that a food additive petition (FAP 9B4129) had been filed by Minnesota Mining and Manufacturing Co., 3M Center, St. Paul, MN 55144–1000, proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for additional vinylidene fluoride-hexafluoropropene copolymers as adjuvants in the production of olefin polymers.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that § 177.1520 should be amended in the table in paragraph (b) by revising the entry for vinylidene fluoride-hexafluoropropene copolymer to increase the fluorine content of the polymers, to provide for a higher viscosity and use level, and to remove the restriction on use with alcoholic food as set forth below.

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

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

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

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

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

2. Section 177.1520 is amended in the table in paragraph (b) by revising the entry for "Vinylidene fluoride-hexafluoropropene copolymer * * *" under the headings "Substance" and "Limitations" to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(b) * * *

Substance	Limitations
* * * * *	
Vinylidene flouride-hexafluoropropene copolymer (CAS Reg. No. 9011–17–0) having a fluorine content of 65 to 71 percent and a Mooney viscosity of a least 28, as determined by a method entitled "Mooney Viscosity," which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.	For use only as an extrusion aid in the production of extruded olefin polymers at levels not to exceed 0.2 percent by weight of the polymer. The finished polymers may be used only under the conditions described in § 176.170(c) of this chapter, Table 2, under conditions of use B through H.

* * * * *

Dated: April 25, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–10288 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 88F–0382]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of carbethoxymethyl diethyl phosphonate as a stabilizer in polyethylene terephthalate and related polyesters for food-contact use. This action is in response to a petition filed by Springborn Testing Institute, Inc., on behalf of Enka bv.

DATES: Effective May 3, 1990; written objections and requests for a hearing by June 4, 1990.

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 6, 1989 (54 FR 484), FDA announced that a food additive petition (FAP 8B4087) had been filed by Springborn Testing Institute, Inc., 20 Springborn Center, Enfield, CT 06082, on behalf of Enka bv of the Netherlands, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of carbethoxymethyl-diethyl phosphonate as a stabilizer in polyethylene terephthalate and related polyesters for food-contact use.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive in the manufacture of polyethylene-terephthalate and related polyesters is safe, and that the regulations should be amended in § 178.2010(b) in the table by alphabetically adding a new entry as set forth below.

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

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

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

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

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

2. Section 178.2010 is amended in the table of paragraph (b) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Carbethoxymethyl diethyl phosphonate (CAS Reg. No. 867–13–0).	At levels not to exceed 0.07 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter.
* * * * *	

Dated: April 24, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–10289 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 444

[Docket No. 89N–0380]

Antibiotic Drugs; Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Otic Suspension; pH Standard

AGENCY: Food and Frug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations for neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension to extend the pH range for the product. This action is being taken to provide for a product that is less irritating to pediatric patients.

DATES: Effective June 4, 1990; written comments, notice of participation, and request for hearing by June 4, 1990; data, information, and analyses to justify a hearing by July 2, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD–520, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 24, 1989 (54 FR 43303), FDA proposed to amend the antibiotic drug regulations for neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension to extend the acceptable pH range for the product.

As discussed in the proposal, a manufacturer contended that a pH range of not less than 3.0 and not more than 5.5 for this product is inappropriate for pediatric patients because it may be irritating to the ear canal. In order to make the product less irritating for pediatric patients, the manufacturer submitted a petition requesting that a separate pH range of not less than 4.1 and not more than 7.0 be specified in the monograph for this product if it is intended for pediatric use.

FDA has determined that there is no need for separate pH standards for adult and pediatric use of this product, and amending the pH standard to extend the pH standard to not less than 3.0 and not more than 7.0 for this product would be sufficient to accomodate products with a higher pH.

Interested persons were given until December 26, 1989, to submit written comments on this proposal and until November 24, 1989, to submit requests for an informal conference. No comments or requests for an informal conference were received to the proposal. Therefore, FDA is amending 21 CFR 444.442g(a)(1) as set forth below.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has considered the economic impact of this final rule and has determined that it does not require a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the final rule imposes a minor amendment to an existing requirement without imposing a more stringent requirement. Accordingly, the agency certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Submitting Comments and Filing Objections

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before June 4, 1990, a written notice of participation and request for hearing; and (2) on or before July 2, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch (address above).

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 444

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 444 is amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 444 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 444.442g is amended by revising the sixth sentence in paragraph (a)(1) to read as follows:

§ 444.442g Neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension.

(a) * * *

(1) * * * Its pH is not less than 3.0 and not more than 7.0 * * *

* * * * *

Dated: April 19, 1990.

Sammie R. Young,

Deputy Director, Office of Compliance Center for Drug Evaluation and Research.

[FR Doc. 90–10286 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the approval of a new animal drug application (NADA) filed by Pfizer, Inc. The NADA provides for the use of a 48-gram-per-pound pyrantel tartrate Type A medicated article in manufacturing a Type B medicated feed for addition to the daily grain ration of horses as an anthelmintic. The regulations are amended in the Category II table of 21 CFR 558.4 by increasing the maximum level of pyrantel tartrate permitted in a Type B medicated feed.

EFFECTIVE DATE: May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed NADA 140–819. The NADA provides for the use of a Type A medicated article containing 48 grams of pyrantel tartrate per pound in manufacturing a Type B medicated feed (pellets). The pyrantel tartrate pellets are subsequently administered to horses by either top-dressing or mixing them into the animals' daily grain ration. The resulting medicated feed is indicated for the prevention of *Strongylus vulgaris* larval infections and for the control of certain strongyle, pinworm, and ascarid infections.

The NADA is approved and 21 CFR 558.485 is amended by revising

paragraphs (a)(1) through (a)(23), (a)(25), and (a)(27); by removing from the introductory text of paragraph (e) the phrase "in feed for swine"; by redesignating paragraphs (e)(1) through (e)(12) as set forth in the table below; by adding new paragraphs (e)(1) and (e)(2); and by revising newly redesignated paragraphs (e)(1)(x)(B) and (e)(1)(xi)(B) to reflect the approval. The basis for the approval is discussed in the freedom of information summary.

This approval provides for administering pyrantel tartrate to a new species (horses) at a maximum continuous feed use level of 12,000 grams per ton or 6 grams per pound (1.323 percent) as a top-dress on their daily grain ration. This use level necessitates increasing the maximum concentration of pyrantel tartrate permitted in a Type B medicated feed (based on swine use) as specified in the Category II table of 21 CFR 558.4. The increase is necessary because of the definition of a Type B medicated feed in 21 CFR 558.3(b), which provides that such a feed's maximum drug concentration may be no greater than 100 times the highest continuous use level and that it must contain at least 25 percent by weight nutritional ingredients. Hence, to produce the Type B feed, the Type A medicated article, which is nearly all pyrantel tartrate, must have its drug concentration reduced to 75 percent of 48 grams per pound, or 36 grams per pound. Accordingly, the regulations are further amended to increase the maximum concentration of pyrantel tartrate permitted in Type B feeds from 4.8 grams per pound to 36 grams per pound in the Category II table of § 558.4.

Additionally, because a Category II, Type A medicated article is involved, medicated feed applications (Form FDA 1900's) are required when the article is used to manufacture Type B medicated feeds. (The article is not approved for use in the manufacture of Type C medicated feed.)

REDESIGNATION TABLE

Old section	New section
558.485(e)(1)	558.485(e)(1)(i)
558.485(e)(1)(i)	558.485(e)(1)(i)(A)
558.485(e)(1)(ii)	558.485(e)(1)(i)(B)
558.485(e)(2)	558.485(e)(1)(ii)
558.485(e)(2)(i)	558.485(e)(1)(ii)(A)
558.485(e)(2)(ii)	558.485(e)(1)(ii)(B)
558.485(e)(3)	558.485(e)(1)(iii)
558.485(e)(3)(i)	558.485(e)(1)(iii)(A)
558.485(e)(3)(ii)	558.485(e)(1)(iii)(B)
558.485(e)(4)	558.485(e)(1)(iv)
558.485(e)(4)(i)	558.485(e)(1)(iv)(A)
558.485(e)(4)(ii)	558.485(e)(1)(iv)(B)
558.485(e)(5)	558.485(e)(1)(v)
558.485(e)(5)(i)	558.485(e)(1)(v)(A)
558.485(e)(5)(ii)	558.485(e)(1)(v)(B)
558.485(e)(6)	558.485(e)(1)(vi)
558.485(e)(6)(i)	558.485(e)(1)(vi)(A)
558.485(e)(6)(ii)	558.485(e)(1)(vi)(B)
558.485(e)(7)	558.485(e)(1)(vii)
558.485(e)(7)(i)	558.485(e)(1)(vii)(A)
558.485(e)(7)(ii)	558.485(e)(1)(vii)(B)
558.485(e)(8)	558.485(e)(1)(viii)
558.485(e)(8)(i)	558.485(e)(1)(viii)(A)
558.485(e)(8)(ii)	558.485(e)(1)(viii)(B)
558.485(e)(9)	558.485(e)(1)(ix)
558.485(e)(9)(i)	558.485(e)(1)(ix)(A)
558.485(e)(9)(ii)	558.485(e)(1)(ix)(B)
558.485(e)(10)	558.485(e)(1)(x)
558.485(e)(10)(i)	558.485(e)(1)(x)(A)
558.485(e)(10)(ii)	558.485(e)(1)(x)(B)
558.485(e)(11)	558.485(e)(1)(xi)
558.485(e)(11)(i)	558.485(e)(1)(xi)(A)
558.485(e)(11)(ii)	558.485(e)(1)(xi)(B)
558.485(e)(12)	558.485(e)(1)(xii)
558.485(e)(12)(i)	558.485(e)(1)(xii)(A)
558.485(e)(12)(ii)	558.485(e)(1)(xii)(B)
558.485(e)(12)(iii)	558.485(e)(1)(xii)(C)

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This approval qualifies for 3 years of marketing exclusivity beginning April 18, 1990, because the criteria for such exclusivity under the Generic Animal Drug and Patent Term Restoration Act of 1988 and section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)) have been met.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

Authority: Sec. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d), in the Category II table, at the entry for "Pyrantel tartrate", under the heading "Type B maximum (100x)" by removing "4.8 g/1b (1.1%)" and replacing it with "36 g/1b (7.9%)".

3. Section 558.485 is amended by revising paragraphs (a)(1) through (a)(23), (a)(25), and (a)(27); by removing from the introductory text of paragraph (e) the phrase "in feed for swine"; by redesignating paragraphs (e)(1) through (e)(12) as set forth in the table below; by adding new paragraph (e)(1), introductory text and new paragraph (e)(2); and by revising newly redesignated paragraphs (e)(1)(x)(B) and (e)(1)(xi)(B) to read as follows:

REDESIGNATION TABLE

Old section	New section
558.485(e)(1)	558.485(e)(1)(i)
558.485(e)(1)(i)	558.485(e)(1)(i)(A)
558.485(e)(1)(ii)	558.485(e)(1)(i)(B)
558.485(e)(2)	558.485(e)(1)(ii)
558.485(e)(2)(i)	558.485(e)(1)(ii)(A)
558.485(e)(2)(ii)	558.485(e)(1)(ii)(B)
558.485(e)(3)	558.485(e)(1)(iii)
558.485(e)(3)(i)	558.485(e)(1)(iii)(A)
558.485(e)(3)(ii)	558.485(e)(1)(iii)(B)
558.485(e)(4)	558.485(e)(1)(iv)
558.485(e)(4)(i)	558.485(e)(1)(iv)(A)
558.485(e)(4)(ii)	558.485(e)(1)(iv)(B)
558.485(e)(5)	558.485(e)(1)(v)
558.485(e)(5)(i)	558.485(e)(1)(v)(A)
558.485(e)(5)(ii)	558.485(e)(1)(v)(B)
558.485(e)(6)	558.485(e)(1)(vi)
558.485(e)(6)(i)	558.485(e)(1)(vi)(A)
558.485(e)(6)(ii)	558.485(e)(1)(vi)(B)
558.485(e)(7)	558.485(e)(1)(vii)
558.485(e)(7)(i)	558.485(e)(1)(vii)(A)
558.485(e)(7)(ii)	558.485(e)(1)(vii)(B)
558.485(e)(8)	558.485(e)(1)(viii)
558.485(e)(8)(i)	558.485(e)(1)(viii)(A)
558.485(e)(8)(ii)	558.485(e)(1)(viii)(B)
558.485(e)(9)	558.485(e)(1)(ix)
558.485(e)(9)(i)	558.485(e)(1)(ix)(A)
558.485(e)(9)(ii)	558.485(e)(1)(ix)(B)
558.485(e)(10)	558.485(e)(1)(x)
558.485(e)(10)(i)	558.485(e)(1)(x)(A)
558.485(e)(10)(ii)	558.485(e)(1)(x)(B)
558.485(e)(11)	558.485(e)(1)(xi)
558.485(e)(11)(i)	558.485(e)(1)(xi)(A)
558.485(e)(11)(ii)	558.485(e)(1)(xi)(B)
558.485(e)(12)	558.485(e)(1)(xii)
558.485(e)(12)(i)	558.485(e)(1)(xii)(A)
558.485(e)(12)(ii)	558.485(e)(1)(xii)(B)
558.485(e)(12)(iii)	558.485(e)(1)(xii)(C)

§ 558.485 Pyrantel tartrate.

(a) * * *

(1) To 000069: 9.6, 19.2, 48 and 80 grams per pound, paragraph (e)(1) of this section; 48 grams per pound, paragraph (e)(2) of this section.

(2) To 017800: 19.2 and 48 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(3) To 016968: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(4) To 026186: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(5) To 017790: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(6) To 018083: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(7) To 051359: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(8) To 011490: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(9) To 011749: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(10) To 043733: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(11) To 017274: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(12) To 046987: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(13) To 034936: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(14) To 021810: 9.6 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(15) To 049685: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(16) To 012190: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(17) To 047427: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(18) To 001800: 9.6 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(19) To 050568: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(20) To 050639: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(21) To 043734: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(22) To 017473: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(23) To 021676: 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

* * * * *

(25) To 020275: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

* * * * *

(27) To 010439: 9.6 and 19.2 grams per pound, paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

* * * * *

(e) * * *

(1) *Swine*—(i) * * *

* * * * *

(x) * * *

(B) *Limitations.* Administer in accordance with paragraph (c)(2)(i), (c)(2)(ii), or (c)(2)(iii) of § 558.325 and paragraph (e)(1)(ii)(B) of this section.

(xi) * * *

(B) *Limitations.* Administer in accordance with paragraph (c)(2)(i), (c)(2)(ii), or (c)(2)(iii) of § 558.325 and paragraph (e)(1)(iii)(B) of this section.

* * * * *

(2) *Horses*—(i) *Amount.* 1.2 milligrams per pound (2.64 milligrams per kilogram) of body weight.

(A) *Indications for use.* Prevention of *Strongylus vulgaris* larval infections; control of adult large strongyles (*S. vulgaris, S. edentatus,* and *Triodontophorus* spp.), adult and 4th stage larvae small strongyles (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Cylicodontophorus* spp., *Poteriostomum* spp.), adult and 4th stage larvae pinworms (*Oxyuris equi*), and adult and 4th stage larvae ascarids (*Parascaris equorum).*

(B) *Limitations.* Administer either as a top-dress (not to exceed 12,000 grams per ton) or mixed in the horse's daily grain ration (not to exceed 1,200 grams per ton) during the time that the animal is at risk of exposure to internal parasites. Not for use in horses intended for food. Consult your veterinarian before using in severly debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

Dated: April 17, 1990.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 90–10285 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR 847

Authentication of Official Air Force Records for Admission Into Evidence

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending title 32, chapter VII of the CFR by removing part 847, Authentication of Official Records For Admission Into Evidence. This rule is removed because it has limited applicability to the general public. This action is the result of departmental review. The intended effect is to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Patsy J. Conner, Air Force Federal Register Liaison Officer, SAF/AAIA, Pentagon, Washington, DC 20330–1000, telephone (202–694–3431).

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR, chapter VII, is amended by removing part 847.

Authority: 10 U.S.C. 8013.

PART 847—[REMOVED]

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–10216 Filed 5–2–90; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 90–34]

Special Local Regulations; City of Fort Lauderdale

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the City of Fort Lauderdale Whitbread Round the World Race. The event will be held on May 5, 1990, from approximately 12 a.m. edt to 2 p.m. edt. The regulations are needed to promote the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations will become effective on May 5, 1990, at 9

a.m. edt and terminate on May 5, 1990, at 2 p.m. edt.

FOR FURTHER INFORMATION CONTACT: Contact LTJG R. Malcolm Jr. (305) 535–4304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The updated information to hold the event was not received until March 26, 1990, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LCDR David G. Dickman, Project Attorney, Seventh Coast Guard District Legal Office, and LTJG Ralph Malcolm Jr., Project Officer, USCG Group Miami.

Discussion of Regulations

There will be twenty-two (22) yachts, ranging in size from 50 to 82 feet, participating in the Fort Lauderdale Whitbread Round the World Race. The event will start approximately one mile north of Port Everglades sea buoy (east of the spoil area). The course will continue north along the coast, will turn to the northeast at a point approximately 1500 yards east of Hillsboro Inlet Light and head seaward to the United Kingdom. There will be approximately 2000 spectator craft.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

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

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–0734 is added to read as follows:

§ 100.35–0734 Ft. Lauderdale's Whitbread Round the World Race.

(a) *Regulated Area:* (1) A regulated area is established with the southern boundary running from a position at 26–05.76 N, 80–05.37 W due east to position 26–50.76 N, 80–04.50 W. The western boundary runs due north from position 26–05.76 N, 80–05.37 W to position 26–06.52 N, 80–05.37 W, then to position 26–06.70 N, 80–05.60 W, then northerly along a line approximately three-quarters of a mile from the coastline to a position off Hillsboro Inlet Light at 26–15.55 N, 80–04.53 W, then to position 26–16.65 N, 80–04.10 W. The eastern boundary runs due north from position 26–05.76 N, 80–04.50 W to position 26–06.52 N, 80 04.50 W, then to position 26–08.00 N, 80–02.90 W, then northerly along the boundary of the territorial sea to position 26–16.65N, 80–01.50 W. The northern boundary runs from position 26–16.65 N, 80–04.10 W due east to position 26–16.65 N, 80–01.50 W.

(2) Coast Guard vessels, Coast Guard Auxiliary vessels and vessels designated with an official red "Whitbread Race" flag will be stationed so as to mark the regulated area perimeter.

(b) *Special Local Regulations:* (1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Port Everglades will be closed to inbound traffic from 10:30 a.m. edt until 12 p.m. edt. Inbound traffic will be escorted into Port Everglades from 9 a.m. edt until 10:30 a.m. edt and from 12 p.m. edt until 2 p.m. edt. Outbound traffic will be escorted out of Port Everglades from 9 a.m. edt until 2 p.m. edt. All military traffic will be escorted out of Port Everglades no later than 9:30 a.m. edt.

(4) Anchorage will not be permitted in the Port Everglades area. Alternate anchorage is available in the Miami area.

(5) After the termination of the Whitbread Round the World Race and the regulated area, all vessels may resume normal operations.

(c) *Effective Date:* These regulations become effective on May 5, 1990, at 9 a.m. edt and terminate on May 5, 1990, at 2 p.m. edt, unless sooner terminated by the Patrol Commander.

Dated: April 23, 1990.

Martin H. Daniell,

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

[FR Doc. 90–10250 Filed 5–2–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AD96

Independent Medical Opinions

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations to implement legislation which expanded the authority to request independent medical opinions to include certain pending claims. Authority to request such opinions had previously been limited to appeals pending before the Board of Veterans Appeals (BVA). The intended effect of this amendment is to establish a procedure for obtaining independent medical opinions if warranted in conjunction with claims pending at the regional office level.

EFFECTIVE DATE: June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Don England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 373–3005.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 25, 1989, (54 FR 43436–43437), VA published a proposed regulatory amendment to establish a procedure for requesting independent medical opinions when warranted in conjunction with claims pending at the regional office level. Interested persons were invited to submit written comments, suggestions or objections on or before November 24, 1989. Three comments were received: one from the Veterans of Foreign Wars of the United States, and two from interested individuals.

One commenter felt that requiring requests for independent medical opinions to be submitted to VA Central Office for approval and requiring the Compensation and Pension Service to obtain the opinions would not prove cost-effective and that by adopting such a requirement VA questions the integrity of its Adjudication Officers and Rating

Specialists. The commenter suggested that all requests for independent medical opinions be approved and obtained by regional office personnel.

VA does not concur. By requiring that requests for independent medical opinions be submitted for Central Office approval, VA ensures that the criteria for determining whether such a request is warranted by the medical complexity or controversy associated with a claim will be applied consistently. Opinions will be obtained using a list maintained by BVA of medical institutions, nationwide, which have agreed to provide advisory opinions upon request. Use of this list will assure that opinions furnished to a regional office are truly independent and are supported by accepted medical principles. BVA generally requests opinions in rotating order from the next institution on the list, so requests must be coordinated with BVA. It is more efficient to channel requests through the Compensation and Pension Service than to have the fifty-eight regional offices contact BVA separately.

The same commenter further suggested that if a request for an independent medical opinion is disallowed at the regional office level it could be construed as circumventing the due process provisions of 38 CFR 3.103. VA does not concur. Title 38, United States Code § 3009 clearly authorizes the Secretary to determine whether an independent medical opinion is warranted, and such a determination is part of VA's process of adjudicating a pending claim. When a decision is reached on the central issue of the claim, the claimant will be fully notified of that decision and of the right to appeal as required by 38 CFR 3.103(e).

Another commenter suggested that rather than allowing Adjudication Officers to determine that an independent medical opinion is not warranted, all requests for outside opinions be routinely referred to VA Central Office.

VA does not concur. Referring a claim to VA Central Office for review will inevitably extend processing time. Adjudication Officers are VA professionals with the expertise to identify those claims which can be allowed without an independent medical opinion, or those which clearly do not present an issue of such complexity as to warrant seeking such an opinion. In either situation it would be a disservice to the claimant to delay a decision by referring the claim to Central Office.

One commenter pointed out that under the proposed procedure VA would furnish a copy of any independent medical opinion to the claimant without qualification, although title 38, United States Code 3301(b)(1) gives the Secretary the discretion to withhold information which might be injurious to the physical or mental health of the claimant. He suggested that we include similar language in paragraph (d) of the proposed regulation. VA concurs and we have revised that part of the proposed regulation accordingly.

We appreciate the comments and suggestions submitted in response to the proposed rule, which is now adopted with the revision noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pension, Veterans.

Approved: April 5, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 3, Adjudication, is amended as follows:

Section 3.328 is added to read as follows:

§ 3.328 Independent medical opinions.

(a) *General.* When warranted by the medical complexity or controversy involved in a pending claim, an advisory medical opinion may be obtained from one or more medical experts who are not employees of VA. Opinions shall be obtained from recognized medical schools, universities, clinics or medical institutions with which arrangements for such opinions have been made, and an appropriate official of the institution shall select the individual expert(s) to render an opinion.

(b) *Requests.* A request for an independent medical opinion in conjunction with a claim pending at the regional office level may be initiated by the office having jurisdiction over the claim, by the claimant, or by his or her duly appointed representative. The request must be submitted in writing and must set forth in detail the reasons why the opinion is necessary. All such requests shall be submitted through the Adjudication Officer of the office having jurisdiction over the claim, and those requests which in the judgment of the Adjudication Officer merit consideration shall be referred to the Compensation and Pension Service for approval.

(c) *Approval.* Approval shall be granted only upon a determination by the Compensation and Pension Service that the issue under consideration poses a medical problem of such obscurity or complexity, or has generated such controversy in the medical community at large, as to justify solicitation of an independent medical opinion. When approval has been granted, the Compensation and Pension Service shall obtain the opinion. A determination that an independent medical opinion is not warranted may be contested only as part of an appeal on the merits of the decision rendered on the primary issue by the agency of original jurisdiction.

(d) *Notification.* The Compensation and Pension Service shall notify the claimant when the request for an independent medical opinion has been approved with regard to his or her claim and shall furnish the claimant with a copy of the opinion when it is received. If, in the judgment of the Secretary, disclosure of the independent medical opinion would be harmful to the physical or mental health of the claimant, disclosure shall be subject to the special procedures set forth in § 1.577 of this chapter.

(Authority: 38 U.S.C. 3009, 3301(b)(1); 5 U.S.C. 552a(f)(3))

[FR Doc. 90–10209 Filed 5–2–90; 8:45 am]

BILLING CODE 6320–01–M

38 CFR Part 21

RIN 2900-AE31

Veterans Education; Qualifying for the Montgomery GI Bill-Active Duty Through Service in the Selected Reserve

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: An individual may qualify for benefits under the Montgomery GI Bill-Active Duty by serving at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service and, after completion of active duty service, serving at least four continuous years in the Selected Reserve. The Veterans Education and Employment Amendments of 1989 now require that the service in the Selected Reserve begin within one year after the individual's discharge or release from active duty. This amended regulation will acquaint the public with the way in which the Department of Veterans Affairs (VA) will implement this new provision of law.

EFFECTIVE DATE: December 18, 1989.

FOR FURTHER INFORMATION CONTACT: June C. Schaefer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service (225), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington DC, 20420 (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 47790 and 47791 of the Federal Register of November 17, 1989, there was proposed an amendment to 38 CFR part 21 to provide that an individual who wished to establish eligibility for benefits under the Montgomery GI Bill-Active Duty by serving two continuous years on active duty followed by four continuous years service in the Selected Reserve had one year from discharge or release from active duty in order to affiliate with the Selected Reserve. Interested people were given 30 days to submit comments, suggestions or objections.

While this comment period was running, the Veterans Education and Employment Amendments of 1989 (Pub. L. 101-237) were enacted. That act indicates that such an individual must begin service in the Selected Reserve within one year of completion of his or her active duty.

After carefully considering the new provision of law, VA has determined that the provisions of the original proposal of November 17 are very similar to the provision of Public Law 101-237. Accordingly, VA is making the amended regulations final without further provision for comment, but with some minor changes in the wording so that the amended regulations will coincide with the wording of the law. Amended regulations implementing the remaining provisions of Public Law 101-237 will be proposed at a later date.

Since the provision of Public Law 101-237 which is reflected in these regulations was effective on December 18, 1989, VA has determined that good cause exists for making the amended regulations which implement that provision of law retroactively effective on December 18, 1989. To achieve the intent of this legislation for the affected individuals, it is necessary to implement this provision of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of this provision of law; and might result in the awarding of benefits to individuals who are not entitled to them.

VA has determined that these proposed regulations do not contain a major rule as that term is defined in E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 6, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21, Vocational Rehabilitation and Education, is amended as follows:

1. In § 21.7042, paragraph (b)(4) is revised and an authority citation is added, and paragraph (b)(9) and an authority citation are added so the revised and added text reads as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(b) * * *

(4) Except as provided in paragraphs (b) (6) and (9) of this section, after completion of active duty service, the individual must serve at least 4 continuous years service in the Selected Reserve. The individual must begin service in the Selected Reserve within one year from the date of his or her release from active duty. During this period of service in the Selected Reserve the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412; Pub. L. 101-237) (December 18, 1989)

* * * * *

(9) An individual who has met the requirements of paragraphs (b) (1) through (3) of this section and has made a commitment (as determined by the Secretary concerned) to serve 4 years in the Selected Reserve may pursue a program of education with basic educational assistance eligibility under paragraph (b) of this section while performing the 4-year Selected Reserve service requirement of paragraph (b)(4) of this section.

(Authority: 38 U.S.C. 1412; Pub. L. 101-237) (December 18, 1989)

2. In § 21.7044, paragraph (b)(4)(ii) is revised and an authority citation is added to read as follows:

§ 21.7044 Persons with 38 U.S.C. chapter 34 eligibility.

* * * * *

(b) * * *

(4) * * *

(ii) Except as provided in paragraph (b)(6) of this section, after completion of

active duty service, the individual must serve at least 4 continuous years service in the Selected Reserve. The individual must begin service in the Selected Reserve within one year from the date of his or her release from active duty. During this period of service in the Selected Reserve the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412; Pub. L. 101-237) (December 18,1989)

[FR Doc. 90-10210 Filed 5-2-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3758-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking; correction notice.

SUMMARY: This notice corrects a codification error which appeared in a final rulemaking on the approval and promulgation of implementation plans for Indiana. This final rulemaking was published in the April 3, 1984, **Federal Register** (49 FR 13144).

EFFECTIVE DATE: May 3, 1990.

FOR FURTHER INFORMATION CONTACT: E. Marie Huntoon, Air and Radiation Branch (5AR-26), United States Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: In particular, on page 13145 of the April 3, 1984, **Federal Register** in the first column, in the Identification of Plan section, the added paragraph dealing with Indiana's Fiber Glass Insulation Manufacturing (superfine process) Limitations, was incorrectly numbered as (c)(46).

In codifying this paragraph in the Code of Federal Regulations (CFR) (1984), this portion of the plan was codified as (c)(46), replacing the (c)(46) paragraph (concerning Indiana's Malfunctions Regulations, Indiana Administrative Code (IAC) 325 IAC 1.1-5) which was approved on February 14, 1984, (49 FR 5618).

Today USEPA is correcting this error by resubmitting for publication in the CFR (1990), the codification of the February 14, 1984, notice which was inadvertently replaced. This notice of approval will be added to the CFR as a new paragraph, (c)(83). USEPA is also taking this opportunity to update the codification of the Malfunctions rule from 325 IAC 1.1-5 to Indiana's present codification 326 IAC 1-6. This in no way affects USEPA's approval of the substance of this rule. USEPA is retaining its codification at (c)(46) for its approval of Indiana's Insulation Manufacturing (superfine process) Limitations. USEPA regrets any inconvenience this error has caused.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

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

Dated: April 9, 1990.

Valdas V. Adamkus,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS, INDIANA

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

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

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

2. Section 52.770 is amended by adding new paragraph (c)(83) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(83) On January 21, 1981, the State submitted its revised Malfunctions Rule 325 IAC 1.1-5. On November 16, 1988, Indiana submitted its recodified regulations. This rule was renumbered 326 IAC 1-6, Malfunctions.

(i) *Incorporation by reference.* (A) Title 326 of the Indiana Administrative Code (IAC), Rule 326 IAC 1-6: Malfunctions as published in the April 1, 1988, Indiana Register (IR) at 11 IR 2380. Filed with the Secretary of State on March 10, 1988.

(ii) *Additional materials.* (A) On July 2, 1982, the State submitted clarifications of its intent for 325 IAC 1.1-5.

* * * * *

[FR Doc. 90-10213 Filed 5-2-90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3100

[AA-620-00-4111-01; Circular No. 2606]

RIN 1004-AA97

Oil and Gas Leasing; Geothermal Resources Leasing Clarifying Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule, correction.

SUMMARY: The Bureau of Land Management is correcting a cross-reference error made in the text of the final rule clarifying procedures in the administration of the oil and gas leasing program, published in the **Federal Register** on May 16, 1988 (53 FR 17359).

FOR FURTHER INFORMATION CONTACT: Lois Mason, (202) 653-2190.

§ 3106-5 [Corrected]

1. The cross-reference in 43 CFR 3106.5 to "§ 3111.2 of this title" is corrected to read "§ 3110.5 of this title".

Dated: December 6, 1989.

David C. O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-10218 Filed 05-02-90; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 51222-6240]

Atlantic Sea Scallop Fishery

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

ACTION: Temporary adjustment of the meat count standard; extension of effective date.

SUMMARY: NMFS issues this notice to extend the duration of the temporary adjustment of the meat count and shell height standards for the Atlantic sea scallop fishery. This action extends to May 11, 1990, the temporary adjustment of the meat count/shell height standard of 33 meats per pound (MPP) (meats per 0.45 kg) and 3 7/16 inch (87 mm) shell height that was to expire on April 30, 1990. This action is taken to allow the New England Fishery Management Council (Council) to discuss the issue at its May meeting.

EFFECTIVE DATE: May 1, 1990, through May 11, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508–281–9331.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 650 implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) provide authority to the Director, Northeast Region, NMFS (Regional Director), to adjust temporarily the meat count/shell height standards (standards) for a period of up to 1 year upon finding that specific criteria are met.

On February 9, 1990 (55 FR 4613), a notice was published in the **Federal Register** implementing a temporary adjustment of the standards to 33 MPP (3 7/16 inches (89 mm) shell height) and outlining the process by which the adjustment was made. This adjustment was effective through April 30, 1990. However, because the next scheduled meeting of the Council is not until May 2–3, 1990, the Regional Director has decided to extend the duration of this adjustment for 11 days to allow sufficient time for the full Council to consider future direction in this fishery.

This extension of the temporary adjustment will be effective from May 1 through May 11, 1990. The meat count standard will remain 33 MPP with a corresponding 3 7/16 inch (87 mm) shell height standard. On May 12, 1990, the standards will revert to 30 MPP and 3½ inches (89 mm) shell height.

Other Matters

This action is taken under authority of 50 CFR part 650, and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: April 27, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–10294 Filed 4–30–90; 1:18 pm]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 91050–0019]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure to directed fishing; request for comments.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), is establishing a directed fishing allowance for Pacific cod in the Western Regulatory Area of the Gulf of Alaska and is prohibiting further directed fishing for Pacific cod by vessels fishing in that area from 12 noon, Alaska Daylight Time (ADT), on April 28, 1990, through December 31, 1990.

DATES: Effective from 12 noon, ADT, April 28, 1990, until midnight, Alaska Standard Time, December 31, 1990. Comments will be accepted through May 14, 1990.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker, Fishery Management Biologist, 907–586–7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000–800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Under § 672.20(c)(2), when the Regional Director determines that the amount of the TAC of any target species or of the "other species" category that has not been caught during the fishing year is necessary for bycatch in fisheries for other species during the remainder of the fishing year, he may establish a directed fishing allowance for that species or species group, and prohibit directed fishing for that species or species group in the specified regulatory area or district.

The 1990 TAC specified for Pacific cod in the Western area is 29,500 mt (55 FR 3223; January 31, 1990). The Regional Director has determined that 1,030 mt of Pacific cod will be required to provide bycatch for at least 7,400 mt of rockfish, sablefish, and other groundfish species expected to be taken in the Western Regulatory Area during the remainder of the fishing year. He therefore establishes a directed fishing allowance of 29,500 mt minus 1,030 mt, or 28,470 mt. The Regional Director reports that U.S. vessels have caught 25,494 mt of Pacific cod through April 14 in the Western Regulatory Area. At current catch rates, the directed fishing allowance will be taken on April 28, 1990.

Therefore, pursuant to § 672.20(c)(2), the Secretary is prohibiting further directed fishing for Pacific cod in the Western Regulatory Area of the Gulf of Alaska effective 12 noon, ADT, April 28, 1990. After the closure, amounts of Pacific cod on board vessels in the Western Regulatory Area at any time during a trip must be less than twenty percent of the total amount of fish and fish products retained on board a vessel, as calculated from round weight equivalents, pursuant to § 672.20(g)(3).

The entire TAC for Pacific cod in the Western Regulatory Area will be reached unless this notice takes effect promptly. If that happened, all Pacific cod taken in the area by other fisheries would be required to be discarded, resulting in considerable wastage. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

Public comments on the necessity for this action are invited through May 14, 1990. Public comments on this notice of closure may be submitted to the Regional Director at the address above.

Classification

This action is taken under § 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: April 27, 1990.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 90–10240 Filed 4–27–90; 4:47 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 55, No. 86
Thursday, May 3, 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 AGRICULTURE

Rural Electrification Administration

7 CFR Part 1762

Standard Forms of Telecommunications Contracts, Issuance of new REA Contract Form 773, Miscellaneous Construction Work and Maintenance Services Contract

AGENCY: Rural Electrification Administration, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend part 1762 of chapter XVII in title 7 of the Code of Federal Regulations to announce the issuance of new REA Contract Form 773. Part 1762 provides a list of the current REA standard forms of contracts used by telephone borrowers when obtaining engineering and architectural services, purchasing telephone materials and equipment, and constructing telephone facilities with REA loan funds. The listing also provides: (1) The purpose of each form, (2) the date of the current issue, and (3) the source where copies may be obtained.

REA is proposing to issue REA Contract Form 773, Miscellaneous Construction Work and Maintenance Services Contract. A telephone borrower will use the new form when it proposes to use REA loan funds to finance minor construction performed under contract. Minor construction is defined as being a telephone project estimated to cost $100,000 or less, including all labor and materials. The proposed action will impact REA telephone borrowers, contractors, consulting engineers, manufacturers, suppliers, and the REA.

This action will facilitate REA telephone borrowers in their efforts to provide subscribers with the most modern and efficient telephone service at the lowest reasonable cost.

DATES: Public comments must be received by REA no later than July 2, 1990.

ADDRESSES: Submit written comments to William F. Albrecht, Director, Telecommunications Staff Division, Rural Electrification Administration, room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. Copies of the document are available upon request from the above address. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Garnett G. Adams, Chief, Outside Plant Branch, Telecommunications Staff Division, Rural Electrification Administration, Washington, DC 20250–1500, telephone (202) 382–8667.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR part 3015, subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This rule does not contain new or amended reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under OMB approval number 0572–0062.

Background

REA has issued a series of 7 CFR chapter XVII parts which serve to implement the policies, procedures, and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. The purpose of this proposed revision to 7 CFR part 1762 is to announce the issuance of new REA Contract Form 773, Miscellaneous Construction Work and Maintenance Services Contract.

Proposed regulation 7 CFR part 1765, subpart G, sets forth the requirements and procedures to be followed by borrowers for minor construction of telecommunications facilities using REA loan funds. Under the regulation minor construction may be performed by contract using REA Contract Form 773, Miscellaneous Construction Work and Maintenance Services, or by workorder construction (construction performed by the borrower's employees). Contract Form 773 will not require REA approval, nor will it be required to be sent to REA. Normally, the borrower will finance minor construction with general funds and obtain reimbursement with loan funds when construction is completed and executed REA Form 771 has been submitted to REA. Form 771 is a summary of the total costs and net loan fund requirements for the construction completed. Contract Form 773 provides the support that the borrower needs to obtain REA loan funds. The Form may also be used to contract the maintenance and repair of telephone equipment and facilities. Generally, REA will not finance maintenance and repair contracts.

The new REA Contract Form 773 will provide a simplified, legally sufficient construction contract suitable for use on small miscellaneous construction or maintenance projects. It will have no adverse effect on telephone systems, contractors, consulting engineers, manufacturers, suppliers, or REA.

List of Subjects in 7 CFR 1762

Loan Programs—communications, Telecommunications, telephone.

In view of the above, REA is proposing to amend 7 CFR part 1762 to reflect issuance of a new Contract Form 773.

PART 1762—[AMENDED]

1. The authority citation for part 1762 continues to read:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. The table in § 1762.01 would be amended by adding an entry for REA Form 773 to read as follows:

§ 1762.01 List of standard forms of telecommunications contracts.

REA form No.	Issue date	Title	Purpose	Source of copies
*	*	*	*	*
773	Date of Final Rule	Miscellaneous Construction Work and Maintenance Services Contract.	Minor construction by contract and maintenance and repair of telephone system facilities.	REA [1].
*	*	*	*	*

[1] A limited number of copies of the publication will be furnished by REA upon request. As this document is produced by the Federal Government and is, therefore, in the public domain, additional copies may be duplicated locally by any user as desired. Requests for copies should be sent to the Director; Administrative Services Division, U.S. Department of Agriculture, Rural Electrification Administration, Washington, DC 20250. The telephone number of the REA Publications Office is (202) 382-8674.

* * * * *

Dated: April 23, 1989.

George E. Pratt,

Acting Administrator.

[FR Doc. 90-10325 Filed 5-2-90; 8:45 am]

BILLING CODE 3410-15-M

Farmers Home Administration

7 CFR Parts 1941, 1943, and 1945

Clarification of Eligiblity Criteria in Farmer Program Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to clarify one of the eligibility requirements that farm applicants must meet to obtain loan assistance. The reason for amending these regulations is to consistently specify that farmer program loan applicants must provide current and complete information when applying for assistance. The intended effect is to disqualify those who file incomplete or fradulent applications from receiving FmHA assistance.

DATES: Written comments must be submitted on or before June 4, 1990.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mark Falcone, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 475-4019.

SUPPLEMENTARY INFORMATION:

Classification

This action was reviewed under USDA procedures established in Department Regulation 1512-1, which implements Executive Order 12991, and has been determined to be nonmajor because it will not result in an annual effect on the economy of $100 million or more.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 25115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Adminstration Programs and Activities" (December 23, 1983), Farm Ownership Loans, Farm Operating Loans, Soil and Water Loans and Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officals.

Programs Affected

These changes affect the following FmHA program as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Discussion of Proposed Rule

Loans made to FmHA applicants are governed mainly by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 et seq.). The CONACT states that the FmHA County Committee shall require applicants to meet certain eligiblity requirements before certifying such applicants eligible for loan assistance. One of the requirements addresses the need for the County Committee to certify that an applicant will "honestly endeavor to carry out his undertakings and obligations." 7 CFR parts 1941-A, Operating Loan Policies, Procedures, and Authorizations; 1943-B, Insured Soil and Water Loan Policies, Procedures, and Authorizations; and 1945-D, Emergency Loan Policies, Procedures, and Authorizations implement this statutory requirement.

The present regulations do not use uniform language and do not clarify the intent of Congress on this specific eligiblity requirement. It has been brought to our attention that some applicants have intentionally provided false or incomplete information of their applications. As as result, clarification of the present language addressing this eligibility requirement is necessary.

FmHA therefore, proposes to use the same language in all four regulations to explain that the applicant must provide current and complete information when applying for assistance and make every reasonable effort to carry out the

conditions and terms of the proposed loan in order to meet the statutory elibility requirement. This amendment would allow FmHA County Committeepersons to deny applicants assistance if they intentionally and obviously deleted or falisified information on their application because this would demonstrate that they had not honestly endeavored to carry out their undertakings and obligations.

List of Subjects

7 CFR Part 1941

Crops, Livestock, Loan programs-agriculture, Rural areas, Youth.

7 CFR Part 1943

Credit, Loan programs-agriculture, Recreation, Water resources.

7 CFR Part 1945

Agriculture, Disaster assistance.

Intergovernmental relations, Livestock, Loan program-agriculture.

Therefore, as proposed, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1941—OPERATING LOANS

1. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

2. Section 1941.12 is amended by revising paragraphs (a)(5) and (b)(5)(iv) to read as follows:

§ 1941.12 Eligibility requirements.

* * * * *

(a) * * *

(5) Honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(b) * * *

(5) * * *

(iv) They and the entity itself will honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER RECREATION

3. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 AND 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

4. Section 1943.12 is amended by revising paragraphs (a)(5) and (b)(4)(iv) to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

* * * * *

(a) * * *

(5) Honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(b) * * *

(4) * * *

(iv) They and the entity itself must honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

5. Section 1943.62 is amended by revising paragraphs (a)(4) and (b)(2) to read as follows:

§ 1943.62 Soil and Water loan eligibility requirements.

* * * * *

(a) * * *

(4) Honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(b) * * *

(2) Honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

PART 1945—EMERGENCY

6. The authority citation for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loan Policies, Procedures and Authorizations

7. Section 1945.162 is amended by revising paragraph (h) to read as follows:

§ 1945.162 Eligibility requirements.

* * * * *

(h) *Honestly endeavor.* The applicant will honestly endeavor to carry out the applicant/borrower's undertakings and obligations. This would include, but is not limited to, providing current and complete information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

Dated: April 13, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-10324 Filed 5-2-90; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-55]

Yankee Atomic Electric Company; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking dated February 9, 1990, which was filed with the Commission by the Yankee Atomic Electric Company. The petition was docketed by the Commission on February 16, 1990, and has been assigned Docked No. PRM-50-55. The petitioner requests that the NRC change the requirement that nuclear power plant licensee file revisions to the final safety analysis report no less frequently than annually. The petitioner also requests that the regulations require that revisions be filed no later that six

months after completion of each planned refueleing outage for a licensee's facility. The petitioner believes this change would permit more effective use of licensee and NRC resources and allow more meaningful scheduling for final safety analysis report updates.

DATES: Submit comments by July 2, 1990. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

For a copy of the petition, write the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301–492–7758 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

The Petitioner

On February 9, 1990, the Yankee Atomic Company (YAEC) filed at request for action under 10 CFR 2.802 with the Nuclear Regulatory Commission (NRC). The petitioner owns and operates a nuclear power plant in Rowe, Massachusetts and provides engineering and licensing services to other nuclear power plants in the Northeast.

Background

The NRC requires each power plant licensee to maintain records and to submit reports in connection with its activities under 10 CFR 50.71. Paragraph (e)(4) of § 50.71 requires licensees to file revisions to the FSAR no less frequently than annually. This paragraph also stipulates that the revised FSAR reflects all changes up to a maximum of six months prior to the date of filing. The FSAR, as required under § 50.34(b), describes the facility, presents the design bases and limits on its operation, and presents a safety analysis of the structures, system, and components and of the facility as a whole.

The Suggested Amendment

The petitioner requests that the NRC amend 10 CFR 50.71(e)(4) to change the requirement that nuclear power plant licenses file revisions to the final safety analysis report (FSAR) no less frequently than annally. To accomplish the desired amendment, the petitioner suggests that § 50.71(e)(4) be revised to read as follows:

"Unless directed otherwise by the Executive Director for Operations, subsequent revisions shall be filed no later than six months after completion of each planned refueling outage for a licensee's facility. If two or more facilities share a common FSAR, the licensee shall designate the refueling outage schedule of one of the multiple facilities to establish the schedule for revisions of the common FSAR. The FSAR revisions shall reflect all changes up to maximum of six months prior to the date filing."

Supporting Information

The petitioner recognizes the value of periodically updating a facility's FSAR. The purpose of this suggested amendment is to permit more effective utilization of both licensee and NRC resources and to allow more meaningful scheduling for FSAR updates consistent with the current operational practices of nuclear power generation facilities. The petitioner believes that practically every operating facility schedules the implementation of major physical changes to coincide with planned refueling outages. As a result, the changes that are made during a refueling outage are typically those which give rise to the most extensive and meaningful changes to the facility's FSAR.

The petitioner believes that the coordination of the revisions of a facility's FSAR with its refueling schedule would offer the multiple benefits of reducing the total number of submittals required during the licensed life of the facility, increasing the flexibility of the licensee the planning and scheduling its work, and providing a more logical and generally more timely basis for incorporating facility changes in the FSAR.

The petitioner recognizes that the benefits of the suggested amendment cannot be realized fully in those instances where two or more facilities share a common FSAR. However, the petitioner believes that the licensees of these multiple units will still derive significant benefits by being permitted to coordinate their FSAR revision schedule with the planned refueling outgage schedule of at least one of their units.

Potential Benefits

According to the petitioner's calculations, there are approximately 70 FSARs which must be revised annully to satisfy the current provisions of 10 CFR 50.71(e)(4). These 70 FSARs include 28 FSARs which describe two unit facilities and 3 FSARs which described three unit facilities. Based on the cumulative number of years remaining until the expiration of existing licenses, 2,243 submittals will be required to satisfy the existing rule. If an average operating cycle of eighteen months is assumed, the petitioner's suggested amendment would reduce the total number of required submittals by approximately 650. The projected savings do not include those which would be anticipated for facilities which will have their licenses renewed after expiration of their original 40-year licenses. Many of the costs associated with the production of a FSAR revision are completely independent of the size or content of a specific revision. Therefore, the petitioner believes that this simple calculation indicates the petential for significant cost savings with the implementation of suggested amendment.

The petitioner also believes that the increased flexibility which would be afforded licensees in planning and scheduling their work will be the major benefit of the suggested amendment and that this can be accomplish with no decrease in the present quality or timeliness of FSAR updates. According to the petitioner, there are obvious benefits and savings for the NRC in reducing the administrative burden imposed by the present rule. The reduction in administrative burden would include significantly fewer instances in which the NRC would have to deal with licensee requests for exemptions due to schedule conflicts and other problems.

Dated: in Rockville, Maryland, this 27th, day of April 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90–10333 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563g

[No. 90-691]

RIN 1550-AA09

Sales of Securities at Savings Association Offices

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of Thrift Supervision (the "Office") is publishing for comment proposed amendments to its regulations relating to direct sales of securities of a savings association or its affiliates at the association's offices. The proposed changes would prohibit a savings association from selling or allowing to be sold any debt securities of the savings association or its affiliates on the premises of a savings association that are generally accessible to the public for the purpose of accepting insured deposits. Sales of equity securities would be subject to the same conditions as are present in the existing rule. The proposed amendment and alternatives are intended to minimize potential customer confusion and the danger of customer deception regarding the nature of investments sold, as well as corresponding potential liability for a savings association where customers claim they were misled regarding the characteristics and risks of the securities they purchased. The Office is seeking comments on all aspects of the proposed rule including any alternative amendments, during the next 30 days. To assist commentators in formulating their comments on the proposed rule, the Office has also described below, under **SUPPLEMENTARY INFORMATION** some additional related issues and possible alternatives to the proposed rule for commentators' consideration.

DATES: Comments must be received by June 4, 1990.

ADDRESSES: Comments may be submitted to: Director, Information Services Division, Office of Communications, Office of Thrift Supervision, Department of Treasury, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at 801 17th Street, NW., Lobby Level.

FOR FURTHER INFORMATION CONTACT: Paul D. Glenn, Senior Counsel (202) 906-6203, Deborah F. Silberman, Associate Chief Counsel for Industry Finance, Corporate and Securities Division; Julie L. Williams, Deputy Chief Counsel, (202) 906-6459; Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552; Francis E. Raue, Policy Analyst, (202) 331-4586 or John F. Robinson, Deputy Director for Supervisory Analysis, (202) 331-4587, Supervision-Policy, Office of Thrift Supervision, 801 Seventeenth Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Background

Part 563g of the Office's regulations establishes uniform disclosure requirements for securities offerings by savings associations chartered by the Office or whose accounts are insured by the Federal Deposit Insurance Corporation. 12 CFR part 563g. As adopted by the former Federal Home Loan Bank Board (the "FHLBB"), the regulations under part 563g became effective March 1, 1986.[1] Section 563g.17 currently specifies certain requirements where savings associations seek to sell their own securities or those of an affiliate in the savings association's office(s).[2] To provide maximum protection against confusion that may arise as a result of on-premises sales of debt securities of an association or its affiliates at locations where insured deposits are taken from the general public, the Office is now proposing for comment an amendment to the rule that would prohibit all such sales of debt securities. The Office also seeks comment on any alternative approaches that would clarify and expand the safeguards contained in the Office's existing rules.

B. Discussion of the Proposed Rule and Request for Public Comment

The Office currently has in place various safeguards applicable to a savings association's sales of its own securities or those of an affiliate, on the premises of the savings association. No other federal banking regulatory agency has any rules or regulations prohibiting or limiting the direct sales of securities of a deposit taking institution or its affiliates at the institution's offices. Nevertheless, the Office is adopting these additional protective measures because there appears to be a need for additional safeguards in this area and the proposed amendments to the rule appear to provide the best alternative for an effective regulation of the sales of securities. Thus, the Office is proposing for comment changes to the rule that would prohibit a savings association from selling or allowing to be sold any debt securities of the savings association or its affiliates on the premises of a savings association which premises are generally accessible to the public for the purpose of accepting insured deposits. The text of the proposed rule is set forth below.

The Office is also providing an opportunity to comment on any alternative possibilities that would minimize the potential for customer confusion and danger of customer deception regarding the nature of securities investments, as well as the corresponding potential liability for a savings association where customers claim they were misled regarding the characteristic and risks of the securities they purchased. The Office expects that such alternatives would be a series of significant enhancements to the safeguards currently contained in 12 CFR 563g.17.

Proposed Rule

Section 563g.17 now applies to offers and sales of securities by savings associations or their affiliates on the premises of the savings association or its affiliate. The Office is proposing for comment a revision to § 563g.17 whereby language would be added to the text of the rule prohibiting offers or sales of debt securities of a savings association or an affiliate thereof in the offices of the savings association that are generally accessible to the public for the purpose of accepting insured deposits. The text of the existing rule would be revised to apply to only offers and sales of equity securities.

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[1] Part 563g was first proposed in 1983. *See* FHLBB Rel. No. 83-126 March 3, 1983, 48 FR 10684 (March 14, 1983). On the same day, in a final rule, the FHLBB made the offering circular requirement of proposed Part 563g applicable to federally chartered de novo stock savings associations. *See* FHLBB Rel. No. 83-127, March 3, 1983, 48 FR 10612 (March 14, 1983). Thereafter, on September 13, 1985, Part 563g was reproposed for public comment in revised form. *See* FHLBB Rel. No. 85-822, September 13, 1985, 50 FR 38839 (September 25, 1985). The final rule was adopted on December 20, 1985 and became effective as of March 1, 1986, incorporating a number of technical and clarifying amendments adopted by the FHLBB on February 28, 1986. *See* 51 FR 8184 (March 10, 1986).

[2] In the past, the FHLBB imposed various restrictions on the sales of specific securities such as subordinated debt. On January 8, 1973, the FHLBB permitted the sales of subordinated debt securities in minimum amounts of $50,000. On May 30, 1980, the FHLBB permitted sales of subordinated debt in denominations of $10,000 for such securities not offered or sold in the offices of the association or its affiliate. On December 5, 1984, the FHLBB raised the minimum denomination for subordinated debt to $100,000 but lowered to $1000 the minimum denomination for such securities not offered or sold in the offices of the association or its affiliate. On March 1, 1986, the FHLBB repealed the minimum denomination on subordinated debt when the FHLBB adopted § 563g.17. The hope was that the comprehensive full disclosure mechanism provided by Part 563g would protect the interests of otherwise unsophisticated investors.

In this respect, the Office is cognizant that sound arguments may be made that the danger of customer confusion between the risk characteristics of a federally insured deposit and uninsured securities of a savings association or its affiliates may be insurmountable where debt securities are sold on the savings association's premises, notwithstanding stringent disclosure standards and sales practice requirements. This phenomenon is particularly apparent in the case of debt securities because they are, by their nature, denominated comparably to deposits.

Under the proposed rule, a savings association would still be able to sell its equity securities on the savings association's premises so long as compliance with all of the conditions in the regulation was effected. Furthermore, under the proposed rule, a savings association would still be able to sell its securities through the means of a private placement (see, 12 CFR 563g.4) or have its securities offered and sold by an underwriter.

As in true under the existing rule, exceptions from certain provisions of the proposed rule may be available under 12 CFR 563g.14, but only on a case-by-case basis and upon a demonstration of the use of effective safeguards. Such safeguards generally would include the use of a type of acknowledgment form stating that the purchaser has received an offering circular for the securities and that the purchaser understands that the securities are not deposits in the savings association and are in no way insured by the United States government or any instrumentality thereof. Exceptions will be granted sparingly and only where the savings association has clearly and convincingly demonstrated compliance with appropriate safeguards. For example, Thrift Bulletin 23 ("TB–23") "Over-the-counter ("Retail") Sales of Debt Securities: Consumer Protections; D&O Responsibilities and Liabilities; Minimum Denominations" enunciated many specific safeguards with which savings associations seeking exceptions will be expected to comply. Also, reasons for needing an exception might include the inability of the savings association to obtain the services of an underwriter due to the proposed size of the offering and/or size of the savings association and an undertaking that the proceeds of the offering would at least bring the savings association's capital into compliance with its current capital requirements with strong prospects for reaching its fully phased-in capital requirements before December 31, 1994. The Office will issue additional guidance on the standards and procedures for the exception process in the near future.

Comments are solicited on whether the Office should also prohibit or restrict the sales of securities of the savings association or its affiliate at a non-deposit-taking office(s) of the savings association, such as at a separate headquarters building, or whether the savings association should be able to make such sales by mail, by telephone, or by using savings association personnel at prearranged appointments outside the offices of the savings association, such as at investors' homes or independent locations.

Request for Public Comment

The Office also desires, and is hereby requesting, comment on all aspects of the proposed rule and on any alternatives to the proposed rule that would minimize the potential for customer confusion and danger of customer deception regarding the nature of such securities investments, as well as the corresponding potential liability for a savings association.

Commentators should state whether the proposed rule is an appropriate concept to use in regulating the sales of securities of a savings association and/or its affiliates and what other methods could accomplish the same goals. Specifically, the Office is interested in comments on any series of significant modifications to the existing § 563g.17 regarding the circumstances under which a savings association can be permitted safely to sell its securities or the securities of an affiliate at the offices of the savings association. To assist commentators in commenting on the proposed rule, the Office has set forth hereinafter some issues and current Office practices that may help to provide some insights and potential additional safeguards in additon to the safeguards already in the existing 12 CFR 563g.17.

1. *Specific disclosure to customers.* The Office could add a new paragraph requiring that each purchaser of securities sold on the savings association's premises be provided with a specified brief and unambiguous disclosure document (i) stating prominently that the security is not a deposit and has no federal insurance, (ii) if applicable, stating that the security is subordinated and the extent of such subordination, and (iii) if applicable, stating that the investment involves other risks, as set forth on specified pages of the offering circular. In addition, a written acknowledgment could be required to the effect that each customer was provided with a copy of an offering circular for the securities before making the purchase and that the customer is aware that the security is not a federally insured deposit or account.

In practice, such a change would require that each purchaser be provided with a subscription order form and that the purchaser's signature be obtained on that order form. Such purchasers would be required to sign an acknowledgment for receipt of a securities offering circular that discloses the nature of the securities and describes the risks involved in such an investment. The order form itself would be required to represent prominently that the security is not a deposit and has no federal insurance; if applicable, that the security is subordinated, the extent of its subordination (*i.e.*, subordinated to any of the savings association's deposits and other creditors), and that significant losses by the savings association, or its affiliate, as appropriate, would limit the savings association's ability to repay the obligation. Such a subscription order form could also provide the issuer with another opportunity to highlight for the purchaser any special features of the offering such as those that could result in special tax consequences to the purchaser or any particular risks associated with the investment as set forth in more detail on certain specified pages of the offering circular.

While it is possible that the Office could implement a sort of a "cooling-off" period after purchase of such a security, such a requirement, to provide an offering circular before the purchase of securities would go further than the requirements of the Securities and Exchange Commission that require delivery of a final prospectus prior to or simultaneously with confirmation of the securities transaction. In other words, it is possible that a rule could be crafted to provide a retail purchaser with a certain amount of time in which to renounce the securities purchase after leaving a savings association's office. Such a provision would give the investor more time to reconsider his investment, but such a requirement would also add uncertainty to the expected sales by the savings association.

2. *Minimum denominations.* An alternative approach to an outright ban on the sale of debt securities would be to add a new paragraph to § 563g.17 requiring that if securities sold pursuant to 12 CFR 563g.17 are any type of debt securities, such securities could be sold in denominations or lots of not less than $100,000. Such a minimum denomination requirement would be designed to minimize the risk of customer confusion

between insured accounts and uninsured debt securities and would also help to assure that uninsured debt securities are not purchased by unsophisticated customers for whom they would be an unsuitable investment.

The Office's TB–23 stated that Supervision Operations generally would regard "retail" sales of debt securities in denominations of less than $10,000 as an unsound practice. Under such a minimum denomination rule, the Office would be incorporating that guideline as a rule and would be increasing the minimum amount to serve as a better indication of customer sophistication and ability to bear the economic risk of such an investment. The Office is interested in comments on whether such a minimum threshold of purchases should be raised, lowered, retained, or eliminated. The Office is concerned that investors unable to bear the risk of a high-risk investment not purchase such securities without sufficient appreciation of the nature of the securities. Nevertheless, recent unfortunate experience has indicated that even a modestly unsophisticated investor might be persuaded to "roll-over" a certificate of deposit in an amount much greater than $10,000 into a riskier investment based upon a promise to pay a higher interest rate, with or without an accurate understanding of the greater risks associated therewith.

3. *Advertising.* Another safeguard under the current regulatory scheme could be to add a new paragraph to § 563g.17 requiring that the contents of all advertising literature and sales practices for such securities be subject to the unsafe or unsound practices provisions in § 563g.10 and be subject to any further guidance of the Office.

The aforementioned TB–23 had attached thereto Corporate and Securities Memorandum No. 2, dated March 21, 1989 (the "CASD Memo #2"). CASD Memo #2 expressed concerns and offered guidance regarding securities advertising materials for debt offerings by savings associations, and in particular, the application of Securities and Exchange Commission rules 134 and 135 [3] relating to advertisements (communications not deemed a prospectus) and "offers" (notice of certain proposed offerings). The Office expects such guidance to be followed by savings associations. In addition, the Office would consider specifically providing that advertising and sales practices be made subject to the anti-fraud type prohibitions of 12 CFR 563g.10 (unsafe or unsound practices) as well as subsequent announcements of legal or supervisory guidance. Such an arrangement would allow the staff to more quickly alert savings associations to areas of concern. The Office solicits comments on this approach and any suggestions for any related requirements that should be added to the Office's regulations.

4. *Legend.* Another safeguard that could be added to the current rule would be to add a new paragraph to § 563g.17 requiring a savings association to legend each security of the savings association or its affiliate(s) sold directly at the savings association's office(s) as well as all advertisements and offering documents relating to the securities sold at such office(s) stating, on the face of the security, in a prominent and plainly legible form, the following legend: "This security is not a savings account or a deposit and is not insured by the Federal Deposit Insurance Corporation." Such a legend could be patterned after the regulation requiring a similar legend on all repurchase agreements sold by savings associations pursuant to § 563.84 of Subchapter D. Such disclosure would already be expected to appear on most securities that savings associations issue, but including such a requirement in 12 CFR 563g.17 could help to avoid confusion by purchasers of the savings association or its affiliates' securities at the savings association.

5. *Prohibited representations.* The Office could also add a new paragraph to § 563g.17 prohibiting a savings association from using in each securities certificate of the savings association or its affiliate(s) sold directly at the savings association's office(s) as well as all advertisements and offering documents relating to the securities sold at such office(s), the terms "guaranteed," "no risk," "account," "deposit," "withdraw," or any other terms that imply the security is insured or guaranteed by the United States government or an agency of the United States government, or the term "fund" or other terms that imply the security is an interest in an investment company. A similar requirement appears in § 563.84 of Subchapter D relating to all repurchase agreements sold by savings associations. The Office has seen some, although not extensive, evidence that savings associations improperly use the words described in this additional section; however, to provide additional guidance to savings associations and consistency in communications with investors, the Office could include such an additional provision. By including this requirement in § 563g.17, savings associations would be reminded to avoid confusing or erroneous terms in the referenced materials.

6. *Sales locations.* Section 563g.17(b) of the existing rule requires that no offers or sales of securities of the savings association or its affiliates be made by tellers or at the teller counter, or by comparable persons at comparable locations. Instead of prohibiting sales of all or some of a savings association or its affiliates' securities at offices of a savings association, the Office could affirmatively require that sales of the issuers' or affiliates' securities be made at readily identifiable segregated areas of the savings association similar to the principle followed by this Office in approving applications for sales of securities in a federal savings association by a service corporation or affiliated discount brokerage service.[4]

7. *Regulatory capital compliance by the savings association.* Paragraphs (c) and (d) of the current § 563g.17 require that sales be made only by "regular, full-time employees of the savings association," while paragraph (d) requires that the savings association be in compliance with its regulatory capital requirements. Compliance with the Office's new regulatory capital rule [5] is the standard that the selling savings associations now need to meet. Commentators should address whether this provision could be safely broadened to permit savings associations to sell securities that would bring the savings association into compliance with its capital requirements pursuant to a pre-approved capital plan or sales of securities as part of an approved conversion from the mutual to the stock form of ownership pursuant to § 563b.

Regulatory Flexibility Act

The Office does not believe that the proposal will have a significant adverse impact on a substantial number of small entities, but specifically requests comment on this issue.

Executive Order 12291

The Director of OTS has determined that this proposed rule does not constitute a "major rule" and, therefore, will not require the preparation of a final regulatory impact analysis.

List of Subjects in 12 CFR Part 563g

Reporting and recordkeeping requirements, Savings associations, Securities.

[3] 17 CFR 230.134, 230.135.

[4] *See* 12 CFR 545.74(c)(4)(A).

[5] 54 FR 46845 (Nov. 8, 1989), to be codified at 12 CFR part 567.

Accordingly, the Office of Thrift Supervision hereby proposes to amend part 563g, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—REGULATION APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563g—SECURITIES OFFERINGS

1. The authority citation for part 563g continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103, Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 3(b), 12–14, 16, 23, 48 Stat. 882, 892, 894–896, 901, as amended (15 U.S.C. 78c(b), 78 *l*, m, n, p, w).

2. Section 563g.17 is revised to read as follows:

§ 563g.17 Direct sales of securities at an office of a savings association.

(a) Equity securities of a savings association or an affiliate may only be offered or sold on the premises of a savings association which are generally accessible to the public for the purpose of accepting insured deposits if:

(1) No commissions are paid to any employee or other person;

(2) No offers or sales are made by tellers or at the teller counter, or by comparable persons at comparable locations;

(3) Offers and sales are made only by regular, full-time employees; and

(4) The association issuing the securities is in compliance with the Office's regulatory capital requirements during the time the offering is made, except that such compliance is not required for repurchase agreements issued in compliance with § 563.84 of this subchapter or for offerings for which the requirement of this paragraph is waived pursuant to § 563g.14 of this part.

(b) Debt securities of a savings association or its affiliates may not be offered or sold on the premises of a savings association which are generally accessible to the public for the purpose of accepting insured deposits.

By the Office of Thrift Supervision.

Salvatore R. Martoche,

Acting Director.

Jonathan L. Fiechter,

Principal Senior Deputy Director.

[FR Doc. 90–10358 Filed 5–2–90; 8:45 am]

BILLING CODE 6720–01–M

NATIONAL CREDIT UNION ADMINISTATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Rule.

SUMMARY: As many as thirteen states may authorize state-chartered credit unions to offer "uninsured membership shares." These shares are at risk to the member and are intended to serve as a form of capital for the credit union. The purpose of this proposed amendment is to provide that, as a condition of federal share insurance, federally insured state-chartered credit unions may not offer these uninsured shares. This amendment will only affect a small number of credit unions.

DATES: Comments must be received on or before July 1 1990.

ADDRESSES: Send comments to Becky Baker, Secretary, NCUA Board, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION: In general, a member's individual share account in a federally insured credit union is insured up to $100,000 by the National Credit Union Share Insurance Fund (NCUSIF). There may be as many as thirteen state statutes, however, that authorize state-chartered credit unions to have uninsured membership shares. The amount of a member's uninsured shares may be as little as a few dollars or as much as several thousand dollars, depending on state law and the policies of the individual credit union. In any case, a situation is presented where, even though the member may have significantly less than $100,000 in his combined share accounts, an initial amount of the member's funds is not insured.

NCUA is aware of only four federally insured state-chartered credit unions that presently offer this type of account. Recently, additional credit unions have indicated that they are considering offering uninsured membership shares. These accounts can be operated in various ways, but the following is one approach. The credit union offers an uninsured membership share with a dividend rate that is higher than the share certificate rate to attract investors. A member is under no obligation to invest in this uninsured share. The uninsured share may have a par value of up to several thousand dollars and members may invest in part or all of the share. A member may only purchase one share. If a member decides to purchase the share, he deposits funds into the credit union, receives a share certificate and is informed that the account is uninsured. The share normally has a maturity of three or four years and the ability to transfer the share or withdraw the funds is severely limited.

The NCUA Board has a number of concerns with uninsured membership shares:

—Section 207(k)(1) of the FCU Act (12 U.S.C. 1787(k)(1)) states in part that "the term 'insured account' means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of $100,000" and that "in determining the amount due any member, there shall be added together all accounts maintained by him * * *." Thus, the FCU Act does not appear to contemplate uninsured membership shares; rather, it indicates an intent to provide insurance coverage on all of the first $100,000. This is consistent with the purpose of share and deposit insurance of protecting the average saver.

—When a credit union advertises federal insurance coverage up to $100,000 on members' shares and then either requires or offers uninsured membership shares, the Board is concerned that confusion will inevitably result, even where good faith efforts are made to disclose the uninsured status of the account. The failure of a credit union offering these accounts is likely to result in substantial adverse public reaction, litigation, and potentially increased liability to the National Credit Union Share Insurance Fund.

—There appears to be no effective and coherent plan, on the part of some credit unions offering or planning to offer these accounts, to deal with losses that must be absorbed by uninsured shares. Important questions are not addressed, including whether other capital accounts are used first to absorb losses, what type of notice is to be provided to members, whether the member is obligated to replenish the share, and whether the credit uion is obligated at any point to restore amounts used to absorb losses.

—Proponents of the uninsured membership share concept argue that these shares serve as an additional

source of capital to support more rapid asset growth and to enable the credit union to fund new programs and services. While NCUA encourages sound levels of asset growth, it is concerned with the potential for the use of uninsured shares to support excessive rates of growth. It is noted that federal credit unions, and the vast majority of state-chartered credit unions, continue to successfully use the traditional method of building capital, i.e., setting aside earnings to both support reasonable rates of asset growth and improve overall capital ratios. For example, federal credit union assets increased by about 5% in 1989, while unencumbered reserves and retained earnings expanded from 6.9% to 7.4% of total assets.

In view of all of the above considerations, the NCUA Board proposes that uninsured membership shares be prohibited in federally insured credit unions.

Paperwork Reduction Act

The proposed amendment does not contain any paperwork requirements.

Regulatory Flexibility Act

The NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612; Effect on the States and State-Chartered Credit Unions

The NCUA Board is aware of only four federally insured state-chartered credit unions that currently offer uninsured membership shares. If this proposal is adopted in final form, those credit unions will be expected to coordinate with their appropriate Regional Director to either pay out the uninsured shares or convert them to insured shares status. The proposed amendment will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 741

Credit unions, Uninsured member shares.

By the National Credit Union Administration Board on April 26, 1990.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations (12 CFR Part 741) as follows:

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781 through 1790 and Public Law 101–73. Section 741.10 is also authorized by 31 U.S.C. 3717.

2. A new § 741.13 is added to read as follows:

§ 741.13 Uninsured membership shares.

Any credit union that is insured pursuant to title II of the Act may not offer membership shares that, due to the terms and conditions of the account, are not eligible for insurance coverage. This prohibition does not apply to shares that are uninsured solely because the amount is in excess of the maximum insurance coverage provided pursuant to part 745 of this chapter.

[FR Doc. 90–10310 Filed 5–2–90; 8:45 am]

BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans, Alter Ego

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: Small Business Administration (SBA) is proposing to amend the *alter ego* regulation relevant to its business loan program to correspond with the *alter ego* rules applicable to its development company program. Under the proposed rule, an *alter ego* holding company would be eligible for financial assistance under the business loan program if the required lease between it and the operating concern, used as collateral for the loan, includes options exercisable exclusively by the operating concern and the remainder of the *alter ego* regulation's requirements are met. The effect of this proposed regulation is to relieve affected borrowers from paying expensive recordation fees which might apply to long term leases without options.

DATES: Comments must be submitted on or before July 2, 1990.

ADDRESSES: Comments may be mailed to Charles R. Hertzberg, Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202/653–6574.

SUPPLEMENTARY INFORMATION: In order to be eligible to receive financial assistance under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), a holding company or *alter ego* must, among other things, pledge as collateral the lease between it and the operating concern on the held real property, and such lease must have a remaining term at least equal to the term of the loan. This requirement may be found at § 120.101–2(e)(6) of SBA regulations (13 CFR 120.101–2(e)(6)). A similar requirement is presently contained in the regulations affecting loans made by development companies (see CFR § 108.8(d)(5)).

In several states a lease in excess of five years must be recorded, and the recordation fee can be expensive. On March 12, 1990, SBA amended the above-cited regulation affecting development companies (55 FR 9110) so that the lease may include options exercisable solely by the operating small business concern so long as the lease and the options together do not exceed the term of the loan. This amendment permitted the lease to be divided into shorter option periods which will not require recordation.

Since there is no reason for the rule relevant to *alter ego* loans in the development company program to be different from the rules affecting business loans, the SBA is proposing to amend the pertinent business loan regulation to bring it in conformity with the development company regulation. Thus, SBA is proposing that the lease between the *alter ego* and the operating small business concern may include options exercisable exclusively by such small business concern. All other provisions of the *alter ego* regulation would remain unchanged. This proposed regulation, if promulgated in final form, would relieve affected borrowers from paying expensive recordation fees which might apply to long term lease without options.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *alter ego*., SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities. SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the proposed change is not likely to result in

an annual effect on the economy of $100 million or more. SBA estimates that no more than $10 million of *alter ego* loans would be made where the lease term plus options equal the term of the loan.

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subject in 13 CFR Part 120

Loan Programs—business, Reporting and recordkeeping requirements, Small businesses.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend part 120, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for part 120 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.101–2(e)(6) is proposed to be revised to read as follows:

§ 120.101–2 Type of business.

* * * * *

(e) *Lending or Investment, "Alter Ego".* * * * (6) It must pledge the lease (including options exercisable exclusively by such operating company) between it and the operating company having a remaining term at least equal to the term of the loan and a lien on the property itself as collateral for the loan.

* * * * *

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

Susan Engeleiter,

Administrator.

[FR Doc. 90–10046 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 124

Minority Small Business and Capital Ownership Development Program; Amendments Affecting Tribally-owned Concerns

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to amend its Minority Small Business and Capital Ownership Development Program (8(a) Program) regulations as they relate to program participation by concerns owned by Indian tribes, including those owned by Alaska Native Corporations (ANCs). These amendments are intended to encourage participation of tribally-owned concerns in the 8(a) Program and to facilitate implementation of special Indian tribe exemptions, including the joint venture authority established by Congress in the Business Opportunity Development Reform Act of 1988.

DATES: Comments must be received on or before June 4, 1990.

ADDRESSES: Comments may be sent to Sally B. Narey, General Counsel, Small Business Administration, 1441 L. Street, NW., Room 700, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: David J. Whitehorse Klauser, Attorney Advisor, (202) 653–6381.

SUPPLEMENTARY INFORMATION: On August 21, 1989, the SBA published a final rule in the **Federal Register** (54 FR 34692), which revised SBA's 8(a) Program. The revisions implemented changes to the 8(a) Program required by the Business Opportunity Development Reform Act of 1988 (Reform Act) (Pub. L. 100–656) and the Business Opportunity Development Reform Act Technical Corrections Act (Technical Corrections Act) (Pub. L. 101–37) and incorporated into the regulations existing Agency policy as well as some policy changes. In particular, §§ 124.112, 124.311 and 124.321 of the regulations address 8(a) Program eligibility and participation of tribally-owned concerns and implement the special exemptions provided to tribally-owned concerns by section 602 of the Reform Act. Specifically, section 602 of the Reform Act provides for three exemptions: first, tribally-owned concerns are exempt from the statutory requirement that 8(a) contracts above certain dollar thresholds be awarded through competition; second, tribally-owned concerns are exempt from the size requirements if they exceed the size standard by virtue of participation in a joint venture with a large business provided that the joint venture meets certain statutory requirements and that the concern has not participated in more than one other such joint venture; and finally, tribes are exempt from the constraint of one-time participation in the 8(a) program, which applies to disadvantaged individuals who use their disadvantaged status to qualify a concern for 8(a) Program participation.

Representatives of Indian tribes, Alaska Native Corporations (ANCs) and tribally-owned concerns have expressed their views that SBA's implementation of the Reform Act has limited and, in some cases, nullified, the effect of the exemptions and has posed other barriers to 8(a) program participation by tribally-owned concerns. As a result of the comments from these groups, SBA has examined the 8(a) program regulations as they relate to tribally-owned concerns and is proposing to amend certain provisions.

First, SBA proposes to amend § 124.107, entitled "Potential for Success," which, as written, requires an applicant concern to have been in business for 2 full years prior to applying for 8(a) certification. This requirement, commonly referred to as the "2 year rule," is based on SBA's conclusion that a concern's potential for success can generally be assumed if the concern has been in business for two years, has a demonstrated track record and is financially sound. However, it appears likely that the 2 year rule will have the effect of precluding many tribally-owned potential 8(a) participants from qualifying for program admission and therefore, from benefiting from the special exemptions Congress provided for them in the Reform Act.

In revisiting the issue of potential for 8(a) program success for tribally-owned concerns, SBA has considered, among other things, the effect of special benefits accorded by statute to tribally-owned concerns because of their ownership by an Indian tribe or Alaska Native Corporation. In addition to those special examptions provided in the Reform Act for tribally-owned 8(a) participants, other potential benefits available to tribally-owned concerns by virtue of their relationship to the tribe include, for example, those which may be derived from the "Indian Financing Act" (25 U.S.C. 1451, *et seq.*), the "Buy Indian Act" (25 U.S.C. 47), certain Bureau of Indian Affairs grants and guaranteed loan programs (25 U.S.C. 13, 109, 218, 404, 88 Stat 77), the Alaska Native Claims Settlement Act (33 U.S.C. 1601) (for ANCs), and some exemptions from Federal and State taxes. SBA believes that these special statutorily based preferences are an appropriate substitute for the 2 year rule when coupled with an actual showing of a marketing and development strategy for meeting the competivive business mix requirements of the 8(a) program (see § 124.312) without undue dependence on the anticipated award of one or more 8(a) contracts.

Therefore, SBA has concluded that, although SBA must continue to consider the other factors relating to a demonstration of potential success in the 8(a) program, the two year rule is not a necessary component of that demonstration for tribally-owned

concerns. The other factors that SBA will continue to consider in determining whether a tribally-owned concern has potential for success in the 8(a) program include, but are not limited to, the technical and managerial experience and competency of the individual(s) who will manage and control the daily operations of the tribally-owned concern; the financial capacity of the tribally-owned concern; and the concern's record of performance on any previous contract in the primary industry classification in which it is seeking 8(a) program certification.

Accordingly, SBA is proposing to revise § 124.107 to reference to a new paragraph (c)(6) of § 124.112 which would pertain solely to tribally-owned applicants. The proposed provision would authorize the Associate Administrator for Minority Small Business & Capital Ownership Development (AA/MSB&COD) to waive the two year requirement for any tribally-owned concern if SBA finds that the tribally-owned concern's marketing and development strategy demonstrates that it will meet the 8(a) program competitive mix requirements of § 124.312 without undue dependence on the award of one or more 8(a) contracts. The provisions would also require SBA to consider other factors in making a determination that a tribally-owned concern possesses a potential for success in the 8(a) program. These factors are similar to those required of any applicant for 8(a) progam certification.

In order to consolidate all the eligibility requirements for tribally-owned applicants into § 124.112, SBA is also proposing to revise § 124.112 to renumber paragraph (c)(6) as paragraph (c)(7) and to include in new paragraph (c)(7) the language of § 124.107(c) which, with certain exceptions, prohibits SBA from denying 8(a) program admission based solely on a determination that specific contract opportunities are unavailable.

SBA is also proposing to amend § 124.112(c)(4), which requires the Chief Executive Officer (CEO) of a tribally-owned concern to be a member of the tribe which owns the applicant concern. After reviewing section 8(a) of the Small Business Act, the General Counsel of the SBA has concluded that the statute would permit the CEO to be a member of *any* economically disadvantaged tribe, not necessarily a member of the tribe which owns the applicant concern. The proposed amendment would implement this stautory interpretation.

These proposed revisions, if promulgated in final form, would apply to any tribally-owned concern which has applied for program admission after the effective date of the final 8(a) program regulations (August 21, 1989). Tribally-owned applicant concerns which were denied program admission based solely on SBA's finding of non-compliance with the two year requirement and/or the requirement that the manager of the applicant concern be a member of the owning tribe, would be permitted to resubmit their application without delay.

In addition, SBA is proposing to delete the restriction on joint ventures with tribally owned concerns found in § 124.321(h)(2). That restriction prohibits the non-8(a) joint venture partner from identifying the 8(a) contract opportunity. This proposed amendment is a policy change intended to facilitate use of the statutory joint venture authority.

Finally, SBA is proposing to amend § 124.103 (g) and (h) to make clear the Agency's intent that restrictions in ownership of the 8(a) applicant or participant in no way affect the ability of an 8(a) concern to participate in a joint venture agreement that meets the requirements of § 124.321 of these regulations.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act, the Paperwork Reduction Act

SBA certifies that this proposed rule, if adopted in final form, is not a major rule for purposes of Executive Order 12291 because it is unlikely to have an annual economic effect of $100 million or more. SBA also certifies that a Federalism Assessment is not required under Executive Order 12612. SBA certifies that this rule, if promulgated in final form, will not have a significant economic effect on a substantial number of small entities.

If adopted in final form, the proposed amendments to § 124.112(c)(6) are likely to impose reporting requirements on 10 or more persons. Therefore, as required by the Paperwork Reduction Act, 44 U.S.C. chapter 35, SBA is submitting these requirements to the Office of Management and Budget for approval.

Lists of Subjects in 13 CFR Part 124

Administrative practices and procedure, Government procurement, Hawaiian Natives, Indians—business and finance, Minority businesses, Reporting and recordkeeping requirements, Technical assistance.

Accordingly, pursuant to the authority set forth in sections 5(b)(6), 7(j) and 8(a) of the Small Business Act, 15 U.S.C. 634(b)(6), 636(j) and 637(a), SBA proposes to amend 13 part 124, subpart A as follows:

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), and Pub. L. 99–661, sec. 1207, Pub. L. 101–656, and Pub. L. 101–37.

§ 124.103 [Amended]

2. Section 124.103 (g) and (h) are proposed to be amended by adding the following sentence at the end of each paragraph: "The restrictions of this paragraph are not intended to affect the ability of an 8(a) concern to participate in any joint venture agreement that meets the requirements of § 124.321."

§ 124.107 [Amended]

3. Section 124.107 *Potential for success* is proposed to be amended in the introductory text by adding the following at the beginning of the first sentence: "Except for tribally-owned applicant concerns which must meet the requirements of § 124.112(c)(6),"

4. Section 124.112 is proposed to be amended by revising the first two sentences of paragraph (c)(4)(i), redesignating paragraph (c)(6) as paragraph (c)(7), adding a new paragraph (c)(6), and revising new paragraph (c)(7), to read as follows:

§ 124.112 Concerns owned by Indian tribes, including Alaska Native Corporations.

* * * * *

(c) * * *

(4) *Control and management.* (i) Except for concerns owned by ANCs, the management and daily business operations of a tribally-owned concern must be controlled by an individual member(s) of an economically disadvantaged tribe, who does not manage and control more than one other tribally-owned 8(a) Program Participant. In addition, such manager(s) must be found to possess the requisite management or technical capabilities as determined by SBA. * * *

* * * * *

(6) *Potential for success.* (i) SBA will approve a tribally-owned concern, including a concern owned by an Alaska Native Corporation (ANC), for 8(a) Program participation only when it finds that:

(A) Either the applicant concern has been in business in its primary industry classification for two full years or a

waiver is granted pursuant to paragraph (c)(6)(ii) of this section; and

(B) The concern meets the requirements of paragraph (c)(6)(iii) of this section regarding potential success.

(ii) AA/MSB&COD will waive the two year in business requirement for a tribally-owned concern if he/she finds that the concern has a marketing and development strategy for meeting the 8(a) program competitive business mix requirements of § 124.312 without undue dependence on one or more contracts anticipated to be awarded under 8(a) program authority.

(iii) In determining whether a tribally-owned concern has the potential for success, SBA will look at a number of factors including, but not limited to:

(A) The technical and managerial experience and competency of the individual(s) who will manage and control the daily operations of the tribally-owned concern;

(B) The financial capacity of the tribally-owned concern, and

(C) The concern's record of performance on any previous Federal of private sector contract in the primary industry in which the concern is seeking 8(a) certification.

(7) *Other eligibility criteria.* (i) A tribally-owned applicant concern shall not be denied admission into the 8(a) program due solely to a determination that specific contract opportunities are unavailable to assist the development of the concern unless:

(A) The Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

(B) The purchase of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services.

(ii) Applicant must meet the eligibility criteria set forth in §§ 124.108 and 124.109.

§ 124.321 [Amended]

5. In § 124.321, paragraph (h)(2) is proposed to be removed, and paragraphs (h)(3) and (h)(4) are proposed to be redesignated as paragraphs (h)(2) and (h)(3), respectively.

Dated: April 10, 1990.

Susan S. Engeleiter,

Administrator.

[FR Doc. 90-10045 Filed 5-2-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 450

[Docket No. 89N-0440]

Antitumor Antibiotic Drugs; Doxorubicin Hydrochloride; Revised Specifications and Testing Methods

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the accepted standards for doxorubicin hydrochloride bulk and its dosage forms to reflect advances in analytic chemistry and improvements in the manufacturing technology of this antibiotic drug. These actions are being taken at the request of a manufacturer and to provide better quality control of this product.

DATES: Written comments by July 2, 1990; requests for an informal conference by June 4, 1990.

ADDRESSES: Written comments and requests for an informal conference to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: At the request of a manufacturer, FDA is proposing to amend the antibiotic drug regulations for doxorubicin hydrochloride bulk and its dosage forms to reflect the significant improvement in the extraction and chromatographic separation methods since the original promulgation of regulations for doxorubicin hydrochloride in 1976. This improvement in manufacturing technology and analytical testing methodology has resulted in the production of highly purified drug substances and finished dosage forms. Specifically, FDA is proposing to amend the regulations for doxorubicin hydrochloride bulk to: (1) Revise the doxorubicin hydrochloride content limits from 900 to 1,100 micrograms per milligram on the anhydrous basis to 970 to 1,020 micrograms per milligram on the anhydrous and solvent-free basis; (2) revise the high-pressure liquid chromatography (HPLC) test currently specified for determining the content of doxorubicin hydrochloride; (3) revise the pH range limits from a range of 3.8 to 6.5 to a range of 4.0 to 5.5; (4) add a total solvent residue test with an upper limit of not more than 2.5 percent; (5) add a chromatographic purity test with a total impurity specification of not more than 3.0 percent; (6) delete the mocrobiological agar diffusion assay for determining microbiological activity; and (7) revise the solution used for the disposition of waste material from synthetic detergent to dilute sodium hypochlorite.

FDA is also proposing to amend the regulations for doxorubicin hydrochloride for injection to: (1) Revise the HPLC test currently specified for determining the content of doxorubicin hydrochloride; (2) revise the pH range limits from a range of 3.8 to 6.5 to a range of 4.5 to 6.5; (3) add a provision to the product description permitting the product to contain methylparaben; (4) replace the pyrogen test with the U.S. Pharmacopeia (USP) Bacterial Endotoxin Test with an upper limit of not more than 2.2 USP Endotoxin Units per milligram of doxorubicin hydrochloride; (5) delete the microbiological activity specification for the doxorubicin hydrochloride used in making the product; (6) delete the depressor substances test for the product and add the depressor substances specification for the doxorubicin hydrochloride used in making the product; and (7) revise the solution used for the disposition of waste material from synthetic detergent to dilute sodium hyprochlorite.

FDA is also proposing to amend the regulations for doxorubicin hydrochloride injection to: (1) Revise the HPLC test currently specified for determining the content of doxorubicin hydrochloride; (2) replace the pyrogen test with the USP Bacterial Endotoxin Test with an upper limit of not more than 2.2 USP Endotoxin Units per milligrams of doxorubicin hydrochloride; (3) delete the microbiological activity specification for the doxorubicin hydrochloride used in making the product; and (4) revise the solution used for the disposition of waste material from synthetic detergent to dilute sodium hypochlorite.

Therefore, FDA is proposing to revise 21 CFR 450.24, 450.224a, and 450.224b as set forth below.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on

the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments or Requests for Conference

Interested persons may, on or before July 2, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before June 4, 1990, submit to the Docket Management Branch a request for an informal conference. The participants in an informal conference, if one is held, will have until July 2, 1990, or 30 days after the day of the conference, whichever is later, to submit their comments.

List of Subjects in 21 CFR Part 450

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 450 be amended as follows:

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 450 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 357).

2. Section 450.24 is amended by revising paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(v), by adding new paragraph (a)(1)(viii), by revising paragraph (a)(3)(i), the last sentence in the introductory text of paragraph (b), paragraphs (b)(1) and (b)(2), and by adding new paragraph (b)(8) to read as follows.

§ 450.24 Doxorubicin hydrochloride.

(a) * * *

(1)* * *

(i) Its doxorubicin hydrochloride content is not less than 970 micrograms and not more than 1,020 micrograms of doxorubicin hydrochloride per milligram on the anhydrous and solvent-free basis.

(ii) Its total solvent residue (as acetone and alcohol) is not more than 2.5 percent.

* * * * *

(v) The pH of an aqueous solution containing 5 milligrams per milliliter is not less than 4.0 and not more than 5.5.

* * * * *

(viii) The total of any impurities detected by high-pressure liquid chromatography assay is not more than 3.0 percent.

* * * * *

(3) * * *

(i) Results of tests and assays on the batch for doxorubicin hydrochloride content, solvent residue, depressor substances, moisture, pH, crystallinity, identity, and total impurities.

* * * * *

(b) * * * Dispose of all waste material by dilution with large volumes of dilute sodium hypochlorite (bleach) solution.

(1) *Doxorubicin hydrochloride content (high-performance liquid chromatography).* Proceed as directed in § 436.216 of this chapter, using ambient temperature, an ultraviolent detection system operating at a wavelength of 254 nanometers, a 4.6-millimeter X 25-centimeter column packed with microparticulate (5 to 10 micrometers in diameter) packing material such as trimethylsilane chemically bonded to porous silica, a flow rate of not more than 2.0 milliliters per minute, and a known injection volume of between 10 and 20 microliters. Mobile phase, working standard and sample solutions, resolution test solution, system suitability requirements, and calculations are as follows:

(i) *Mobile phase.* Prepare a suitable mixture of water, acetonitrile, methanol, and phosphoric acid (540:290:170:2). Dissolve 1 gram of sodium lauryl sulfate in 1,000 milliliters of this solution, adjust with 2*N* sodium hydroxide to a pH of 3.6 ±0.1. Filter through a suitable filter capable of removing particulate matter to 0.5 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatograph.

(ii) *Preparation of working standard, sample, and resolution test solutions—* (A) *Working standard solution.* Dissolve an accuracy weighed quantity of doxorubicin hydrochloride working standard in mobile phase to obtain a solution having a known concentration of 0.1 milligram of doxorubicin hydrochloride per milliliter.

(B) *Sample solution.* Transfer approximately 20 milligrams of sample, accurately weighed, to a 200-milliliter volumetric flask, add mobile phase to volume, and mix. This yields a solution containing 0.1 milligram of doxorubicin hydrochloride per milliliter (estimated).

(C) *Resolution test solution.* To 2 milliliters of a 1.0 milligram per milliliter solution of doxorubicin hydrochloride, add 20 microliters of 1*N* hydrochloric acid. Hold for 30 minutes at 95 °C in an oil bath. This procedure generates doxorubicinone, the aglyclon of doxorubicin. Transfer 1.0 milliliter of this solution to a 10-milliliter volumetric flask, add mobile phase to volume, and mix. Use this solution to determine the resolution requirement for the chromatographic system.

(iii) *System suitability requirements—* (A) *Asymmetry factor.* The asymmetry factor (A_s) for the doxorubicin peak measured at a point 5 percent of the peak height is not less than 0.9 and not more than 1.2.

(B) *Efficiency of the column.* The column efficiency (h_r) is satisfactory if it is not greater than 10.0, equivalent to 4,500 theoretical plates for a 25-centimeter column of 6 micrometer particles.

(C) *Resolution.* The resolution (R_s) between the peaks of doxorubicin and doxorubicinone (generated in situ) is satisfactory if it is not less than 8.0.

(D) *Capacity factor.* The capacity factor (k) for doxorubicin is satisfactory if it is in the range between 1.0 and 5.0.

(E) *Coefficient of variation.* The coefficient of variation (*RSD* in percent) of 5 replicate injections is satisfactory if it is not more than 2.0 percent. If the system suitability parameters have been met, then proceed as described in § 436.216(b) of this chapter.

(iv) *Calculations.* Calculate the micrograms of doxorubicin hydrochloride per milligram of sample as follows:

$$\text{Micrograms of doxorubicin hydrochloride per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100-m-x)}$$

where:

A_u = Area of the doxorubicin hydrochloride peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the doxorubicin hydrochloride peak in the chromatogram of the doxorubicin hydrochloride working standard;

P_s = Doxorubicin hydrochloride activity in the doxorubicin hydrochloride working standard solution in micrograms per milliliter;

C_u = Milligrams of the sample per milliliter of sample solution;

m = Percent moisture content of the sample; and

x = Percent solvent residue determined as directed in paragraph (b)(2) of this section.

(2) *Residue solvent (as acetone and alcohol)*—(i) *Standard preparation.* Transfer to a 100-milliliter volumetric

flask about 200 milligrams of acetone, 300 milligrams of dehydrated alcohol, and 1,000 milligrams of dioxane, each accurately weighed, and mix. Dilute with water to volume, and mix. Transfer 5.0 milliliters of the resulting solution to a 50-milliliter volumetric flask, dilute with water to volume, and mix. This solution contains about 0.2 milligram of acetone, 0.3 milligram of alcohol, and 1 milligram of dioxane per milliliter.

(ii) *Solvent.* Transfer about 100 milligrams of dioxane, accurately weighed to a 100-milliliter volumetric flask, dilute with water to volume, and mix.

(iii) *Test preparation.* Dissolve about 200 milligrams of doxorubicin hydrochloride sample in 3.0 milliliters of solvent.

(iv) *Chromatographic system (see U.S. Pharmacopeia (USP) Chromatography (621)).* The gas chromatograph is equipped with a flame-ionization detector and a 4-millimeter X 2-meter column packed with 8 percent liquid phase G16 (see USP Chromatographic Reagents-phases) on 100- to 120-mesh support S1AB (potassium hydroxide-washed). (See USP Chromatographic Reagents-supports.) The column is maintained at about 60 °C, and helium is used as the carrier gas. Adjust the column temperature and carrier gas flow rate so that dioxane elutes in about 6 minutes. Chromatograph the standard preparation, and record the peak responses as directed under procedure: the resolution (R) between adjacent peaks is not less than 2.0; the relative standard deviations of the ratios of the peak responses of the acetone and dioxane peaks and of the alcohol and dioxane peaks for replicate injections is not more than 4.0 percent; and the tailing factor for the alcohol peak is not more than 1.5.

(v) *Procedure.*

(Note: Use peak areas where peak responses are indicated.)

Separately inject equal volumes (about 1 microliter) of the standard preparation and the test preparation into the chromatograph, record the chromatograms, and measure the responses for the major peaks. The relative retention times are about 0.2 for acetone, 0.5 for alcohol, and 1.0 for dioxane. Calculate the percentage, by weight, of acetone and alcohol, respectively, in the sample as follows:

x = percent acetone or alcohol = $100\{C_A C_D/\}\{D_u/W_u\}\{R_u/R_s\}$

where:

C_A = Concentration of acetone or alcohol in the standard preparation in milligrams per milliliter;

C_D = Concentration of dioxane in the standard preparation in milligrams per milliliter;

D_u = Total quantity of dioxane in the test preparation, in milligrams;

W_u = Quantity of doxorubicin hydrochloride taken to prepare the test preparation, in milligrams;

R_u = Response ratio of the analyte peak (acetone or alcohol) to the dioxane peak obtained from the test preparation; and

R_s = Response ratio of the analyte peak (acetone or alcohol) to the dioxane peak obtained from the standard preparation.

The total of acetone and alcohol is not greater than 2.5 percent. Use the result obtained to calculate the doxorubicin hydrochloride content of the sample on the solvent-free basis.

* * * * *

(8) *Chromatographic purity.* Proceed as directed in paragraph (b)(1) of this section, except prepare the sample solution by dissolving the sample to be tested in mobile phase to obtain a solution containing approximately 0.5 milligram of doxorubicin hydrochloride per milliliter. Calculate the percentage of impurities as follows:

Percent total impurities = $(100\,S)/(S + r)$

where:

S = The sum of the responses of the minor component peaks; and

r = The response of the major doxorubicin hydrochloride peak.

The total related impurities detected is not more than 3.0 percent.

3. Section 450.224a is amended by revising paragraphs (a)(1), (a)(3)(i)(*a*), (a)(3)(i)(*b*), the last sentence in the introductory text of paragraph (b), paragraphs (b)(1) and (b)(3), and by removing and reserving paragraph (b)(4) to read as follows:

§ 450.224a Doxorubicin hydrochloride for injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Doxorubicin hydrochloride for injection is a freeze-dried powder whose components are doxorubicin hydrochloride and lactose. It may also contain methylparaben. Its doxorubicin hydrochloride content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of doxorubicin hydrochloride that it is represented to contain. It is sterile. It contains not more than 2.2 U.S. Pharmacopeia Endotoxin Units per milligram of doxorubicin hydrochloride. Its moisture content is not more than 4.0 percent. When reconstituted as directed in the labeling, its pH is not less than 4.5 and not more than 6.5. It passes the identity test. The doxorubicin hydrochloride used conforms to the standards prescribed by § 450.24(a)(1).

* * * * *

(3) * * *

(i) * * *

(*a*) The doxorubicin hydrochloride used in making the batch for doxorubicin hydrochloride content, residue solvents, depressor substances, moisture, pH, crystallinity, identity, and total related impurities.

(*b*) The batch for doxorubicin hydrochloride content, sterility, bacterial endotoxins, moisture, pH, and identity.

* * * * *

(b) * * * Dispose of all waste material by dilution with large volumes of sodium hypochloride (bleach) solution.

(1) *Doxorubicin hydrochloride content (high-performance liquid chromatography).* Proceed as directed in § 450.24(b)(1), preparing the sample solution and calculating the doxorubicin hydrochloride content as follows:

(i) *Sample solution.* Prepare the sample solution by rinsing the contents of the vial into an appropriate sized volumetric flask with sufficient mobile phase to obtain a concentration of 0.1 milligram of doxorubicin hydrochloride per milliliter (estimated).

(ii) *Calculations.* Calculate the doxorubicin hydrochloride content per vial as follows:

$$\text{Milligrams of doxorubicin hydrochloride per vial} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the doxorubicin hydrochloride peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the doxorubicin hydrochloride peak in the chromatogram of the doxorubicin hydrochloride working standard;

P_s = Doxorubicin hydrochloride activity in the doxorubicin hydrochloride working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

* * * * *

(3) *Bacterial endotoxins.* Proceed as directed in the U.S. Pharmacopeia Bacteria Endotoxin Test, using a solution of doxorubicin hydrochloride for injection, containing 1.1 milligrams of doxorubicin hydrochloride per milliliter. The specimen under test contains not more than 2.2 U.S. Pharmacopeia Endotoxin Unites per milligram of doxorubicin hydrochloride.

(4) [Reserved]

* * * * *

4. Section 450.224b is amended by revising paragraphs (a)(1), (a)(3)(i)(A), (a)(3)(i)(B), the last sentence in the introductory text of paragraph (b), and paragraph (b)(1); by removing and reserving paragraph (b)(2); and by revising paragraph (b)(4) to read as follows:

§ 450.224b Doxorubicin hydrochloride injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Doxorubicin hydrochloride injection is an aqueous solution of doxorubicin hydrochloride in an isosmotic diluent. Each milliliter contains doxorubicin hydrochloride equivalent to 2 milligrams of doxorubicin hydrochloride. Its doxorubicin hydrochloride content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams it is represented to contain. It is sterile. It contains not more than 2.2 U.S. Pharmacopeia Endotoxin Units per milligram of doxorubicin hydrochloride. Its pH is not less than 2.5 and not more than 3.5. It passes the identity test. The doxorubicin hydrochloride used conforms to the standards prescribed by § 450.24(a)(1).

* * * * *

(3) * * *

(i) * * *

(A) The doxorubicin hydrochloride used in making the batch for doxorubicin hydrochloride content, residue solvents, depressor substances, moisture, pH, crystallinity, identity, and total related impurities.

(B) The batch for doxorubicin hydrochloride content, sterility, bacterial endotoxins, pH, and identity.

* * * * *

(b) * * * Dispose of all waste material by dilution with large volumes of sodium hypochlorite (bleach) solution.

(1) *Doxorubicin hydrochloride content (high-performance liquid chromatography).* Proceed as directed in § 450.24(b)(1), preparing the sample solution and calculating the doxorubicin hydrochloride content as follows:

(i) *Sample solution.* Dilute an accurately measured volume of sample equivalent to not less than 2 milligrams of doxorubicin hydrochloride, quantitatively with mobile phase to obtain a solution containing 0.1 milligram of doxorubicin hydrochloride per milliliter (estimated).

(ii) *Calculations.* Calculate the milligrams of doxorubicin hydrochloride per milliliter of sample as follows:

$$\text{Milligrams of doxorubicin hydrochloride per milliliter} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the doxorubicin hydrochloride peak in the chromatogram of the sample (at a retention time equal to that observed for the standard);

A_s = Area of the doxorubicin hydrochloride peak in the chromatogram of the doxorubicin hydrochloride working standard;

P_s = Doxorubicin hydrochloride activity in the doxorubicin hydrochloride working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) [Reserved]

* * * * *

(4) *Bacterial endotoxins.* Proceed as directed in the U.S. Pharmacopeia Bacterial Endotoxin Test, using a test solution prepared by diluting doxorubicin hydrochloride injection with sterile water for injection to obtain a concentration of 1.1. milligrams of doxorubicin hydrochloride per milliliter. The specimen under test contains not more than 2.2 U.S. Pharmacopeia Endotoxin Units per milligram of doxorubicin hydrochloride.

* * * * *

Dated: April 19, 1990.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-10287 Filed 5-2-90; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 212

Regulations Implementing Freedom of Information Act

AGENCY: Agency for International Development (A.I.D.), International Development Cooperation Agency (IDCA).

ACTION: Proposed rule.

SUMMARY: The Agency for International Development revises its Freedom of Information Act (FOIA) regulations to implement the provisions of Executive Order 12600 dated June 23, 1987; to delete the citizenship requirement in §§ 212.25 and 212.33; to incorporate certain internal organizational changes within the Agency; to change the definition of "Appeals Officer" from the Administrator to the Assistant Administrator, Bureau for External Affairs; to make minor editorial changes; and to include a general statement regarding no specific established fees which was inadvertently omitted when the changes in fee schedules and law enforcement provisions became final by publication in the **Federal Register** on May 24, 1989.

ADDRESSES: Copies of the notice or other information may be obtained from: James Harper; Supervisory Public Information Specialist, Room 4889 NS, A.I.D., Washington, DC, 20523.

FOR FURTHER INFORMATION CONTACT: James Harper at (202) 647-1850.

SUPPLEMENTARY INFORMATION: On February 19, 1975, the Agency amended part 212, title 22 (A.I.D. Regulation 12) to conform to the amendments to the Freedom of Information Act (5 U.S.C. 552; Pub. L. 93-502). The Agency further amended part 212 to conform with the Freedom of Information Reform Act of 1986 (Pub. L. 99-570, sections 1801-1804). By this notice, the Agency proposes to further amend part 212 to implement Executive Order 12600 (new § 212.38) and to delete the citizenship requirement in §§ 212.25 and 212.33. It is these three sections for which the Agency particularly invites comments. In addition, since original publication of part 212 in 1975, the Agency has had internal reorganizations which require change to conform with amended responsibilities. These, and minor editorial changes, have been included in the proposed new text which is reprinted here in its entirety.

This action will not have a significant economic impact on a substantial number of small entities; does not constitute a "major rule" under Executive Order No. 12291; and does not constitute a major Federal action significantly effecting the quality of the human environment.

List of Subjects in 22 CFR Part 212

Freedom of Information.

Part 212 of title 22 is revised to read as follows:

PART 212—PUBLIC INFORMATION

Subpart A—General

Sec.

212.1 Statement of policy.

Subpart B—Publication in the Federal Register

212.11 Materials to be published.
212.12 Effect of nonpublication.
212.13 Incorporation by reference.

Subpart C—Availability of Information for Public Inspection and Copying

212.21 Public records.
212.22 Protection of personal privacy.

Sec.
212.23 Current index.
212.24 Effect of noncompliance.
212.25 Procedures for obtaining materials under this subpart.

Subpart D—Access to Agency Records

212.31 Availability of Agency records.
212.32 Identification of records.
212.33 Procedure for making requests.
212.34 Procedures for responding to requests for records.
212.35 Schedule of fees and methods of payment for services rendered.
212.36 Denial of request for access to record.
212.37 Procedures for Agency consideration of appeals.
212.38 Predisclosure notification procedures for confidential commercial information.

Subpart E—Exemptions from Disclosure

212.41 Exemptions from the publication and disclosure requirements of Subpart B, C, and D.
212.42 Exemption from 5 U.S.C. 552.

Subpart F—Opening of Records for Nonofficial Research Purposes

212.51 General policy.

Authority: Sec. 621 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2381; the Freedom of Information Act, as amended; 5 U.S.C. 552; Executive Order 12600 of June 23, 1987.

Subpart A—General

§ 212.1 Statement of policy.

(a) It is the policy of the International Development Cooperation Agency (I.D.C.A.) and the Agency for International Development (A.I.D.) that information about its objectives and operations be freely available to the public in accordance with the provisions of Public Law 89–487 (80 Stat. 250), as amended by Public Law 93–502. The Assistant Administrator for External Affairs for A.I.D. and the Assistant Director, Office of Legislative and Public Affairs, for I.D.C.A. are responsible for administration of the provisions of the regulations of this part.

(b) All records of the International Development Cooperation Agency and the Agency for International Development shall be made available to the public upon compliance with the procedures established in this regulation except to the extent a determination is made to withhold a record exemptable under 5 U.S.C. 552(b), as amended. Such a determination shall be made pursuant to procedures set forth in §§ 212.36, 212.37 and 212.38.

(c) The term "record" includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physical form or chracteristics, made in or received by the International Development Cooperation Agency and the Agency for International Development (including its Missions abroad), and preserved as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities. It does not include copies of the records of other Government agencies, foreign governments, international organizations, or non-governmental entities.

(d) The term "Agency" refers to either the International Development Cooperation Agency or the Agency for International Development.

(e) The term "Freedom of Information Officer" means the Assistant Director for Legislative and Public Affairs for I.D.C.A. and the Assistant Administrator for External Affairs for A.I.D. or his/her designee.

(f) The term "Appeals Officer" means the Assistant Administrator, Bureau for External Affairs as designated by the head of the Agency.

Subpart B—Publication in the Federal Register

§ 212.11 Materials to be published.

(a) The Agency separately states and currently publishes in the **Federal Register** for the guidance of the public:

(1) Descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channelled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of porcedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Agency; and

(5) Every amendment, revision or repeal of the foregoing.

(b) A.I.D. Public Notice No. 1 and the A.I.D. Regulations published in Chapter II of Title 22 and in Subtitle A. Chapter 7 of Title 41 of the Code of Federal Regulations, implement the provisions of this section.

§ 212.12 Effect of nonpublication.

Except to the extent that a person has actual and timely notice of the term thereof, no person shall in any manner be required to resort to, or be adversely affected by, any I.D.C.A. or A.I.D. matter required to be published in the **Federal Register** and not so published.

§ 212.13 Incorporation by reference.

For purposes of this subpart B, I.D.C.A. and A.I.D. matters which are reasonably available to the class of persons affected thereby is deemed to be published in the **Federal Register** when it has been incorporated by reference therein with the approval of the Director of the **Federal Register**.

Subpart C—Availability of Information for Public Inspection and Copying

§ 212.21 Public records.

In accordance with this subpart, I.D.C.A. and A.I.D. make the following information and materials available for public inspection and copying:

(a) All final opinions (including concurring and dissenting opinions), and all orders made in the adjudication of cases;

(b) Those statements of policy and interpretations which have been adopted by the Agency and are not published in the **Federal Register**; and

(c) Administrative staff manuals and instructions to staff that affect any member of the public.

§ 212.22 Protection of personal privacy.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and will, in each such case, explain in writing the justification for the deletion.

§ 212.23 Current index.

The Agency maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by § 212.21 to be made available or published. Publication of an index is deemed both unnecessary and impractical. However, copies of the index are available upon request for a fee per § 212.35.

§ 212.24 Effect of noncompliance.

No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, or cited as precedent by the Agency against any private party unless it has been indexed and either made available or published as provided by this subpart, or unless

that private party shall have actual and timely notice of the terms thereof.

§ 212.25 Procedures for obtaining materials under this subpart.

(a) The materials required to be made available for public inspection and copying in accordance with this subpart are available to members of the public at the International Development Cooperation Agency and the Agency for International Development, Department of State Building, 21st and Virginia Avenue NW., Washington, DC (20523) from 9 a.m. to 5 p.m., Monday through Friday, except on weekends and holidays.

(b) Requests for materials which are available under this subpart should follow the procedures under subpart D.

(c) The costs of any necessary duplication will be charged in accordance with the fee schedule set forth in § 212.35.

(d) The USAID Missions in countries abroad are not responsible for the maintenance of the index and materials available under this subpart. However, in so far as they do have these materials, they will make them available upon application either in person or writing to the Director, USAID c/o American Embassy in the applicable country.

Subpart D—Access to Agency Records

§ 212.31 Availability of Agency records.

Upon receiving a request for a record, which reasonably describes such a record, and which is made in accordance with the provisions of this subpart, the Agency will make such records promptly available to any person, except the following: (a) Matters published in the Federal Register pursuant to subpart B; (b) matters made available to the public pursuant to subpart C; and (c) matters exempt from disclosure pursuant to §§ 212.41 and 212.42.

§ 212.32 Identification of records.

The request for a record by a member of the public must contain a reasonable description of the record sought so that an officer of the Agency who is familiar with the subject may be able to locate the record with a reasonable amount of effort. A description that includes as much information as possible, such as the subject matter, format, approximate date, and where pertinent, the name of the country or person involved, will facilitate the search for the requested record.

§ 212.33 Procedure for making requests.

(a) Requests for reasonably described records may be made by a member of the public either in person or by writing to the Assistant Director for Legislative and Public Affairs, International Development Cooperation Agency, Washington, DC 20523 and the Director, Office of Public Inquiries, Agency for International Development, Washington, DC 20523. The request and the envelope should be plainly marked "FOIA Request." Requests may be made in person by going to the International Development Cooperation Agency and the Agency for International Development, Department of State Building, 21st and Virginia Ave., NW., Washington, DC from 9 a.m. to 5 p.m. Monday through Friday, except on weekends and holidays. Telephonic requests cannot be accepted.

(b) Requests for reasonably described records may be made directly to USAID missions abroad in person or in writing to the Director, USAID, care of the American Embassy in the applicable country. Any written request and its envelope should be plainly marked "FOIA Request".

(c) If a request not properly marked "FOIA Request" is inadvertently delayed in reaching the Freedom of Information Officer, or is erroneously sent to a USAID mission abroad, it will not be deemed received by the Agency until actually received by the Freedom of Information Officer. In such event, the person making the request will be furnished a notice of the effective date of receipt.

§ 212.34 Procedures for responding to a request for records.

(a) Upon receipt of the request by the Freedom of Information Officer, a maximum of 10 working days will normally be taken to determine to what extent the Agency can provide the information requested, and upon the making of the determination, the person making the request will be immediately informed. Copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35.

(b) In some circumstances, the Agency may not be able to determine the availability of the requested documents within 10 working days. In which event, the person making the request will be informed by written notice of the delay, the reasons for the delay and the date on which a determination may be expected. The maximum time in making a determination of availability will be 20 working days from receipt of the request. A time extension for unusual circumstance will be used as reasonably necessary for a particular request in the following instances:

(1) When there is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) When there is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) When there is a need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(c) If a request is made to this Agency for material that is controlled or held by another agency, the person making the request will be immediately notified that this Agency does not have or control the requested material and he/she will be advised of the controlling agency and the address from which the material may be requested, unless the other agency has, by public regulations, delegated the release authority to this Agency. If release authority has been delegated, this Agency will follow the procedures authorized by the delegation in determining whether to release the information. If a request for material is referred to this Agency from another agency, the time period for determination will not start until the request is received by the Freedom of Information Officer. The person making the request will be immediately notified of the referral and the date the request was received in the Agency. This Agency will not accept referral of requests unless and until the Freedom of Information Officer determines that the material requested is actually within the scope and control of the release authority of the Agency for International Development or the International Development Cooperation Agency.

(d) If only a part of a record is exempt from disclosure, any reasonably segregable portion of such record shall be furnished after deletion of the portions which are exempt, provided that the segregable portion constitutes an intelligible record which is not distorted out of context or contradictory to the substance of the entire record before segregation.

§ 212.35 Schedule of fees and methods of payment for services rendered.

(a) *Definitions*—(1) *Direct costs* means those expenditures which the Agency actually incurs in searching for

and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request.

(2) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material withing documents. Line-by line search will not be done when duplicating an entire document would prove the less expensive and quicker method of complying with a request. "Search" is distinguished from "review" (see paragraph (a)(4) of this section).

(3) *Duplication* refers to the process of making a copy of a document available to the FOIA requester. Copies can take a form of paper copy, microfilm, audio-visual materials among others and will be in a form that is reasonably usable by requesters.

(4) *Review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g. doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that is related to commerce, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Agency will determine the use to which a requester will put the documents requested. Where the Agency has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Agency may seek additional clarification before assigning the request to a specific category.

(6) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly reseach.

(7) *Non-commercial scientific institution* refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (a)(5) of this section and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminator of "news" who make their products available for purchase or subscription by the general public). These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g. electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Agency may also look to the past publication record of the requester in making this determination.

(b) *Fees to be charged.* The following specific fees shall be applicable with respect for services rendered as outlined below:

(1) *Commercial use requesters.* Fees will cover the full direct costs of searching for, reviewing for release, and duplicating the records requested. Search costs are $11.00 per hour. Review costs are $24.00 per hour. Duplicating costs are 20¢ per page. Search costs will be assessed even though no records may be found or, after review, there is no disclosure of records.

(2) *Educational and non-commercial scientific institution requester.* The Agency will provide documents to requesters in this category for the cost of duplication alone (20¢ per page), excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that a request is being made under the auspices of a qualifying institution and that the records are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (a non-commercial scientific institution) research. Requesters eligible for free search must reasonably describe the records sought.

(3) *Requesters who are representatives of the news media.* The Agency will provide documents to requesters in this category for the cost of reproduction alone (20¢ per page) excluding charges for the first 100 pages. To be eligible for inclusion in this category a requester must meet the criteria in paragraph (a)(8) of this section, and his or her request must not be made for commercial use. In reference to this class of requesters, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters eligible for free search must reasonably describe the records sought.

(4) *All other requesters.* The Agency will charge requesters who do not fit into any of the categories in paragraphs (b)(1), (b)(2), and (b)(3) of this section fees which recover the full direct cost of search, and for reproducing records that are responsive to the request, except that the first 100 pages and the first two hours of search time shall be furnished without charges. The hourly rates outlined in paragraph (b)(1) of this section will prevail. Requesters must reasonably describe the records sought. Moreover, requests from subjects for records filed in the Agency's Privacy Act System of Records will continue to be treated under the fee provisions of the Privacy Act of 1975 except that the 100 pages of reproduction will be furnished without charge.

(c) *Non Payment of fees.* (1) The Agency will begin assessing interest charges on the 31st day following the day in which the requester is advised of the fee charged. Interest will be at the rate prescribed in section 3717 of title 31, U.S.C.

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e. within 30 days of the billing date), the Agency will require the requester to pay the full amount owed plus applicable interest as provided above, and to make an advance payment of the full amount of the estimated fee before the Agency begins to process a new request or a pending request from the requester.

(3) When the Agency acts under paragraph (c)(1) or (c)(2) of this section the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e. 10 working days from receipt of initial request and 20 working days from receipt of appeals from initial denial plus permissible extensions of these time limits) will begin only after the Agency has received fee payments described above.

(d) *Advance payments.* Where the Agency estimates or determines that allowable charges that a requester may

be required to pay are likely to exceed $250.00 the Agency will require a requester to make an advance payment of the entire fee before continuing to process the request.

(e) *Waiving or reducing fee.* In accordance with section (4)(A)(ii) of the FOIA the Agency will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

(f) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commerical use, section (4)(A)(iv) of the FOIA, as amended, requires agencies to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits agencies from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together so that, except for commercial use requesters, the Agency will not begin to assess fees until after providing the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, the Agency will determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost is equal to or less than the cost of processing the payment instrument (currently $15.00), there will be no charge to the requester.

(g) *Other provisions*—(1) *Charges for unsuccessful search.* The Agency will assess charges for time spent searching, even if the Agency fails to locate the records or if records located are determined to be exempt from disclosure.

(2) *Aggregating requesters.* When the Agency reasonable believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Agency will aggregate any such requesters and charge accordingly.

(3) *Effect of the Debt Collection Act of 1982 (Pub. L. 97–365).* The Agency will use the authorities of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

(4) *Remittances.* (i) Remittances will be in the form of either a personal check or bank draft drawn on a bank in the United States, a money order, or cash.

(ii) Remittances shall be made payable to the order of the U.S. Treasurer and mailed to the Director, Office of Public Inquiries, Bureau for External Affairs, Agency for International Development, Washington, DC 20523. The Agency will assume no responsibility for cash which is lost in the mail.

(iii) A receipt for fees paid will be given only upon request.

(iv) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requester has not incidated in advance a willingness to pay fees as high as are anticipated, the requester will be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The requester is at any time welcome to confer with knowledgeable Agency personnel in an attempt to formulate the request in a manner which will reduce the fee and meet the needs of the requester.

(v) When no specific fee has been established for a service, for example, when the search involves computer time or special travel, transportation or communications costs, the FOI Officer or his/her designee is authorized to determine the direct costs of the service and include such costs in the fees chargeable under this section.

§ 212.36 Denial of request for access to records.

(a) If it is determined that the Agency cannot comply with all or part of a request for records, the person making the request shall be immediately notified of the determination, the reasons for the determination, the name and title of each officer responsible for the denial, and the right of the person to appeal the adverse determination.

(b) The denial of a request for records may be made only by the Freedom of Information Officer or his or her designee. The Office of the General Counsel may be consulted by the Office of Public Inquiries prior to a decision to deny access.

(c) Any person who has been denied access to records pursuant to this section may appeal the adverse decision not later than 60 days after the date of the notification of denial or, in the case of a partial denial, after the date the releasable documents are actually furnished the person making the request, whichever is later. The appeal should be in writing addressed to (for I.D.C.A.) Director or Deputy Director, International Development Cooperation Agency, or (for A.I.D.) the Appeals Officer, Agency for International Development, 21st and Virginia Avenue NW., Washington, DC, 20523. In order to make a timely response to the appeal, both the appeal and the envelope should be plainly marked "FOIA Appeal." The appeal should contain a reasonable description of the record sought and withheld, a copy of the initial decision to deny access and any other information that will enable the Appeals Officer to make the final decision.

§ 212.37 Procedures for Agency consideration of appeals.

(a) Upon receipt of the appeal by the Appeals Officer, a maximum of 20 working days will normally be taken to decide the appeal. In unusual circumstances, as defined in § 212.34, the 20 working days may be extended by 10 working days.

(b) If the appeal is granted, the person making the appeal shall be immediately notified and copies of releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35. If the appeal is denied in whole or part, the person making the appeal shall be immediately notified of the decision and the provisions for judicial review of the Agency's denial.

(c) In the event a determination is not issued within the appropriate time limit and the person making the appeal chooses to sue the Agency, the determination process shall continue and the Appeals Officer will review any initial denial of the requested records.

(d) If appeals not properly marked "FOIA Appeal" on the appeal and envelope are inadvertently delayed in reaching the Appeals Officer, they will not be deemed received by the Agency until actually received by the Appeals Officer. In such event, the person making the appeal will be furnished a notice of the effective date of receipt.

§ 212.38 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Agency shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. For purposes of this section, the following definitions apply:

(1) *Confidential Commercial Information* means records provided to the Agency by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Agency. The term "submitter" includes, but is not limited to, corporations, state governments and foreign governments.

(b) *Notice to submitters.* Whenever the Agency receives a Freedom of Information Act request for confidential commercial information and, pursuant to paragraph (c) of this section, the submitter is entitled to receive notice of that request. The Agency shall promptly notify the submitter that it has received the request, unless such a notice is excused under paragraph (g) of this section. The notice shall be in writing and either describe the exact nature of the confidential commercial information requested or provide a copy of the records or portion of the records containing the confidential commercial information. The notice shall be addressed to the submitter and mailed, postage prepaid, first class mail, to the submitter's last known address. Where notice is required to be given to a voluminous number of submitters, in lieu of mailing, the notice may be posted or published in a manner and place reasonably calculated to provide notice to the submitters.

(c) *When notice is required.* (1) For confidential commercial information submitted prior to January 1, 1988, the Agency shall provide a submitter with notice of a receipt of a Freedom of Information Act request whenever:

(i) The records are less than ten (10) years old and the information has been designated by the submitter as confidential commercial information; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted to the Agency on or after January 1, 1988, the Agency shall provide a submitter with notice of receipt of a Freedom of Information Act request whenever:

(i) The submitter has designated the information as confidential commercial information pursuant to the requirements of this section; or

(ii) The Agency has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(3) Notice of a request for confidential commercial information falling within paragraph (c)(2)(i) of this section shall be required for a period of not more than ten (10) years after the date of submission unless the submitter provides reasonable justification for a designation period of greater duration.

(4) A submitter shall use good-faith efforts to designate by appropriate markings, either at the time a record is submitted to the Agency or within a reasonable period of time thereafter, those portions of the record which it deems to contain confidential commercial information. The designation shall be accompanied by a certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public.

(5) Whenever the Agency provides notice to the submitter in accordance with paragraph (c) of this section, the Agency shall at the same time provide written notice to the requester that it is affording the submitter a reasonable period of time within which to object to the disclosure, and that, therefore, the Agency may be required to enlarge the time within which it otherwise would respond to the request.

(d) *Opportunity to object to disclosure.* To the extent permitted by law, the notice required by paragraph (c) of this section shall afford a submitter a reasonable period of time within which the submitter or its authorized representative may provide the Agency with a written objection to the disclosure of the confidential commercial information and demonstrate why the submitter believes that the records contain confidential commercial information. Except where a certification already has been made in conformance with the requirements of paragraph (c)(4) of this section, the objection shall be accompanied by certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(e) *Notice of intent to disclose.* (1) The Agency shall give careful consideration to objections made by a submitter pursuant to paragraph (d) of this section prior to making any administrative determination of the issue. Whenever the Agency decides to disclose information over the objection of a submitter, the Agency shall forward to the submitter a written notice which shall include:

(i) A statement of the reasons for which a submitter's disclosure objections were not sustained;

(ii) A description of the information to be disclosed; and

(iii) A specified disclosure date.

(2) To the extent permitted by law, the notice required to be given by paragraph (e)(1) of this section shall be provided to the submitter a reasonable number of days prior to the specified disclosure date.

(3) Whenever the Agency provides notice to the submitter in accordance with paragraphs (e)(1) and (e)(2) of this section, the Agency shall at the same time notify the requester that such notice has been given and the proposed date for disclosure.

(f) *Notice of lawsuit.* Whenever a requester brings suit seeking to compel the disclosure of information for which notice is required pursuant to paragraph (c) of this section, the Agency shall promptly notify the submitter that such suit has been filed.

(g) *Exceptions to notice requirements.* The notice requirements of this section shall not apply if:

(1) The Agency determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by an Agency rule that;

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the agency that are to be released under the Freedom of Information Act; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with paragraph (c) of this section, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the Agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such case, the

Agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

Subpart E—Exemptions From Disclosure

§ 212.41 Exemptions from the publication and disclosure requirements of Subparts B, C, and D.

None of the provisions of Subparts B, C, and D which provide for publication and disclosure of certain information and records shall be applicable to matters that are:

(a) (1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and

(2) Are in fact properly classified pursuant to such Executive Order;

(b) Related solely to the internal personnel rules and practices of the Agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged and confidential;

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedure for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(i) Geological and geophysical information and data (including maps) concerning wells.

§ 212.42 Exemption from 5 U.S.C. 552.

Whenever a request is made which involves access to records described in paragraph (g) of § 212.41 and the investigation of proceeding involves a possible violation of criminal law; and there is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of 5 U.S.C. 552 and this subpart.

Subpart F—Opening of Records for Nonofficial Research Purposes

§ 212.51 General policy.

(a) A.I.D. and I.D.C.A. will open their records on an equitable basis to all individuals engaged in private research as soon as such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, the efficient operation of the agency, and the administrative feasibility of servicing requests for access to such records.

(b) Access for research in the classified foreign policy records in I.D.C.A's or A.I.D.'s custody will be governed by the regulations of the Department of State in respect thereto, as set forth in part 171, chapter I of title 22 of the Code of Federal Regulations. Application will be made to the Freedom of Information Officer at the addresses listed in § 212.33(a). The Freedom of Information Officer, in consultation with the Director, Historical Office, Department of State, will determine the action to be taken and advise the researcher.

Dated: April 20, 1990.

James Harper,

Director, Office of Public Inquiries.

[FR Doc. 90–9930 Filed 5–2–90; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–29–89]

RIN 1545–AN24

Adjusted Current Earnings, Foreign Sales Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains proposed regulations relating to the alternative minimum tax for corporations. The Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and the Revenue Reconciliation Act of 1989 all made changes to the applicable law. These regulations affect corporate taxpayers and provide them with guidance necessary to determine their alternative minimum tax. This document also contains proposed amendments to the temporary regulations relating to Foreign Sales Corporations.

DATES: These regulations are proposed to be effective for taxable years beginning after 1989. Written comments must be received by August 1, 1990. Outlines for persons wishing to speak at the public hearing scheduled for Tuesday, October 16, 1990, and Wednesday, October 17, 1990, must be received by September 25, 1990. *See* the Notice of Hearing published elsewhere in this issue of the **Federal Register.**

ADDRESSES: The Service will hold the public hearing in the I.R.S. Auditorium, 7th Floor, Internal Revenue Building, 1111 Constitution Ave., NW., Washington, DC. Send comments, requests to speak, and the outlines of oral comments to Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC, 20044, Attention: CC:CORP:T:R (IA–29–89), Room 4429.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bogos of the Office of the Assistant Chief Counsel, Income Tax and Accounting, (202) 566–4104 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Income Tax Regulations (26 CFR part 1) under section 56 of the Internal Revenue Code of 1986. The proposed amendments would conform the regulations to section 701 of the Tax Reform Act of 1986 (Pub.

L. 99–514; 100 Stat. 2320), sections 1007 and 6079 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342), and sections 7205 and 7611 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239, 103 Stat. 2106).

Adjustment for Adjusted Current Earnings

I. General Description of Provisions

Section 1.56–1 (g) provides rules under which corporate taxpayers subject to the alternative minimum tax of section 55 or environmental tax of section 59A must determine the adjustment to alternative minimum taxable income (AMTI) for adjusted current earnings (ACE). For taxable years beginning after 1989, corporations must increase their AMTI by the adjustment for ACE. This adjustment is equal to 75 percent of the excess, if any, of the ACE of the taxpayer for the taxable year over the pre-adjustment AMTI of the taxpayer for the taxable year. Pre-adjustment AMTI is the AMTI of the taxpayer for the taxable year, determined without the adjustment for ACE and without the alternative tax net operating loss deduction. A taxpayer is allowed a negative adjustment for 75 percent of any excess of pre-adjustment AMTI over ACE, to the extent of the taxpayer's net positive adjustments for ACE in prior taxable years.

ACE is defined in § 1.56 (g)–1(a)(5) (ii) as the taxpayer's pre-adjustment AMTI for the taxable year determined by taking into account certain specified adjustments. ACE is designed to be at least as broad a tax base, on a cumulative basis, as is pre-adjustment AMTI. ACE is also designed to be a measure of income that is at least as broad as pre-tax net book income as measured for financial reporting purposes. In certain circumstances where income is defined more broadly for financial reporting purposes than for tax purposes, the financial reporting concepts apply for purposes of computing ACE, in order to tax corporations on income that corresponds to earnings reported to regulators, shareholders, or creditors. In addition, for most purposes, ACE is determined as a separate and independent tax system. Thus, for example, the adjusted basis of property used for purposes of computing ACE is determined by taking into account ACE capitalization and cost recovery requirements.

II. Earnings and Profits as a Component of ACE

A. In General

As described above, the starting point for determining ACE is the pre-adjustment AMTI of the taxpayer. In addition, § 1.56 (g)–1(c) provides that ACE generally includes all income items that are taken into account in determining current earnings and profits if the items are not includible in pre-adjustment AMTI. Interest income on tax-exempt obligations is an example of such an income item.

An item generally is not deductible in computing ACE, however, unless it is deductible in determining both pre-adjustment AMTI and current earnings and profits. Thus, an item that is deductible in determining current earnings and profits is not deductible in computing ACE if it is not also deductible in determining pre-adjustment AMTI. In addition, items that are deductible in determining pre-adjustment AMTI must be added back for purposes of computing ACE if they are not also deductible in determining current earnings and profits.

A limited exception to the general disallowance of deductions for items not deductible in determining pre-adjustment AMTI is provided for items that would have been deductible if the income item to which they relate had been included in pre-adjustment AMTI. Under this exception, interest expense on indebtedness incurred to purchase tax-exempt obligations is deductible in computing ACE, because it would have been deductible in determining pre-adjustment AMTI if the tax-exempt interest to which it relates had been included in pre-adjustment AMTI.

B. Treatment of Items Not Deductible in Computing Pre-Adjustment AMTI

Congress intended that ACE be a broader tax base than pre-adjustment AMTI. As a result, the Code provisions applicable to both income items and expense items tend to cause ACE to exceed pre-adjustment AMTI. The rules in the proposed regulations are derived directly from the requirements of the statute. Because ACE comprises a series of explicitly enumerated adjustments to pre-adjustment AMTI, a deduction that is disallowed for pre-adjustment AMTI and is not included in the list of ACE adjustments is not taken into account in computing ACE.

Section 1.56 (g)–1(e) provides that amounts that are not deductible in computing pre-adjustment AMTI generally are not deductible in computing ACE, notwithstanding the fact that these amounts may be deductible in computing current earnings and profits. Thus, for example, because net capital losses are not deductible in determining pre-adjustment AMTI, a capital loss is deductible in computing ACE only to the extent of capital gains for the taxable year even though a net capital loss may be deductible for purposes of computing earnings and profits. Similarly, even though these items may be deductible in computing current earnings and profits, no deduction is allowed in computing ACE for bribes, fines, and penalties disallowed under section 162; charitable contributions in excess of the limitations of section 170; expenditures for meals and entertainment in excess of the limitations of section 274; Federal taxes disallowed under section 275; and golden parachute payments in excess of the limitation of section 280G.

C. Treatment of Expenses Attributable to Income Taken Into Account in Computing ACE

As explained above, a deduction is allowed for expenses attributable to income that is taken into account in computing ACE if those expenses would have been deductible in computing pre-adjustment AMTI had the income that is includible in ACE been includible in pre-adjustment AMTI. The proposed regulations do not limit the amount of the deduction for these expenses to the amount of related income that is included in ACE as of the end of the taxable year. Instead, these expenses may be deducted even if an offsetting amount of related income has not yet been taken into account in determining ACE. This approach relieves taxpayers of the burden of tracking, year-by-year and item-by-item, both the income items and their offsetting deductions.

D. Inclusion of Buildup in Life Insurance Contracts

Section 56(g)(4)(B)(ii) and § 1.56 (g)–1(c)(5) provide that the undistributed income (inside buildup) for a taxable year on a corporate-owned life insurance contract is included in ACE, and a deduction is allowed for the portion of any premium that is attributable to insurance coverage. In general, the determination of income on the contract for ACE purposes parallels the determination under section 7702(g)(1)(B) for regular tax purposes. The computation generally determines the increase in the net surrender value of the contract. In addition, the computation has been simplified by omitting the inclusion of the cost of the insurance protection in income on the contract and the offsetting deduction for

this amount in computing ACE. The Service welcomes suggestions on ways to further simplify the computation of inside buildup.

E. Treatment of Dividend Distributions

ACE is determined by reference to current earnings and profits within the meaning of section 316(a)(2). This treatment is indicated by the legislative history of the Tax Reform Act of 1986, which states, "Adjusted current earnings measures pretax income without diminution by reason of any distribution made during the taxable year * * * [N]o deduction is allowed with respect to a dividend paid." H.R. Rep. No. 841, 99th Cong., 2nd Sess. II–276 (1986). Therefore, under § 1.56(g)–1(d) of the proposed regulations, dividend distributions with respect to stock that are deductible in computing pre-adjustment AMTI are not deductible in computing ACE. Thus, for example, ACE is determined without taking into account deductions allowed under sections 247 (dividends paid by public utilities with respect to certain preferred stock), 404(k) (certain dividends paid with respect to stock held by an employee stock ownership plan), and 1382(c) (nonpatronage dividends paid by certain cooperatives).

In contrast, deductible distributions that are labeled "dividends," but that are not made with respect to stock, are not treated as dividends under section 301(a) and do reduce current earnings and profits for purposes of determining the amount available for distribution as a dividend. These distributions are deductible in computing both pre-adjustment AMTI and ACE. Therefore, for example, no adjustment to ACE is required for dividends paid on deposits by thrift institutions deductible under section 591, life insurance policyholder dividends deductible under section 808, and patronage dividends of cooperatives deductible under section 1382(b).

The treatment of dividends in the proposed regulations is consistent with the manner in which current earnings and profits are computed by a corporation in determining the amount available for distribution as a dividend under section 301(a). For example, a stock life insurance company that pays a policyholder dividend reduces current earnings and profits by the amount of that dividend in determining the extent to which a distribution with respect to its stock constitutes a dividend as opposed to a return of capital. In contrast, a distribution made by a stock life insurance company with respect to its stock held by an employee stock ownership plan does not reduce current earnings and profits in determining whether that distribution and other distributions with respect to the corporation's stock constitute a dividend as opposed to a return of capital. This is true even though the dividend may be deductible for regular tax purposes under section 404(k). This treatment of dividends is also consistent with Congress' intent that ACE not be less than the amount of current earnings and profits and pre-tax net book income for the taxable year that is available for distribution to shareholders.

F. Treatment of Timing Differences

Section 1.56(g)–1(c)(1) provides that ACE includes all income items that are permanently excluded from pre-adjustment AMTI but are taken into account in determining current earnings and profits. The proposed regulations clarify, however, that an income item may be considered permanently excluded from pre-adjustment AMTI even though the proceeds from that item might eventually be reflected in pre-adjustment AMTI of another taxpayer upon the liquidation or disposal of a business. Under the proposed regulations, ACE is generally determined by using the income timing rules applicable in computing pre-adjustment AMTI even if an income item is taken into account for current earnings and profits purposes in a taxable year other than the year in which it is taken into account in computing pre-adjustment AMTI.

An analogous rule applies for deduction items. Section 1.56 (g)–1 (d)(1) provides that, in general, no deduction is allowed in computing ACE for amounts that are not deductible in any taxable year for purposes of computing current earnings and profits. Thus, ACE is increased by amounts that are deductible in determining pre-adjustment AMTI if these amounts are not also deductible in determining current earnings and profits. Only deduction items, however, that are permanently disallowed in determining current earnings and profits must be included in ACE under this rule.

III. Treatment of Ownership Changes

A. Definition of Ownership Change

For purposes of computing ACE, the adjusted bases of the assets of a corporation are restated after an "ownership change" in order to eliminate any net unrealized built-in loss in those assets. Whether an ownership change occurs is determined by reference to the provisions of section 382. The regulations under section 382 provide that an ownership change occurs upon certain owner shifts or equity structure shifts of a corporation that is a loss corporation. Through its cross-reference to § 1.382–2T (f)(1), § 1.56 (g)–1 (k)(2) defines "loss corporation" to include any corporation that, for regular tax purposes, has a loss carryforward, a net unrealized built-in loss, or excess credits under section 383.

Due to the slower cost recovery allowances used for ACE purposes, a corporation with a net unrealized built-in loss for ACE purposes (*i.e.*, determined by reference to the ACE adjusted basis of the corporation's assets) may not have a net unrealized built-in loss for regular tax purposes and therefore may not be a loss corporation for regular tax purposes. Under the proposed regulations, however, an ownership change is deemed to occur for ACE purposes only if the corporation has an ownership change for regular tax purposes. Thus, a corporation that has a net unrealized built-in loss with respect to its assets for ACE purposes but is not a loss corporation for regular tax purposes will not be treated as having had an ownership change for ACE purposes.

The nature of ACE as a separate tax system suggests that the ACE basis of a corporation's assets should be used to determine whether it has a net unrealized built-in loss and is therefore a loss corporation. This approach would require a corporation to make ACE, as well as regular tax, determinations of its status as a loss corporation. Corporations then would have to track their stock ownership during ACE testing periods in addition to tracking it during regular tax testing periods. The Service concluded that this might impose an unwarranted burden upon taxpayers. Thus, in determining whether a corporation is a loss corporation, its net unrealized built-in loss is calculated using the basis of its assets for regular tax purposes. In the event of abuse, section 269 will apply to prevent tax-motivated attempts to avoid the application of the ACE ownership change provision by a corporation that has a net unrealized built-in loss for ACE purposes but not for regular tax purposes. If significant abuses develop, the Service will reconsider its decision not to use a corporation's adjusted basis for ACE purposes in determining whether a corporation is a loss corporation.

B. Determination of Net Unrealized Built-in Loss

After a corporation is determined to have had an ownership change, the separate system concept generally applicable to ACE applies to the

computation of the amount of a net unrealized built-in loss. Thus, under the proposed regulations, a corporation that undergoes an ownership change for regular tax purposes must eliminate any net unrealized built-in loss as determined by reference to the ACE adjusted basis of the corporation's assets. For example, a corporation that is a loss corporation for regular tax purposes (*e.g.*, due to net operating loss carryovers) but that does not have a net unrealized built-in loss determined by reference to the regular tax adjusted basis of its assets will nonetheless be required to eliminate net unrealized losses for ACE purposes if it has a net unrealized built-in loss determined by reference to the ACE adjusted basis of its assets.

IV. Ordering Rules for Distributions by a FSC

In response to the intent of Congress, H. Rep. 99–841, 99th Cong., 2d Sess., II–275 (1986), the proposed regulations modify the ordering rules of § 1.926 (a)–1T (b)(1) for distributions by a Foreign Sales Corporation (FSC) received by a shareholder in a taxable year of the shareholder beginning after December 31, 1989. Distributions out of earnings and profits attributable to the FSC's non-exempt foreign trade income and other exempt foreign trade income determined under either of the administrative pricing methods of section 925(a) (1) or (2) (other than to the extent the distribution is allocable to the marketing of agricultural or horticultural products (or the providing of related services) by a qualified cooperative which is a shareholder of the FSC) will be made on a pro rata basis so that 15/23 (16/23 with regard to distributions to a non-corporate shareholder) of each distribution will be made out of earnings and profits attributable to exempt foreign trade income, and the remainder will be out of earnings and profits attributable to non-exempt foreign trade income.

V. Effective Dates for Corporate Partners in Partnerships

Section 1.56 (g)–1 (p) provides special rules for determining the effective dates of the proposed regulations if a corporation is a partner in a partnership that has a taxable year other than that of the corporation. Under these rules, a corporate partner's distributive share of items of income and expense of a partnership are generally subject to the provisions of the proposed regulations for the partnership's taxable years ending within or with the taxable years of the corporate partner beginning after December 31, 1989. This provision is designed to prevent the omission of an item from the application of both the book income adjustment and the adjusted current earnings adjustment.

VI. Specific Requests for Written Comments

A. Integration Election

The Conference Report to the 1986 Act, H.R. Rep. No. 841, 99th Cong., 2nd Sess. II–278 (1986), indicated a Congressional intent that the ACE and general minimum tax systems "be integrated regarding recordkeeping to the maximum extent feasible." The Service is currently studying the feasibility of integrating the ACE and general minimum tax recordkeeping requirements. Taxpayers are invited to recommend integration approaches that alleviate the recordkeeping burden without departing from the purposes of the ACE adjustment. In particular, the Service welcomes comments regarding the desirability of an election that would allow taxpayers to determine certain items for purposes of computing pre-adjustment AMTI in the same manner as these items are determined for purposes of computing ACE. For example, an election could allow taxpayers to use the ACE depreciation allowances for purposes of computing pre-adjustment AMTI. While making such an election would tend to increase the taxpayer's minimum tax liability, the need for a separate ACE depreciation and adjusted basis record would be eliminated.

B. Simplification Measures

The Service welcomes comments and suggestions on ways to reduce the complexity of the regulations, consistent with the legislative mandate of section 56(g). The Service especially encourages specific suggestions, such as safe harbors and *de minimis* rules, that both substantially further the intent of Congress and significantly reduce the administrative burden on taxpayers and the Service.

C. Consolidated Groups and Foreign Corporations

The proposed regulations provide general rules for the computation of ACE by an affiliated group of corporations joining in the filing of a consolidated federal income tax return (a consolidated group). Consolidated groups will compute their pre-adjustment AMTI and ACE on a consolidated, rather than a separate company, basis. The Service invites comments and suggestions on areas in which the consolidated return rules interact with ACE. These areas include (1) how to avoid a double inclusion in ACE through the interaction of paragraph (c) of the proposed regulations with the consolidated return regulations, (2) whether limitations similar to the separate return limitation year rules of § 1.1502–21 (c) should apply in determining whether the positive ACE adjustments for separate return years may be considered in computing the limitation on negative adjustments under paragraph (n)(2) of the proposed regulations, and (3) how to determine the portion of a consolidated group's positive ACE adjustments that is allocated to a member leaving the group.

The proposed regulations reserve discussion of the application of ACE to foreign corporations. The Service invites comments and suggestions on this subject.

D. Policy Acquisition Expenses of Life Insurance Companies

Section 56(g)(4)(F) requires that, in determining ACE, policy acquisition expenses of life insurance companies must be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles. The Service is currently studying methods of amortizing life insurance company policy acquisition expenses for ACE purposes. Taxpayers are invited to recommend simplified amortization approaches that would not reduce revenue. Comments are specifically invited on the following issues: (1) what expenses are properly deferred, (2) whether amortization schedules for ACE purposes should be based on gross premiums or net profits, including whether this computation should take into account investment income, (3) what factors should be considered in determining the appropriate deferral period, (4) the appropriate treatment of policy acquisition expenses when transactions are reported differently for tax and financial reporting purposes, and (5) whether reserve deductions should be taken into account in determining appropriate amortization schedules.

While the Service continues its analysis of these and other relevant issues, the rules provided in paragraph (h) for the capitalization and amortization of policy acquisition expenses of life insurance companies may be relied upon until further guidance is published.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291.

Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these proposed rules, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(b) of the Internal Revenue Code, these proposed rules will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adapted, consideration will be given to any written comments that are submitted (preferably nine copies) to the Internal Revenue Service. All comments will be available of public inspection and copying. A public hearing is scheduled for Tuesday, October 16, 1990 (and Wednesday, October 17, 1990, if necessary). Notice of Public Hearing is published in the Notice portion of this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Nicholas G. Bogos of the Office of Assistant Chief Counsel, Income Tax and Accounting, Internal Revenue Service. Personnel from other offices of the Service and the Treasury, however, assisted in developing these proposed regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.01–1—1.56(g)

Income taxes, Tax liability, Tax rates.

26 CFR 1.861–1 through 1.999–1

Aliens, DISC, Exports, Foreign investment in U.S., Foreign tax credit, Income taxes, Sources of income, United States investments abroad.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805 * * * Section 1.56(g)–1 is also issued under section 7611(g)(3) of the Omnibus Budget Reconciliation Act of 1989 (Pub.L. 101–239, 103 Stat. 2373).

Par. 2. The following new section is added immediately following the appropriate place to read as follows:

§ 1.56(g)–0 Table of contents.

This section lists the paragraphs contained in § 1.56(g)–1.

§ 1.56(g)–1 Adjusted current earnings.

(a) Adjustment for adjusted current earnings.
(1) Computation of adjustment.
(i) In general.
(ii) Negative amounts.
(2) Allowance of negative adjustment.
(i) In general.
(ii) Limitation on negative adjustment.
(iii) Example.
(3) Taxpayers subject to adjustment for adjusted current earnings.
(4) General rule for applying Internal Revenue Code provisions in determining adjusted current earnings.
(i) In general.
(ii) Example.
(5) Definitions.
(i) Pre-adjustment alternative minimum taxable income.
(ii) Adjusted current earnings.
(iii) Earnings and profits.
(b) Depreciation.
(1) Property placed in service after 1989.
(2) Property subject to new ACRS.
(i) In general.
(ii) Rules for computing the depreciation deduction.
(iii) Example.
(3) Special rule for certain section 168 (f) property.
(4) Property subject to original ACRS.
(i) In general.
(ii) Rules for computing the depreciation deduction.
(iii) Example.
(5) Certain property not subject to ACRS.
(c) Inclusion in adjusted current earnings of items included in earnings and profits.
(1) In general.
(2) Certain amounts not taken into account in determining whether an item is permanently excluded.
(3) Allowance of offsetting deductions.
(4) Special rule for income from the discharge of indebtedness.
(5) Treatment of life insurance contracts.
(i) In general.
(ii) Inclusion of inside buildup.
(iii) Calculation of income on the contract.
(iv) Treatment of distributions under the life insurance contract.
(v) Treatment of death benefits.
(vi) Other rules.
(A) Term life insurance contracts without net cash surrender values.
(B) Life insurance contracts involving divided ownership.
(vii) Examples.
(6) Partial list of income items excluded from gross income but included in earnings and profits.
(d) Disallowance of items not deductible in computing earnings and profits.
(1) In general.
(2) Deductions for certain dividends received.
(i) Certain amounts deducted under sections 243 and 245.
(ii) Special rules.
(A) Dividends received from a foreign sales corporation.
(B) Dividends received from a section 936 corporation.
(iii) Special rule for certain dividends received by certain cooperatives.
(3) Partial list of items not deductible in computing earnings and profits.
(4) Partial list of deduction items treated the same for purposes of computing pre-adjustment alternative minimum taxable income and adjusted current earnings.
(e) Disallowance of deductions not allowable in computing pre-adjustment alternative minimum taxable income.
(f) Certain other earnings and profits adjustments.
(1) Intangible drilling costs.
(2) Certain amortization provisions not to apply.
(3) LIFO inventory adjustments.
(4) Installment sales.
(i) In general.
(ii) Exception for prior dispositions.
(iii) Special rule for obligations to which section 453A applies.
(A) In general.
(B) Limitation on application of installment method.
(C) Treatment of the ineligible portion.
(D) Treatment of the eligible portion.
(E) Coordination with the pledge rule.
(F) Example.
(g) Disallowance of loss on exchange of debt pools. [RESERVED]
(h) Policy acquisition expenses of life insurance companies.
(1) In general.
(2) Reasonably estimated life.
(3) Reasonable allowance for amortization.
(4) Safe harbor for public financial statements.
(5) Treatment of acquisition expenses when transactions are reported differently for tax and financial reporting purposes.
[RESERVED]
(i) [RESERVED]
(j) Depletion.
(k) Treatment of certain ownership changes.
(1) In general.
(2) Definition of ownership change.
(3) Determination of net unrealized built-in loss immediately before an ownership change.
(4) Example.
(l) [RESERVED]
(m) Adjusted current earnings of foreign corporations. [RESERVED]
(n) Adjustment for adjusted current earnings of consolidated groups.
(1) In general.
(2) Allowance of negative adjustment.
(i) In general.
(ii) Limitation on negative adjustment.
(3) Definitions.
(i) Consolidated pre-adjustment alternative minimum taxable income.
(ii) Consolidated adjusted current earnings.
(4) Example.
(o) [RESERVED]
(p) Effective dates for corporate partners in partnerships.
(1) In general.
(2) Application of effective dates.
(3) Example.

Para. 3. The following new section is added immediately after § 1.56(g)–0 to read as set forth below:

§ 1.56(g)–1 Adjusted current earnings.

(a) *Adjustment for adjusted current earnings*—(1) *Computation of adjustment*—(i) *In general.* For taxable years beginning after December 31, 1989, the alternative minimum taxable income of any taxpayer subject to the adjustment for adjusted current earnings (as specified in paragraph (a)(3) of this section) is increased by the adjustment for adjusted current earnings described in this section. The adjustment for adjusted current earnings is 75 percent of the excess, if any, of—

(A) The adjusted current earnings (as defined in paragraph (a)(5)(ii) of this section) of the taxpayer for the taxable year, over

(B) The pre-adjustment alternative minimum taxable income (as defined in paragraph (a)(5)(i) of this section) of the taxpayer for the taxable year.

(ii) *Negative amounts.* In determining whether an excess exists under paragraph (a)(1)(i) of this section, a positive amount exceeds a negative amount by the sum of the absolute numbers, and a smaller negative amount exceeds a larger negative amount by the difference between the absolute numbers. Thus, for example, a positive amount of adjusted current earnings of $30 exceeds a negative amount (or loss) of pre-adjustment AMTI of $10 by the sum of the absolute numbers, or $40 (30+10). Accordingly, the adjustment for adjusted current earnings would be 75 percent of $40, or $30. In contrast, a negative amount of adjusted current earnings of $10 exceeds a negative amount (or loss) of pre-adjustment alternative minimum taxable income of $30 by the difference between the absolute numbers, or $20 (30−10). Accordingly, the adjustment for adjusted current earnings would be 75 percent of $20, or $15.

(2) *Allowance of negative adjustment*—(i) *In general.* For taxable years beginning after December 31, 1989, the alternative minimum taxable income of any taxpayer is decreased, subject to the limitation of paragraph (a)(2)(ii) of this section, by 75 percent of the excess, if any, of pre-adjustment alternative minimum taxable income, as defined in paragraph (a)(5)(i) of this section, over adjusted current earnings, as defined in paragraph (a)(5)(ii) of this section.

(ii) *Limitation on negative adjustment.* The amount of the negative adjustment for any taxable year is limited to the excess, if any, of—

(A) The aggregate increases in alternative minimum taxable income in prior years under paragraph (a)(1) of this section, over

(B) The aggregate decreases in alternative minimum taxable income in prior years under this paragraph (a)(2). Any excess of pre-adjustment alternative minimum taxable income over adjusted current earnings that is not allowed as a negative adjustment in any taxable year because of the limitations of this paragraph (a)(2)(ii) is not applied to reduce any positive adjustment in any other taxable year.

(iii) *Example.* The following example illustrates the provisions of this paragraph (a)(2):

(A) Corporation P is a calendar-year taxpayer and has pre-adjustment alternative minimum taxable income and adjusted current earnings in the following amounts for 1990 through 1993:

Year	Pre-adjustment alternative minimum taxable income (dollars)	Adjusted current earnings (dollars)
1990	800,000	700,000
1991	600,000	900,000
1992	500,000	400,000
1993	500,000	100,000

(B) Under these facts, corporation P has the following positive and negative adjustments for adjusted current earnings:

Year	Negative adjustment (dollars)	Positive adjustment (dollars)
1990		
1991		225,000
1992	75,000	
1993	150,000	

(C) In 1990, P has a potential negative adjustment (before the cumulative limitation) of $75,000 (75 percent of the $100,000 excess of pre-adjustment alternative minimum taxable income over adjusted current earnings). Nonetheless, P is not permitted a negative adjustment because P had no prior increases in its alternative minimum taxable income due to an adjustment for adjusted current earnings.

(D) In 1991, P has a positive adjustment of $225,000 (75 percent of the $300,000 excess of adjusted current earnings over pre-adjustment alternative minimum taxable income). P is not allowed to use the prior year's excess of pre-adjustment alternative minimum taxable income over adjusted current earnings to reduce its 1991 positive adjustment.

(E) In 1992, P is permitted a negative adjustment of $75,000, the full amount of 75 percent of the $100,000 excess of pre-adjustment alternative minimum taxable income over adjusted current earnings for the taxable year. This is because P's prior cumulative increases in alternative minimum taxable income due to the positive adjustments for adjusted current earnings exceed the negative adjustment for the year.

(F) In 1993, P has a potential negative adjustment (before the cumulative limitation) of $300,000 (75 percent of the $400,000 excess of pre-adjustment alternative minimum taxable income over adjusted current earnings). P's net cumulative increases in alternative minimum taxable income due to the adjustment for adjusted current earnings are $150,000 ($225,000 increase in 1991, less $75,000 decrease in 1992). Thus, P's negative adjustment in 1993 is limited to $150,000. P may not use the remaining portion ($150,000) of the negative adjustment for 1993 to reduce positive adjustments in other taxable years.

(3) *Taxpayers subject to adjustment for adjusted current earnings.* The adjustment for adjusted current earnings applies to any corporation other than—

(i) An S corporation as defined in section 1361,

(ii) A regulated investment company as defined in section 851,

(iii) A real estate investment trust as defined in section 856, or

(iv) A real estate mortgage investment conduit as defined in section 860A.

(4) *General rule for applying Internal Revenue Code provisions in determining adjusted current earnings*—(i) *In general.* Except as otherwise provided by regulations or other guidance issued by the Internal Revenue Service, all Internal Revenue Code provisions that apply in determining the regular taxable income of a taxpayer also apply in determining adjusted current earnings. For example, the rules of part V of subchapter P (relating to original issue discount and similar matters) of the Code apply in determining the amount (and the timing) of any interest income included in adjusted current earnings under this section. In applying Code provisions, however, the adjustments of this section and section 56 (g) are also taken into account.

For example, in applying the capitalization provisions of section 263A, the amount of depreciation to be capitalized is based on the amount of depreciation allowed in computing adjusted current earnings.

(ii) *Example.* The following example illustrates the provisions of this paragraph (a)(4):

(A) Corporation N is a calendar year manufacturer of golf clubs. N places new manufacturing equipment in service in 1990. The regular tax depreciation allowable for this equipment is $80,000; the pre-adjustment alternative minimum taxable income depreciation is $60,000; and the adjusted current earnings depreciation is $40,000. All of the golf clubs N produces in 1990 are unsold and are in ending inventory.

(B) Pursuant to section 263A and § 1.263A–1T(b)(2)(iii)(J), N must capitalize the

depreciation allowed for the year for the new manufacturing equipment in the ending inventory of golf clubs. Thus, when N sells the golf clubs (or is deemed to have sold them under its normal method of accounting), the cost of goods sold attributable to the capitalized depreciation will be $80,000 in computing regular taxable income; $60,000 in computing pre-adjustment alternative minimum taxable income; and $40,000 in computing adjusted current earnings.

(5) *Definitions.* The following terms have the following meanings for purposes of this section.

(i) *Pre-adjustment alternative minimum taxable income.* Pre-adjustment alternative minimum taxable income is the alternative minimum taxable income of the taxpayer for the taxable year, determined under section 55(b)(2), but without the adjustment for adjusted current earnings and without the alternative tax net operating loss deduction under section 56(a)(4).

(ii) *Adjusted current earnings.* Adjusted current earnings is the pre-adjustment alternative minimum taxable income of the taxpayer for the taxable year, adjusted as provided in this section and in section 56(g).

(iii) *Earnings and profits.* Earnings and profits means current earnings and profits within the meaning of section 316(a)(2), that is, earnings and profits of the taxable year computed as of the close of the taxable year of the corporation without diminution by reason of any distributions made during the taxable year.

(b) *Depreciation.* The depreciation deduction for computing adjusted current earnings is determined under the rules of this paragraph (b). Generally, the rules for computing the depreciation deduction differ depending on the taxable year in which the property is placed in service and the method used in computing the depreciation deduction for taxable income purposes.

(1) *Property placed in service after 1989.* The depreciation deduction for property placed in service in a taxable year beginning after December 31, 1989, is the amount determined by using the alternative depreciation system of section 168(g). This paragraph (b)(1) does not apply to property to which paragraph (b)(3) of this section applies (relating to certain property described in section 168(f)).

(2) *Property subject to new ACRS*—(i) *In general.* This paragraph (b)(2) provides the rules for computing the depreciation deduction for property to which the amendments made by section 201 of the Tax Reform Act of 1986 (new ACRS) apply (generally property placed in service after December 31, 1986), and that is placed in service in a taxable year beginning before January 1, 1990. This paragraph (b)(2) does not apply to property described in paragraph (b)(3) of this section (relating to certain property described in section 168(f)) or to property excluded from the application of new ACRS by section 168(f)(5)(i) (relating to certain churning transactions). See paragraph (b)(5) of this section for the rule that applies to certain property not subject to ACRS.

(ii) *Rules for computing the depreciation deduction.* The depreciation deduction for property described in this paragraph (b)(2) is the amount determined by using—

(A) The adjusted basis of the property as determined in computing alternative minimum taxable income as of the close of the last taxable year beginning before January 1, 1990,

(B) The straight-line method, and

(C) The recovery period that consists of the remainder of the recovery period applicable to the property under the alternative depreciation system of section 168(g). Thus, the recovery period begins on the first day of the first taxable year beginning after December 31, 1989, and ends on the last day of the recovery period that would have applied had the recovery period for the property originally been determined under section 168(g)(2). In determining the recovery period that would have applied, the property is deemed placed in service on the date it was considered placed in service under the depreciation convention that would have applied to the property under section 168(d).

(iii) *Example.* The following example illustrates the provisions of this paragraph (b)(2).

Example. Corporation X, a calendar-year taxpayer, purchases and places in service on August 1, 1987, computer-based telephone central office switching equipment. This is the only item of depreciable property X places in service during 1987. Thus, the applicable convention under section 168(d) is the half-year convention. As of December 31, 1989, the adjusted basis of the property used in computing alternative minimum taxable income is $42,000. The recovery period that would have applied to the property under section 168(g)(2) is 9.5 years (from July 1, 1987 to December 31, 1996). Thus, the recovery period for computing adjusted current earnings under section 56(g)(4)(A)(ii) and this paragraph (b)(2) begins on January 1, 1990, and ends on December 31, 1996. X's 1990 depreciation deduction for computing adjusted current earnings is $6,000, determined under the straight-line method by dividing $42,000 (adjusted basis) by 7 (recovery period).

(3) *Special rule for certain section 168(f) property.* The depreciation or amortization deduction for property excluded from new ACRS because the property is described in paragraphs (1), (2), (3), or (4) of section 168(f) is determined in the same manner as used in computing taxable income.

(4) *Property subject to original ACRS*—(i) *In general.* This paragraph (b)(4) provides the rules for computing the depreciation deduction for property to which section 168 as in effect on the day before the date of enactment of the Tax Reform Act of 1986 (original ACRS) applies (generally property to which new ACRS does not apply and that was placed in service after December 31, 1980), and that is placed in service in a taxable year beginning before January 1, 1990. In determining whether original ACRS applies to property, the fact that the unadjusted basis of the property is reduced or eliminated under section 168(d)(4)(A)(i) of original ACRS is not taken into account.

(ii) *Rules for computing the depreciation deduction.* The depreciation deduction for property described in this paragraph (b)(4) is the amount determined by using—

(A) The adjusted basis of the property as determined in computing taxable income as of the close of the last taxable year beginning before January 1, 1990,

(B) The straight-line method, and

(C) The recovery period that consists of the remainder of the recovery period applicable to the property under the alternative depreciation system of section 168(g). Thus, the recovery period begins on the first day of the first taxable year beginning after December 31, 1989, and ends on the last day of the recovery period that would have applied had the recovery period for the property originally been determined under section 168(g)(2). In determining the recovery period that would have applied, the property is deemed placed in service on the date it was considered placed in service under the depreciation convention that would have applied to the property under section 168(d) (without regard to section 168(d)(3)).

(iii) *Example.* The following example illustrates the provisions of this paragraph (b)(4).

Example. Corporation Y, a calendar-year taxpayer, purchases and places in service on December 1, 1986, computer-based telephone central office switching equipment. The depreciation convention that would have applied to this property under section 168(d) (without regard to section 168(d)(3)) is the half-year convention. As of December 31, 1989, the adjusted basis of the property used in computing taxable income is $21,000. The recovery period for the property under section 168(g)(2) is 9.5 years (from July 1, 1986 to December 31, 1995). Thus, the recovery period for computing adjusted current earnings under section 56(g)(4)(A)(iii) and

this paragraph (b)(4) begins on January 1, 1990, and ends on December 31, 1995. X's 1990 depreciation deduction for computing adjusted current earnings is $3,500, determined under the straight-line method by dividing $21,000 (adjusted basis) by 6 (recovery period).

(5) *Certain property not subject to ACRS.* The depreciation or amortization deduction for property not described in paragraphs (b)(1), (b)(2), (b)(3), or (b)(4) of this section is determined in the same manner as used in computing taxable income. Thus, this paragraph (b)(5) applies to—

(i) Property placed in service after December 31, 1980, in a taxable year beginning before January 1, 1990, and that is excluded from the application of original ACRS or new ACRS by section 168 (e)(4) of original ACRS or section 168(f)(5)(A)(i) of new ACRS, and

(ii) Property placed in service before January 1, 1981.

(c) *Inclusion in adjusted current earnings of items included in earnings and profits*—(1) *In general.* Except as otherwise provided in paragraph (c)(4) of this section, adjusted current earnings includes all income items that are permanently excluded from (*i.e.*, not taken into account in determining) preadjustment alternative minimum taxable income but that are taken into account in determining earnings and profits. An income item is considered taken into account in determining pre-adjustment alternative minimum taxable income without regard to the timing of its inclusion. Thus, this paragraph (c)(1) does not apply to any income item that is, has been, or will be included in preadjustment alternative minimum taxable income. For example, a taxpayer eligible to use the completed contract method of accounting for long-term construction contracts does not take income (or expenses) into account in determining pre-adjustment alternative minimum taxable income for taxable years before the taxable year the contract is completed. Rather, the taxpayer is required under section 312(n)(6) to include income (and expenses) in earnings and profits throughout the term of the contract under the percentage of completion method. This paragraph (c)(1) does not require the income on the contract to be included in adjusted current earnings, however, because the income will be taken into account in the taxable year the contract is completed and therefore is considered to be taken into account in determining pre-adjustment alternative minimum taxable income.

(2) *Certain amounts not taken into account in determining whether an item is permanently excluded.* The fact that proceeds from an income item may eventually be reflected in pre-adjustment alternative minimum taxable income of another taxpayer on the liquidation or disposal of a business, or similar circumstances, is not taken into account in determining whether the item is permanently excluded from pre-adjustment alternative minimum taxable income. Thus, for example, a corporation's adjusted current earnings include interest excluded from pre-adjustment alternative minimum taxable income under section 103 even though the interest might eventually be reflected in the pre-adjustment alternative minimum taxable income of a corporate shareholder as gain on the liquidation of the corporation.

(3) *Allowance of offsetting deductions.* In determining adjusted current earnings under this paragraph (c), a deduction is allowed for all items that relate to income required to be included in adjusted current earnings under this paragraph (c) and that would be deductible in computing pre-adjustment alternative minimum taxable income if the income items to which the items of deduction relate were included in pre-adjustment alternative minimum taxable income for any taxable year. For example, deductions disallowed under section 265(a)(2) for the costs of carrying tax-exempt obligations, the interest on which is excluded from pre-adjustment alternative minimum taxable income under section 103 but is included in adjusted current earnings under this paragraph (c), are generally allowed as deductions in computing adjusted current earnings. Amounts deductible under this paragraph (c)(3) are taken into account using the taxpayer's method of accounting and are subject to any provisions or limitations of the Code that would have applied if the amounts had been deductible in determining pre-adjustment alternative minimum taxable income. For example, section 267(a)(2) may affect the timing of a deduction otherwise disallowed under section 265(a)(2).

(4) *Special rule for income from the discharge of indebtedness.* Amounts excluded from gross income under section 108 of the Internal Revenue Code of 1986 or any corresponding provision of law repealed by the Bankruptcy Tax Act of 1980 are not included in adjusted current earnings.

(5) *Treatment of life insurance contracts*—(i) *In general.* This paragraph (c)(5) addresses the treatment of life insurance contracts in determining adjusted current earnings. These rules apply to life insurance contracts as defined in section 7702. Generally, death benefits under a life insurance contract are included in adjusted current earnings, and all other distributions (including surrenders) are taxed in accordance with the principles of section 72(e), taking into account the taxpayer's basis in the contract for purposes of adjusted current earnings. In addition, undistributed income on the contract is included in adjusted current earnings as provided in paragraph (c)(5)(ii) of this section. Paragraph (c)(5)(vi)(A) of this section provides special rules for term insurance that has no net surrender value.

(ii) *Inclusion of inside buildup.* Income on a life insurance contract with respect to a taxable year (or any shorter period either ending or beginning with the date of a distribution from the contract) is included in adjusted current earnings for the taxable year. Thus, income on the contract is calculated from the beginning of a taxable year to the date of any distribution, from immediately after any distribution to the date of the next distribution, and from the last distribution during the taxable year through the end of the taxable year. Income on a life insurance contract is not included in adjusted current earnings for any taxable year in which the insured dies or the contract is completely surrendered for its entire net surrender value. Solely for purposes of computing adjusted current earnings, the taxpayer's adjusted basis in the contract (as determined under section 72(e)(6)) is increased to reflect any positive income on the contract included in adjusted current earnings under this paragraph (c)(5)(ii). The manner in which the income on the contract is determined for adjusted current earnings purposes is prescribed in paragraph (c)(5)(iii) of this section. If the income on the contract determined under paragraph (c)(5)(iii) of this section is a negative amount, income on the contract is not included in adjusted current earnings and no deduction from adjusted current earnings is allowed for the negative amount.

(iii) *Calculation of income on the contract.* For purposes of determining adjusted current earnings, the income on a life insurance contract for any period, including a taxable year, is the excess, if any, of—

(A) The sum of the contract's net surrender value (as defined in section 7702(f)(2)(B)) at the end of the period, and any distributions under the contract during the period that, in accordance with the principles of section 72(e), are not taxed because they represent recoveries of the taxpayer's basis in the contract for adjusted current earnings, over

(B) The sum of the contract's net surrender value at the end of the preceding period, and any premiums paid under the contract during the period.

(iv) *Treatment of distributions under the life insurance contract.* Any distribution under a life insurance contract (whether a partial withdrawal or an amount received on complete surrender of the contract) is included in adjusted current earnings in accordance with the principles of section 72(e), taking into account the taxpayer's basis in the contract for purposes of computing adjusted current earnings. The taxpayer's basis in the contract is equal to the basis at the end of the immediately preceding period, plus any premiums paid before the distribution. The taxpayer's basis in the contract for purposes of adjusted current earnings is reduced, in accordance with the principles of section 72(e), to the extent that the distribution is not included in adjusted current earnings because it represents a recovery of that basis.

(v) *Treatment of death benefits.* The excess of the contractual death benefit of a life insurance contract over the taxpayer's adjusted basis in the contract for purposes of computing adjusted current earnings at the time of the insured's death is included in adjusted current earnings as provided by paragraph (c)(6)(i) of this section. The amount of the death benefit that is taken into account for adjusted current earnings includes the amount of any outstanding policy loan treated as forgiven or discharged by the insurance company upon the death of the insured.

(vi) *Other rules*—(A) *Term life insurance contracts without net surrender values.* Except as provided in this paragraph (c)(5)(vi), the requirements of paragraph (c)(5) of this section do not apply to term life insurance contracts that provide no net surrender value. Adjusted current earnings are reduced by any premiums paid under such a contract that are allocable to the insurance coverage provided during the taxable year. Any premiums paid that are not allocable to this coverage must be included in the basis of the contract. The death benefit under such a term insurance contract is included in adjusted current earnings as provided by paragraph (c)(5)(v) of this section.

(B) *Life insurance contracts involving divided ownership.* If the ownership of a life insurance contract is divided between different persons (for example, a split-dollar arrangement), the requirements of paragraph (c)(5) of this section apply to the separate ownership interests as though each interest were a separate contract.

(vii) *Examples.* The following examples illustrate the provisions of this paragraph (c)(5).

Example 1. (i) On January 1, 1987, corporation X, a calendar-year taxpayer, purchased a flexible premium life insurance contract with a death benefit of $100,000 and planned annual gross premiums of $2,200 payable on January 1 of each year. The net surrender value of the contract at the end of 1987 and subsequent years, together with the cumulative premiums for the contract at the end of each year, are set forth in the following table:

Year	Cumulative premiums paid	Year-end net surrender value
1987	$2,200	$2,420
1988	4,400	5,082
1989	6,600	8,010
1990	8,800	11,231
1991	11,000	14,774

(ii) Under paragraph (c)(5)(ii) of this section, X must include $1,021 in adjusted current earnings for 1990. The inclusion is computed by subtracting from the net surrender value of the contract at the end of the taxable year ($11,231) the sum of the net surrender value of the contract at the end of the preceding taxable year ($8,010) plus the premiums paid during the taxable year ($2,200). See paragraph (c)(5)(iii) of this section. For purposes of determining adjusted current earnings, X's adjusted basis in the contract would be increased at the end of 1990 from $8,800 to $9,821 to reflect the $1,021 inclusion. See paragraph (c)(5)(ii) of this section. The income under the contract attributable to taxable years prior to 1990 does not increase X's adjusted basis in the contract.

(iii) For 1991, the income on the contract included in adjusted current earnings is determined in the same manner as the preceding year, and there is a corresponding increase in X's adjusted basis in the contract. Thus, for 1991, the income on the contract is $1,343, which is determined by subtracting from the net surrender value of the contract at the end of the taxable year ($14,774) the sum of the net surrender value at the end of the preceding taxable year ($11,231) plus the premiums paid during the taxable year ($2,200). At the end of 1991, X's adjusted basis in the contract for adjusted current earnings is $13,364, which reflects the basis of the contract at the beginning of 1991, increased by the premium paid during the year ($2,200) and the income on the contract that has been included in adjusted current earnings for the taxable year ($1,343).

Example 2. The facts are the same as in example (1), except that, after the payment of the premium for 1991, the insured dies and X receives the $100,000 death benefit under the contract. Under paragraph (c)(5)(ii) of this section, no amount is included in adjusted current earnings for income on the contract for the taxable year in which the insured dies. Instead, under paragraph (c)(5)(v) of this section, X must include in adjusted current earnings for 1991 the excess of the death benefit ($100,000) over the adjusted basis in the contract for purposes of computing adjusted current earnings at the time of the insured's death ($12,021), which equals X's adjusted basis in the contract at the end of 1990 ($9,821), increased by X's premium payment for 1991 ($2,200).

Example 3. (i) The facts are the same as in example (1), except that in addition to making the $2,200 planned premium payment for 1992, X receives a $16,200 distribution under the contract on February 1, 1992, leaving a net surrender value of $897 immediately following the distribution. On March 1, 1992, X pays an additional premium of $5,000 under the contract. The net surrender value of the contract at the end of 1992 is $6,396.

(ii) Treatment of the distribution. Under paragraph (c)(5)(iv) of this section, the $16,200 distribution in 1992 is included in adjusted current earnings as an amount taxable in accordance with the principles of section 72(e) to the extent that the distribution ($16,200) exceeds X's adjusted basis for adjusted current earnings, as determined at the end of the immediately preceding period, and including premiums paid through the period ending on the date of the distribution ($15,564). Thus, X must include $636 in adjusted current earnings for 1992 as an amount taxable in accordance with the principles of section 72(e).

(iii) Determination of the income on the contract. Under paragraph (c)(5)(iii) of this section, for 1992, the income on the contract must be separately determined for the period beginning with the first day of the taxable year to the date of the distribution and for the period beginning immediately after the distribution to the end of the taxable year, using the contract's net surrender values at the beginning and end of each of these periods. The income on the contract for the period beginning on January 1, 1992 and ending on February 1, 1992 (the date of the distribution) is equal to the excess, if any, of (A) the sum of the net surrender value at the end of the period ($897) and the amount of the distribution that is allocable to X's basis in the contract for adjusted current earnings ($15,564), over (B) the sum of the net surrender value at the end of the preceding taxable year ($14,774) plus any premiums paid on the contract during the period ($2,200). Because the net result of this computation is a negative amount [($897 + $15,564) − ($14,774 + $2,200) = − $513], no income on the contract for the period ending with the date of the distribution is included in adjusted current earnings for 1992.

(iv) Under paragraph (c)(5)(ii), X must also determine the income on the contract for the period beginning immediately after the distribution through the end of the taxable year. The income on the contract for this period is $499, which is equal to the excess of the net surrender value at the end of the taxable year ($6,396) over the sum of the net surrender value at the end of the preceding period ($897), plus any premiums paid during

the period ($5,000). At the end of 1992, X's adjusted basis in the contract for adjusted current earnings is $5,499, determined by adding the income on the contract ($499) and the premiums paid during the period ($5,000) to the basis at the end of the preceding period ($0).

(v) Thus, X must include a total of $1,135 ($636+499) in adjusted current earnings for 1992. This inclusion reflects both the undistributed income on the contract for the taxable year plus the amount of income from distributions under the contract that is taxed in accordance with the principles of section 72(e) using X's adjusted basis in the contract for adjusted current earnings.

(6) *Partial list of income items excluded from gross income but included in earnings and profits.* The following is a partial list of items that are permanently excluded from pre-adjustment alternative minimum taxable income but that are included in earnings and profits, and are therefore included in adjusted current earnings under this paragraph (c).

(i) Proceeds of life insurance contracts excluded under section 101, to the extent provided in paragraph (c)(5)(v) or (c)(5)(vi) of this section.

(ii) Interest excluded under section 103.

(iii) Amounts received as compensation for injuries or sickness excluded under section 104.

(iv) Income taxes of a lessor of property paid by a lessee excluded under section 110.

(v) Income attributable to the recovery of an item deducted in computing earnings and profits in a prior year that is excluded under section 111.

(vi) Amounts received as proceeds from sports programs excluded under section 114.

(vii) Cost-sharing payments excluded under section 126, to the extent section 126(e) does not apply.

(viii) Interest on loans used to acquire employer securities excluded under section 133.

(ix) Financial assistance excluded under section 597.

(d) *Disallowance of items not deductible in computing earnings and profits*—(1) *In general.* Except as otherwise provided in this paragraph (d), no deduction is allowed in computing adjusted current earnings for items not taken into account in determining earnings and profits for any taxable year even if the items are taken into account in determining pre-adjustment alternative minimum taxable income. These items therefore increase adjusted current earnings to the extent they are deductible in computing pre-adjustment alternative minimum taxable income. An item of deduction is considered taken into account without regard to the timing of its deductibility in computing earnings and profits. Thus, to the extent an item is, has been, or will be deducted for purposes of determining earnings and profits, it does not increase adjusted current earnings in the taxable year in which it is deducted for purposes of determining pre-adjustment alternative minimum taxable income. For example, a deduction allowed (in determining pre-adjustment alternative minimum taxable income) under section 196 for unused research credits allowable under section 41 is taken into account in computing earnings and profits because the costs that gave rise to the credit were deductible in computing earnings and profits when incurred. Therefore, the deduction does not increase adjusted current earnings. As a further example, payments by a United States parent corporation with respect to employees of certain foreign subsidiaries, which are deductible under section 176, are considered contributions to the capital of the foreign subsidiary for purposes of computing earnings and profits. Although the payments are not deductible in computing the earnings and profits of the United States parent corporation in the year incurred, the payments do increase the parent's basis in its stock in the foreign subsidiary. This basis increase will reduce any gain the parent may later realize for purposes of computing earnings and profits on the disposition on the stock of the foreign subsidiary. Therefore, the amount of the payment by the parent is considered taken into account in computing the earnings and profits of the parent and does not increase adjusted current earnings. Thus, only deduction items that are never taken into account in computing earnings and profits are disallowed in computing adjusted current earnings under this paragraph (d).

(2) *Deductions for certain dividends received*—(i) *Certain amounts deducted under sections 243 and 245.* Paragraph (d)(1) of this section does not apply to, and adjusted current earnings therefore are not increased by, amounts deducted under sections 243 and 245 that qualify as 100-percent deductible dividends under sections 243(a), 245(b) or 245(c), or to any dividend received from a 20-percent owned corporation (as defined in section 243(c)(2)), to the extent the dividend giving rise to the deductions is attributable to earnings of the paying corporation that are subject to federal income tax. Earnings are considered subject to federal income tax if the earnings are included on the federal income tax return (that is filed or, if not, that should be filed) of an entity subject to United States taxation even if there is no resulting United States tax liability (*e.g.*, because of net operating losses or tax credits, other than the credit provided for in section 936).

(ii) *Special rules*—(A) *Dividends received from a foreign sales corporation.* The portion of a dividend received from a foreign sales corporation (a FSC) that is classified as a 100-percent deductible dividend attributable to earnings of the FSC that are subject to federal income tax is that portion of the dividend that is distributed out of earnings and profits of the FSC attributable to non-exempt foreign trade income determined under either of the administrative pricing methods of section 925(a) (1) or (2). A FSC is defined in section 922 and, for purposes of this paragraph, includes a small FSC and a former FSC. The ordering rules for distributions from a FSC set forth in § 1.926(a)–1T(b)(1) apply to determine the classification of earnings and profits out of which a distribution has been made.

(B) *Dividends received from a section 936 corporation.* In the case of a dividend received from a corporation eligible for the credit provided by section 936 (a section 936 corporation), only that part of the dividend distributed out of earnings and profits of the section 936 corporation attributable to income that is not eligible for the credit is attributable to earnings of the paying corporation that are subject to federal income tax. Dividends are deemed to be distributed first out of earnings and profits for the current taxable year of the section 936 corporation, to the extent thereof, and then out of the most recently accumulated earnings and profits, under the principles of section 316. With respect to a distribution of less than all of the earnings and profits for the current or any prior taxable year, the amount of the distribution attributable to income not eligible for the section 936 credit is determined on a pro rata basis. For example, assume that a section 936 corporation earns $100 of taxable income in its current taxable year, $10 of which is not eligible for the credit under section 936. If the section 936 corporation makes a distribution of $50 during that year, $5 of that distribution ($10 of income not eligible for the section 936 credit divided by $100 of taxable income, times $50 distributed) is deemed to be attributable to earnings of the paying corporation that are subject to federal income tax.

(iii) *Special rule for certain dividends received by certain cooperatives.* Paragraph (d)(1) of this section does not apply to, and adjusted current earnings

do not include, any dividend received by any organization to which part I of subchapter T of the Code applies and that is engaged in the marketing of agricultural or horticultural products, if the dividend is paid by a FSC and is allowable as a deduction under section 245(c).

(3) *Partial list of items not deductible in computing earnings and profits.* The following is a partial list of items that are not taken into account in computing earnings and profits and thus are not deductible in computing adjusted current earnings.

(i) Unrecovered losses attributable to certain damages that are deductible under section 186, to the extent those damages were previously deducted in computing earnings and profits.

(ii) The deduction for small life insurance companies allowed under section 806.

(iii) Dividends deductible under the following sections of the Code:

(A) Dividends received by corporations that are deductible under section 243, to the extent paragraph (d)(2)(i) of this section does not apply.

(B) Dividends received on certain preferred stock that are deductible under section 244.

(C) Dividends received from certain foreign corporations that are deductible under section 245, to the extent neither paragraph (d)(2)(i) nor (d)(2)(iii) of this section applies.

(D) Dividends paid on certain preferred stock of public utilities that are deductible under section 247.

(E) Dividends paid to an employee stock ownership plan that are deductible under section 404 (k).

(F) Non-patronage dividends that are paid and deductible under section 1382(c).

(4) *Partial list of deduction items treated the same for purposes of computing pre-adjustment alternative minimum taxable income and adjusted current earnings.* The following is a partial list of deduction items that are treated the same for purposes of computing pre-adjustment alternative minimum taxable income and adjusted current earnings. No adjustment to adjusted current earnings is required under this paragraph (d) for these items.

(i) Dividends paid on deposits by thrift institutions deductible under section 591.

(ii) Life insurance policyholder dividends deductible under section 808.

(iii) Patronage dividends of cooperatives deductible under section 1382(b).

(e) *Disallowance of deductions not allowable in computing pre-adjustment alternative minimum taxable income.* Except as specifically provided in paragraphs (c)(3) or (c)(5) of this section, no deduction is allowed for an item in computing adjusted current earnings if the item is not deductible in computing pre-adjustment alternative minimum taxable income for the taxable year. Thus, for example, capital losses in excess of capital gains for the taxable year are not deductible in computing adjusted current earnings for the taxable year.

(f) *Certain other earnings and profits adjustments*—(1) *Intangible drilling costs.* For purposes of computing adjusted current earnings, the amount allowable as a deduction for intangible drilling costs (as defined in section 263(c)) for amounts paid or incurred in taxable years beginning after December 31, 1989, is determined as provided in section 312(n)(2)(A).

(2) *Certain amortization provisions not to apply.* For purposes of computing adjusted current earnings, sections 173 (relating to circulation expenditures) and 248 (relating to organizational expenditures) do not apply to amounts paid or incurred in taxable years beginning after December 31, 1989.

(3) *LIFO inventory adjustments.* For purposes of computing adjusted current earnings, the adjustments provided for in section 312(n)(4) (relating to LIFO inventory) apply.

(4) *Installment sales*—(i) *In general.* Adjusted current earnings are computed without regard to the installment method, except as provided in this paragraph (f)(4).

(ii) *Exception for prior dispositions.* Paragraph (f)(4)(i) of this section does not apply to any disposition in a taxable year beginning before January 1, 1990, that is taken into account under the installment method for purposes of computing pre-adjustment alternative minimum taxable income. Thus, for any disposition in a taxable year beginning before January 1, 1990, the installment method applies in computing adjusted current earnings for taxable years beginning after December 31, 1989, to the same extent it applies in determining pre-adjustment alternative minimum taxable income for the taxable year.

(iii) *Special rule for obligations to which section 453A applies*—(A) *In general.* The following special rules apply to any installment sale occurring in a taxable year beginning after December 31, 1989, that results in an installment obligation to which section 453A(a)(1) applies and with respect to which pre-adjustment alternative minimum taxable income is determined under the installment method. As explained in paragraph (f)(4)(iii)(B) of this section, for purposes of computing adjusted current earnings, a portion of the contract price is eligible for the installment method, and the remainder of the contract price is not eligible for the installment method. Payments under the obligation are allocated pro-rata between the two accounting methods.

(B) *Limitation on application of installment method.* Only a portion of the contract price of an installment sale described in paragraph (f)(4)(iii)(A) of this section is eligible to be accounted for under the installment method for purposes of computing adjusted current earnings. The portion eligible for the installment method is equal to the total contract price of the sale multiplied by the applicable percentage (as determined under section 453A(c)(4)) for the taxable year of the sale. The remainder of the contract price is not eligible to be accounted for under the installment method for purposes of computing adjusted current earnings. The gross profit ratio is determined without regard to this bifurcated treatment of the sale.

(C) *Treatment of the ineligible portion.* The gain on the sale that is taken into account in the taxable year of the sale for purposes of computing adjusted current earnings is equal to the gross profit ratio multiplied by the entire portion of the contract price that is ineligible for the installment method.

(D) *Treatment of the eligible portion.* For purposes of calculating adjusted current earnings, the amount of gain recognized in a taxable year on the portion of the contract price eligible for the installment method is equal to—

(*1*) The amount of payment received during the taxable year multiplied by the applicable percentage for the taxable year of the sale, multiplied by

(*2*) The gross profit ratio.

(E) *Coordination with the pledge rule.* For purposes of determining the amount treated as payment during the taxable year under paragraph (f)(4)(iii)(D), the rules of section 453A(d) (relating to the treatment of certain pledge proceeds as payments) apply. This includes the rules under section 453A(d)(3) that relate to treating later payments as receipts of amounts on which tax has already been paid.

(F) *Example.* The following example illustrates the provisions of this paragraph (f)(4)(iii):

(*1*) On January 1, 1990, corporation A, a calendar-year taxpayer, sells a building with an adjusted basis for purposes of computing adjusted current earnings of $10 million, for $5 million and an installment obligation bearing adequate stated interest with a principal amount of $20 million. The installment obligation calls for 4 annual

payments of $5 million on January 1 of 1991, 1992, 1993 and 1994. A does not elect out of the installment method, and disposes of no other property under the installment method during 1990. No gain with respect to the sale is recaptured pursuant to section 1250.

(2) The gross profit percentage for purposes of computing adjusted current earnings on the sale is 60 percent, computed as follows: gross profit of $15 million ($25 million contract price less $10 million adjusted basis) divided by $25 million contract price. The applicable percentage on the sale is 75 percent, computed as follows: $15 million ($20 million of installment obligations arising during and outstanding at the end of 1990 less $5 million) divided by $20 million of installment obligations arising during and outstanding at the end of 1990. See section 453A(c)(4). The portion of the contract price eligible for accounting under the installment method for purposes of computing adjusted current earnings is $18.75 million, or $25 million total contract price times applicable percentage of 75 percent. The portion of the contract price ineligible for the installment method is $6.25 million, or $25 million less $18.75 million.

(3) In computing adjusted current earnings for 1990, A must include $3.75 million of the gain on the sale. This amount is equal to the portion of the contract price that is ineligible for the installment method times the gross profit ratio, or $6.25 million times 60 percent. A must also include $2.25 million of gain from the $5 million payment received in 1990. This amount is computed as follows: the eligible portion of the payment, $3.75 million ($5 million payment times the applicable percentage of 75 percent), times the gross profit ratio of 60 percent.

Thus, the total amount of gain from the sale that A must include in adjusted current earnings for 1990 is $6 million ($3.75 million of gain from the portion of the contract price that is not eligible for the installment method, plus $2.25 million of gain from the 1990 payment).

(4) A does not pledge or otherwise accelerate payments on the note in any other taxable year. In computing adjusted current earnings for 1991, 1992, 1993 and 1994, A therefore includes $2.25 million of gain on the installment sale, computed as follows: $5 million payment times the applicable percentage of 75 percent, times the gross profit ratio of 60 percent.

(g) *Disallowance of loss on exchange of debt pools.* [Reserved]

(h) *Policy acquisition expenses of life insurance companies*—(1) *In general.* This paragraph (h) addresses the treatment of policy acquisition expenses of life insurance companies in determining adjusted current earnings. Policy acquisition expenses are those expenses that, under generally accepted accounting principles in effect at the time the expenses are incurred, are considered to vary with and to be primarily related to the acquisition of new and renewal insurance policies. Generally, these acquisition expenses must be capitalized and amortized for adjusted current earnings purposes over the reasonably estimated life of the acquired policy, using a method that provides a reasonable allowance for amortization. This method of amortization is treated as if it applied to all taxable years in determining the amount of policy acquisition expenses deducted for adjusted current earnings. The rules in this paragraph (h) apply to any life insurance company, as defined in section 816(a).

(2) *Reasonably estimated life.* The reasonably estimated life of an acquired policy is determined based on the facts with respect to each policy (such as the age, sex and health of the insured), and the company's experience (such as mortality, lapse rate and renewals) with similar policies. A company may treat as the reasonably estimated life of an acquired policy the period for amortizing expenses of the acquired policy that would be required by the Financial Accounting Standards Board (FASB) at the time the acquisition expenses are incurred. If the FASB has not established such a period, the period for amortizing acquisition expense of an acquired policy under guidelines issued by the American Institute of Certified Public Accountants in effect at the time the acquisition expenses are incurred may be treated as the reasonably estimated life of the acquired policy.

(3) *Reasonable allowance for amortization.* For purpose of determining a reasonable allowance for amortization, a company may use a method that amortizes acquisition expenses in the same proportion that gross premiums and gross investment income for the taxable year bear to total anticipated receipts of gross premiums (including anticipated renewal premiums) and gross investment income to be realized over the reasonably estimated life of the policy.

(4) *Safe harbor for public financial statements.* Any company that is required to file with the Securities and Exchange Commission (SEC) a financial statement with respect to the taxable year will be treated as having complied with paragraph (h)(1) of this section if it accounts for acquisition expenses for adjusted current earnings purposes in the same manner as it accounts for those expenses on its financial statements filed with the SEC.

(5) *Treatment of acquisition expenses when transactions are reported differently for tax and financial reporting purposes.* [Reserved]

(i) [Reserved]

(j) *Depletion.* For purposes of computing adjusted current earnings, the allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989 is determined under the cost depletion method of section 611.

(k) *Treatment of certain ownership changes*—(1) *In general.* In the case of any corporation that has an ownership change as defined in paragraph (k)(2) of this section in a taxable year beginning after December 31, 1989, and that also has a net unrealized built-in loss (as defined in paragraph (k)(3) of this section) immediately before the ownership change, the adjusted basis of each asset of the corporation for purposes of computing adjusted current earnings following the ownership change shall be its proportionate share (determined on the basis of the respective fair market values of each asset) of the fair market value of the assets of the corporation immediately before the ownership change.

(2) *Definition of ownership change.* A corporation has an ownership change for purposes of this paragraph (k) if there is an ownership change under section 382(g) for purposes of computing the corporation's amount of taxable income that may be offset by pre-change losses or the regular tax liability that may be offset by pre-change credits. See § 1.382–2T for rules to determine if a corporation has an ownership change. Accordingly, in order for an ownership change to occur for purposes of this paragraph (k), a corporation must be a loss corporation as defined in § 1.382–2T(f)(1). In determining whether the corporation is a loss corporation, the determination of whether there is a net unrealized built-in loss is made by using the aggregate adjusted basis of the assets of the corporation used in computing taxable income. The aggregate adjusted basis of the corporation's assets for purposes of computing adjusted current earnings is not relevant in determining if the corporation is a loss corporation. See part (iv) of the example in paragraph (k)(4) of this section.

(3) *Determination of net unrealized built-in loss immediately before an ownership change.* To determine whether it has a net unrealized built-in loss for purposes of paragraph (k)(1) of this section, a corporation that has an ownership change as defined in paragraph (k)(2) of this section must use the aggregate adjusted basis of its assets that it uses in computing its adjusted current earnings. The rules of section 382 (including sections 382(h)(3)(B)(i) and 382(h)(8)) otherwise apply in determining whether the corporation has a net unrealized built-in loss.

(4) *Example.* The following example illustrates the provisions of this paragraph (k):

(i) Individual A has owned all the issued and outstanding stock of corporation L for the past 5 years. A sells all his stock in L to unrelated individual B. On the date of the sale, L owns the following assets (all numbers are in millions):

Asset	Adjusted basis for computing taxable income	Adjusted basis for computing adjusted current earnings	Fair market value
x	$45	$50	$50
y	55	60	30
z	10	10	20
	110	120	100

For purposes of computing taxable income, L has a $500 million net operating loss carryforward to the taxable year in which the sale occurs. Therefore, L is a loss corporation. As a result of the transfer of shares of L from A to B, L has had an ownership change.

(ii) L has no net unrealized built-in loss for purposes of computing taxable income because the amount by which the aggregate adjusted basis of its assets for that purpose exceeds their fair market value is $10 million, which is less than 15 percent of their fair market value and is not greater than $10 million. See section 382(h)(3)(B)(i). L, however, does have a net unrealized built-in loss for purposes of computing adjusted current earnings because the aggregate adjusted basis of its assets for that purpose exceeds their fair market value by $20 million, and that amount is greater than $10 million.

(iii) Under paragraph (k)(1) of this section, L must restate the adjusted basis of its assets for purposes of computing adjusted current earnings to their fair market values, as follows (all numbers are in millions):

Asset	New adjusted basis
x	$50
y	30
z	20

L must use these new adjusted bases for all purposes in determining adjusted current earnings, including computing depreciation and any gain or loss on disposition.

(iv) If L did not have the net operating loss carryforward, and had no other loss or credit carryovers or other attributes described in § 1.382–2T(f)(1) for purposes of computing the amount of its taxable income that may be offset by pre-change losses or its regular tax liability that may be offset by pre-change credits, it would not have been a loss corporation on the date of the sale and therefore would not be treated as having had an ownership change for purposes of computing adjusted current earnings. This would be true even though L had a net unrealized built-in loss for purposes of computing adjusted current earnings. Therefore, this paragraph (k) would not have applied.

(l) [Reserved]

(m) *Adjusted current earnings of foreign corporations.* [Reserved]

(n) *Adjustment for adjusted current earnings of consolidated groups*—(1) *In general.* The alternative minimum taxable income of a consolidated group (as defined in § 1.1502–1T) is increased by the consolidated adjustment for adjusted current earnings. The consolidated adjustment for adjusted current earnings equals 75 percent of the excess, if any, of—

(i) the consolidated adjusted current earnings for the taxable year, over

(ii) the consolidated pre-adjustment alternative minimum taxable income for the taxable year.

(2) *Allowance of negative adjustment*—(i) *In general.* The alternative minimum taxable income of a consolidated group is decreased, subject to the limitation of paragraph (n)(2)(ii) of this section, by 75 percent of the excess, if any, of the consolidated pre-adjustment alternative minimum taxable income over consolidated adjusted current earnings.

(ii) *Limitation on negative adjustment.* The amount of the negative adjustment for any taxable year shall be limited to the excess, if any, of—

(A) the aggregate increases in the alternative minimum taxable income of the group in prior years under this section, over

(B) the aggregate decreases in the alternative minimum taxable income of the group in prior years under this section.

(3) *Definitions*—(i) *Consolidated pre-adjustment alternative minimum taxable income.* Consolidated pre-adjustment alternative minimum taxable income is the consolidated taxable income (as defined in § 1.1502–11) of a consolidated group for the taxable year, determined with the adjustments provided in sections 56 and 58 (except for the adjustment for adjusted current earnings and the alternative tax net operating loss determined under section 56(a)(4)) and increased by the preference items described in section 57.

(ii) *Consolidated adjusted current earnings.* The consolidated adjusted current earnings of a consolidated group is the consolidated pre-adjustment alternative minimum taxable income of the consolidated group for the taxable year, adjusted as provided in this section and in section 56(g).

(4) *Example.* The following example illustrates the provisions of this paragraph (n):

(i) P is the common parent of a consolidated group. In 1990, the group has consolidated pre-adjustment alternative minimum taxable income of $1,400,000 and consolidated adjusted current earnings of $1,600,000. Thus, the group has a consolidated adjustment for adjusted current earnings for 1990 of $150,000 (75 percent of the $200,000 excess of consolidated adjusted current earnings over consolidated pre-adjustment alternative minimum taxable income), and alternative minimum taxable income of $1,550,000 ($1,400,000 plus $150,000).

(ii) In 1991, the group has consolidated pre-adjustment alternative minimum taxable income of $1,500,000 and consolidated adjusted current earnings of $1,100,000. Thus, the group can reduce its alternative minimum taxable income by $150,000. The potential negative adjustment of $300,000 (75 percent of the $400,000 excess of consolidated pre-adjustment alternative minimum taxable income over consolidated adjusted current earnings) is limited to the $150,000 consolidated adjustment for adjusted current earnings taken into account in 1990.

(o) [Reserved]

(p) *Effective dates for corporate partners in partnerships*—(1) *In general.* The provisions of this section apply to a corporate partner's distributive share of items of income and expense from a partnership for any taxable year of the partnership ending within or with any taxable year of the corporate partner beginning after December 31, 1989.

(2) *Application of effective dates.* Solely for purposes of the effective date provisions of this section, a partnership event (such as placing property in service, paying or incurring a cost, or closing an installment sale) is deemed to occur on the last day of the partnership's taxable year.

(3) *Example.* The following example illustrates the provisions of this paragraph (p):

(i) X is a calendar-year corporation that is a partner in P, an accrual-basis partnership with a taxable year ending March 31. During P's taxable year ending March 31, 1990, P earned ratably throughout the year interest income on tax-exempt obligations. In addition, P incurred intangible drilling costs in November 1989 and in February 1990.

(ii) X's adjusted current earnings for 1990 includes X's distributive share of the interest on the tax-exempt obligations earned by P for its taxable year ending March 31, 1990. This is true even though P earned a portion of the interest prior to January 1, 1990.

(iii) For purposes of computing X's adjusted current earnings for 1990, the adjustment provided in paragraph (f)(1) of this section applies to X's distributive share of P's November 1989 and February 1990 intangible drilling costs.

Par. 4. The following center heading is added before § 1.56A–1:

Regulations Applicable to Taxable Years Beginning in 1969 and Ending in 1970

Par. 5. The following center heading is added before § 1.57:

Tax Preference Regulations

Par. 6. Section 1.926 (a)–1T(b)(1) is revised to read as follows:

§ 1.926 (a)–1T Temporary Regulations; Distributions to shareholders.

* * * * *

(b) *Order of distribution*—(1) *In general*—(i) *Distributions by a FSC received by a shareholder in a taxable year of the shareholder beginning before January 1, 1990.* Any actual distribution to a shareholder by a FSC (all references to a FSC in this section shall include a small FSC and a former FSC) which is received by the shareholder in a taxable year of the shareholder beginning before January 1, 1990, and made out of earnings and profits shall be treated as made in the following order, to the extent thereof—

(A) Out of earnings and profits attributable to exempt foreign trade income determined solely because of operation of section 923(a)(4),

(B) Out of earnings and profits attributable to other exempt foreign trade income,

(C) Out of earnings and profits attributable to non-exempt foreign trade income determined under either of the administrative pricing methods of section 925(a) (1) or (2),

(D) Out of earnings and profits attributable to section 923(a)(2) non-exempt income, and

(E) Out of other earnings and profits.

(ii) *Distributions by a FSC received by a shareholder in a taxable year of the shareholder beginning after December 31, 1989.* Any actual distribution to a shareholder by a FSC which is received by the shareholder in a taxable year of the shareholder beginning after December 31, 1989, and made out of earnings and profits shall be treated as made in the following order, to the extent thereof—

(A) Out of earnings and profits attributable to exempt foreign trade income determined solely because of the operation of section 923(a)(4),

(B) Out of earnings and profits attributable to foreign trade income (other than exempt foreign trade income determined solely because of the operation of section 923(a)(4)) allocable to the marketing of agricultural or horticultural products (or the providing of related services) by a qualified cooperative which is a shareholder of the FSC,

(C) Out of earnings and profits attributable to non-exempt foreign trade income and other exempt foreign trade income determined under either of the administrative pricing methods of section 925(a) (1) or (2). Distributions out of this classification will be made on a pro rata basis so that 15//23 (16//23 with regard to distributions to a non-corporate shareholder) of each distribution will be out of earnings and profits attributable to exempt foreign trade income and the remainder will be out of earnings and profits attributable to non-exempt foreign trade income.

(D) Out of earnings and profits attributable to other exempt foreign trade income determined under the transfer pricing method of section 925(a)(3),

(E) Out of earnings and profits attributable to section 923(a)(2) non-exempt income,

(F) Out of earnings and profits attributable to effectively connected income, as defined in section 245(c)(4)(B), and

(G) Out of other earnings and profits.

* * * * *

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90–10331 Filed 5–2–90; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[IA–29–89]

RIN 1545–AN24

Adjusted Current Earnings, Foreign Sales Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the alternative minimum tax for corporations.

DATES: The public hearing will be held on Tuesday, October 16, 1990, and, if necessary, Wednesday, October 17, 1990, beginning at 10:00 am. Outlines of oral comments must be received by Tuesday, September 25, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Building Auditorium, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–29–89), Room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Angela Wilburn of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 56 of the Internal Revenue Code of 1986. The proposed amendments would conform the regulations to section 701 of the Tax Reform Act of 1986, sections 1007 and 6079 of the Technical and Miscellaneous Revenue Act of 1988 and sections 7205 and 7611 of the Revenue Reconciliation Act of 1989. The proposed regulations appear in the notice portion of this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, September 25, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 am.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–10332 Filed 5–2–90; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AB49

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) proposes to modify the regulations governing drilling, well-completion, and well-workover

operations under an oil and gas lease in the Outer Continental Shelf to identify with greater specificity the information that must be recorded by the lessee to describe testing of the lessee's blowout preventer (BOP) and auxiliary equipment and to add a provision allowing MMS to request information concerning pressure conditions during testing of BOP's and auxiliary equipment. The change is necessary to allow MMS personnel to verify the adequacy of lessee-conducted tests that are needed to assure that BOP's and auxiliary well-control equipment, if needed, will operate effectively. This change will enable MMS personnel to better assess the effectiveness of a BOP system during their review of the documentation of the method and procedures used by a lessee to conduct a BOP test and the results obtained.

DATES: Comments must be received or postmarked by July 2, 1990.

ADDRESSES: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service; Mail Stop 646; 381 Elden Street; Herndon, Virginia 22070; attention: Gerald D. Rhodes.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Branch of Rules, Orders, and Standards, (703) 787–1600.

SUPPLEMENTARY INFORMATION: The MMS regulations at 30 CFR 250.57, 250.86, and 250.106 require that BOP systems be periodically tested and that the results of those tests be recorded in the driller's report or operations log, as appropriate. Because MMS representatives cannot witness all BOP pressure tests, it is necessary that the results of the tests, which are recorded in the driller's report or operations log, be sufficiently comprehensive to enable MMS personnel to accurately assess the operating condition of the BOP system during their review of the documentation of the test results contained in the driller's report or operations log. Most operators record detailed information documenting the testing sequence, pressures, control stations, and other test data, thus enabling reviewers of the driller's report or the operations log to have assurance that, based on the test that was conducted, the BOP system is operating effectively. However, a few operators simply note that the BOP and auxiliary equipment were tested. The entry of this minimal information into the driller's report or the operations log is insufficient to enable anyone to verify that all rams, valves, and auxiliary equipment were tested to required pressures. This type of recordkeeping gives little assurance that the BOP system is operating properly.

It is proposed that §§ 250.57, 250.86, and 250.106 be amended to more specifically define the information that is to be included in the driller's report or operations log as documentation that a BOP test was properly conducted. The proposed modification would specify the minimum information that must be entered into the driller's report or the operations log. For many operators, this modification will not necessitate any changes in the practices they employ in complying with MMS's current rules. For other operators, the proposed rule will require the recording of more specific data as documentation of properly conducted BOP tests. In addition, the proposed rule includes a provision that would allow the District Supervisor to require a lessee to record additional information concerning pressure conditions during BOP testing.

Interested parties are invited to submit comments and recommendations on this proposed rule change to the address given in the "**ADDRESSES**" section of this preamble.

National Environmental Policy Act

The Department of the Interior (DOI) has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

Executive Order 12291

This amendment clarifies current regulations and proposes requirements with which most companies are already in compliance. Thus, economic effects of this rule change will be minor. Accordingly, the DOI has determined that this rule will not have a significant effect on the economy and is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. The DOI has determined that this rule will not have a significant economic effect on small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

Takings Implication Assessment

The DOI certifies that the rule does not represent a Government action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment has not been prepared pursuant to Executive Order 12630, Government Action and Interference with Constitutionally Protected Property Rights.

Paperwork Reduction Act

The general content of the information collection requirements in this proposed rule have been approved by the Office of Management and Budget pursuant to 44 U.S.C. 3501 *et seq.* under authorization numbers 1010–0043, 1010–0053, and 1010–0067. The changes in this proposed rule would clarify portions of those information collection requirements. The information collection requirements including these proposed changes have been submitted to OMB for approval pursuant to 44 U.S.C. 3501 *et seq.* The collection of information required under current rules will continue under existing authorization numbers 1010–0043, approved January 11, 1988, 1010–0053, approved January 22, 1988, and 1010–0067, approved January 11, 1988.

Public reporting burden for this collection of information in this proposed rule is estimated to average 0.4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Bureau Clearance Officer, Minerals Management Service, Mail Stop 632, 381 Elden Street, Herndon, Virginia 22070, and the Office of Management and Budget, Paperwork Reduction Project [1010–0043, 1010–0053, and 1010–0067], Washington, DC 20503.

Author

This document was prepared by John V. Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-right-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: January 31, 1990.

Barry Williamson,

Director, Minerals Management Service.

Editorial Note: This document was received at the Office of the Federal Register on April 30, 1990.

For the reasons set forth above, 30 CFR part 250 is proposed to be amended as follows:

1. The authority for part 250 continues to read as follows:

Authority: Sec. 204, Pub. L. 95–372, 92 Stat. 629 (43 U.S.C. 1334).

2. Section 250.57 is amended by revising paragraph (g) and adding a new paragraph (h) to read as follows:

§ 250.57 Blowout preventer systems tests, actuations, inspections, and maintenance.

* * * * *

(g) The District Supervisor may require the lessee to record specific information concerning pressure conditions during BOP testing. When required to record documentation concerning the BOP test, such documentation shall be retained by the lessee for a period of 1 year.

(h) The results of all pressure tests, actuations, and inspections of the BOP system, system components, and marine risers shall be recorded in the driller's report. The BOP tests shall be documented in accordance with the following:

(1) The documentation shall indicate the sequential order of BOP and auxiliary equipment testing and the pressure and duration of each test. As an alternate, the documentation in the driller's report may reference a BOP test plan that contains the required information and is retained on file at the facility.

(2) The control station used during the test shall be identified in the driller's report. For a subsea system, the pod used during the test shall be identified in the driller's report.

(3) Any problems or irregularities observed during BOP and auxiliary equipment testing and any actions taken to remedy such problems or irregularities shall be noted in the driller's report.

(4) The documentation in the driller's report shall reference any documentation required by the District Supervisor pursuant to paragraph (g) of this section.

3. Section 250.86 is amended by revising paragraph (d) and adding a new paragraph (e) to read as follows:

§ 250.86 Blowout preventer system testing, records, and drills.

* * * * *

(d) The District Supervisor may require the lessee to record specific information concerning pressure conditions during BOP testing. When required to record documentation concerning the BOP test, such documentation shall be retained by the lessee for a period of 1 year.

(e) The time, date, and results of all pressure tests, actuations, inspections, and crew drills of the BOP system, system components, and marine risers shall be recorded in the operations log. The BOP tests shall be documented in accordance with the following:

(1) The documentation shall indicate the sequential order of BOP and auxiliary equipment testing and the pressure and duration of each test. As an alternate, the documentation in the operations log may reference a BOP test plan that contains the required information and is retained on file at the facility.

(2) The control station used during the test shall be identified in the operations log. For a subsea system, the pod used during the test shall be identified in the operations log.

(3) Any problems or irregularities observed during BOP and auxiliary equipment testing and any actions taken to remedy such problems or irregularities shall be noted in the operations log.

(4) The documentation in the operations log report shall reference any documentation required by the District Supervisor pursuant to paragraph (d) of this section. 4. Section 250.106 is amended by revising paragraph (d) and adding a new paragraph (e) to read as follows:

§ 250.106 Blowout preventer system testing, records, and drills.

(d) The District Supervisor may require the lessee to record specific information concerning pressure conditions during BOP testing. When required to record documentation concerning the BOP test, such documentation shall be retained by the lessee for a period of 1 year.

(e) The time, date, and results of all pressure tests, actuations, inspections, and crew drills of the BOP system, system components, and marine risers shall be recorded in the operations log. The BOP tests shall be documented in accordance with the following:

(1) The documentation shall indicate the sequential order of BOP and auxiliary equipment testing and the pressure and duration of each test. As an alternate, the documentation in the operations log may reference a 80P test plan that contains the required information and is retained on file at the facility.

(2) The control station used during the test shall be identified in the operations log. For a subsea system, the pod used during the test shall be identified in the operations log.

(3) Any problems or irregularities observed during BOP and auxiliary equipment testing and any actions taken to remedy such problems or irregularities shall be noted in the operations log.

(4) The documentation in the operations log shall reference any documentation required by the District Supervisor pursuant to paragraph (d) of this section.

[FR Doc. 90–10312 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR PART 21

RIN 2900–AE46

Mitigating Circumstances

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to update and codify the conditions under which a finding that mitigating circumstances exist permits the payment of subsistence allowance to a veteran in the vocational rehabilitation program. These proposed amendments implement recent statutory changes and recommendations stemming from a study of VA education programs. Under the proposed changes mitigating circumstances would be held to exist the first time a veteran withdraws from courses totalling not more than six semester hours or the equivalent or when the veteran has difficulties in obtaining or changing child care arrangements. In addition, existing reasons for holding that mitigating circumstances exist are codified. The effect of these changes is to codify major representative reasons under which mitigating circumstances may exist.

DATES: Comments must be received on or before June 4, 1990. Any comments received will be available for public inspection until June 12, 1990.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs (VA),

810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection in the veterans Services Unit, in room 132, at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 12, 1990.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–6496.

SUPPLEMENTARY INFORMATION. The Veterans' Benefits and Programs Improvement Act of 1988 provides that mitigating circumstances exist when an eligible veteran withdraws from courses totalling not more than six semester hours or the equivalent. It is proposed that this provision be retroactively effective.

This is an interpretive rule which implements a statutory provision. Moreover, VA finds that good cause exists for making this rule, like the section of the law which it implements retroactively effective to the date of enactment. A delayed efcate implementation of this provision of law; and might result in denial of a benefit to a veteran who is entitled by law to that benefit.

Other changes codifying major representative reasons for finding that mitigating circumstances exist are effective 30 days after final publication in the **Federal Register**. This includes codification of currently accepted reasons for a finding of mitigating circumstances and a proposal to include a recommendation of the Commission to Assess Veterans' Education Policy. The Commission has recommended and VA agrees that mitigating circumstances should be held to exist in any case in which difficulties in obtaining or changing child care arrangements are beyond the veteran's control, and cause VA to suspend or terminate all or a part of the veteran's rehabilitation program.

These proposed amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulations. These proposed amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant effects on the economy.

The regulations contained herein will better acquaint eligible veterans, vocational training and rehabilitation facilities, and the public at large with the way these provisions will be implemented.

The Secretary certifies that this proposed regulatory amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed regulatory amendment is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the proposed regulatory amendment only concerns the eligibility and participation of individual veterans under the vocational rehabilitation program.

The Catalog of Federal Domestic Assistance Number is 64 116.

List of Subjects

38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 5, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 21, Vocational Rehabilitation and Education is proposed to be amended as follows:

PART 2—[AMENDED]

In § 21.324, paragraph (i)(1)(i) is amended to delete the words "or December 1, 1976, whichever is the later" and paragraph (i)(2) is revised to read as follows:

§ 21.324 Reduction or termination dates of subsistence allowance.

* * * * *

(i) * * *

(2) If it is determined there are no mitigating circumstances VA will reduce the veteran's subsistence allowance effective the first day of the term in which the veteran withdraws or which the veteran completes with nonpunitive grades. The term "mitigating circumstances" means circumstances beyond the veteran's or serviceperson's control which prevent him or her from continuously pursuing a rehabilitation program. The following circumstances are representative of those which are considered mitigating.

(i) An illness of the program participant;

(ii) An illness or death in the program participant's family;

(iii) An unavoidable change in the veteran's conditions of employment;

(iv) An unavoidable geographical transfer resulting from the veteran's employment;

(v) Immediate family or financial obligations beyond the control of the veteran which are found by VA to require the veteran to suspend pursuit of the rehabilitation program;

(vi) Discontinuance of the course by the educational institution;

(vii) In the first instance of withdrawal on or after June 1, 1989 by a program participant from a course or courses with respect to which such veteran has been paid subsistence allowance under the provisions of § 21.260(b), mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof;

(viii) Difficulties in obtaining child care or changes in such arrangements which are beyond the control of the program participant and which require interruption of the rehabilitation program in order for the participant to provide or arrange for such care.

(Authority: 38 U.S C. 1780(a), Pub. L. 100–689)

* * * * *

[FR Doc. 90–10211 Filed 5–2–90; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 21

RIN 2900–AE50

Veterans Education; Procedural Due Process and the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: VA (Department of Veterans Affairs) has been reviewing regulations for the purpose of improving due process procedures. This proposal provides that in certain instances if VA does not furnish claimants or beneficiaries under the Montgomery GI Bill—Active Duty with notice of the time limits within which they are required to act, those time limits do not apply until notice is provided. This proposal will provide increased due process to veterans affected by these time limits.

DATES: Comments must be received on or before June 4, 1990. Comments will be available for public inspection until June 12, 1990.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW Washington, DC 20420. All written comments received will be available for public inspection

only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until June 12, 1990.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: Various regulations are amended to provide that when VA does not provide notice of regulatory time limits which must be met when submitting evidence to perfect a claim for benefits under the Montgomery GI Bill—Active Duty, or to challenge an adverse VA decision, the time limits will be extended. Other regulations are amended to show the effects of this change in policy.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 5, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

1. In § 21.7032, paragraph (d) and its authority citation are revised to read as follows:

§ 21.7032 Time limits.

* * * * *

(d) Failure to furnish form or notice of time limit.

(1) VA's failure to furnish any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) VA's failure to furnish a veteran or servicemember notice of the time limit within which evidence must be submitted to perfect a claim, or notice of the time limit within which to challenge an adverse VA decision shall extend the time limit for such action in accordance with the provisions of § 3.110.

(Authority: 38 U.S.C. 3001, 3013)

2. In § 2.7131, paragraphs (e)(1)(i)(B), (e)(1)(ii)(B) and (e)(1)(iii) are revised, and paragraphs (e)(2)(i)(B) and (e)(2)(i)(C) and their authority citation are revised to read as follows:

§ 21.7131 Commending dates.

* * * * *

(e) * * *

(1) * * *

(i) * * *

(B) VA receives any necessary evidence within 1 year of the date VA requested the evidence and informed the veteran of the time limit for submitting it.

(ii) * * *

(B) VA receives any necessary evidence within 1 year of the date VA requested the evidence and informed the veteran of the time limit for submitting it.

(iii) The effective date will be the date VA receives all necessary evidence, if that evidence is received more than 1 year from the date VA requested it, and informed the veteran of the time limit for submitting it.

(2) * * *

(i) * * *

(B) Date notice is received of the dependent's existence if evidence is received within 1 year of the date VA requested the evidence and informed the veteran of the time limit for submitting the evidence.

(C) Date VA receives evidence if this date is more than 1 year after the date VA requested the evidence and informed the veteran of the time limit for submitting it.

(Authority: 38 U.S.C. 3010(n))

3. In § 21.7139, paragraph (b)(2) is revised to read as follows:

§ 21.7139 Conditions which result in reduced rates.

* * * * *

(b) * * *

(2) The veteran or servicemember submits a description of the circumstances in writing to VA within one year from the date VA notifies the veteran or servicemember that he or she must submit the mitigating circumstances, and informs the veteran or servicemember of the time limit for submitting them.

(Authority: 38 U.S.C. 1434, 1780(a); Pub. L. 98–525)

[FR Doc. 90–10212 Filed 5–2–90; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–3761–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Re-Opening of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notification of availability of data and re-opening of comment period.

SUMMARY: Today's notice announces the availability of ground-water monitoring information submitted by Tennessee Electroplating, Ripley, Tennessee, in support of its petition to delist waste contained in its on-site surface impoundment, and re-opens the comment period on a portion of the proposed delisting decision which appeared in the Federal Register on March 6, 1986 (51 FR 7815). This information was collected by Tennessee Electroplating in response to the Agency's request for ground-water monitoring information obtained from their recently expanded monitoring system. The ground-water monitoring information has been placed in the RCRA public docket. The Agency will consider this information in making its final delisting decision for Tennessee Electroplating's petition. This re-opening of the comment period, which pertains

only to the additional ground-water monitoring information, is provided to allow the public an opportunity to review the additional information.

DATES: EPA will accept public comments on the new ground-water monitoring information submitted by Tennessee Electroplating in support of their petition until May 23, 1990. Comments postmarked after the close of the comment period will be stamped "late".

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS–305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS–343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F–90–TEDA–FFFFF".

The RCRA regulatory docket where this information can be viewed is located at the U.S. Environmental Protection Agency, 401 M Street SW. (room M2427), Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Robrt Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4206.

SUPPLEMENTARY INFORMATION: On March 6, 1986, the Agency proposed to grant an exclusion to Tennessee Electroplating under 40 CFR 260.20 and § 260.22 (see 51 FR 7815 and the RCRA public docket supporting the proposed exclusion, labelled "Section 3001—Delisting Petition; Proposed Exclusions Beginning with Chamberlain-Featherlite, Inc., March 6, 1986"). This decision to grant an exclusion to Tennessee Electroplating was based, in part, on analyses of ground-water samples collected from one monitoring well located downgradient of the petitioned unit. These data indicated no detectable levels of nickel, chromium, or cadmium in the ground water. During the public comment period for the proposal, one commenter suggested that the Agency should not grant exclusions to facilities that do not have adequate ground-water monitoring systems.

On August 4, 1988, the Agency was informed that Tennessee Electroplating had expanded their existing ground-water monitoring system voluntarily. The Agency subsequently reviewed information provided by Tennessee Electroplating for the expanded monitoring system and found the system to be inadequate. Specifically, wells were not placed downgradient of the petitioned unit. Tennessee Electroplating installed additional wells in July of 1989 under the guidance of the Tennessee Division of Solid Waste Management. Tennessee Electroplating submitted data from this new system, approved by the State of Tennessee, to EPA on January 16, and February 26, 1990. The ground-water monitoring information and data submitted by Tennessee Electroplating included: (1) A well location map, (2) a geological vertical cross-section of the subsurface, (3) well logs, (4) well design and construction information, (5) sampling procedures and method of analyses, (6) water levels, and (7) results of the analysis of ground-water samples. A copy of this information has been included in the RCRA public docket for review by the public.

For the purposes of delisting, the Agency reviewed the ground-water monitoring information and data submitted by Tennessee Electroplating and concurs with the State's approval of Tennessee Electroplating's ground-water monitoring system. Data from the analysis of samples collected from the monitoring system indicate that concentrations of hazardous constituents in ground water are below delisting health-based levels (*i.e.*, the petitioned waste has not adversely impacted ground-water quality). Today's notice announces that the Agency intends to consider and use this ground-water monitoring information (and any comments received regarding this information) in making its final delisting decision for Tennessee Electroplating's petition.

Today's notice re-opens the comment period only with regard to the additional ground-water monitoring information. Comment on any other aspect of the proposed decision will not be addressed. The Agency will accept comments on the ground-water information until May 23, 1990.

Dated: April 16, 1990.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

[FR Doc. 90–10327 Filed 5–2–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 27

[Docket No. 46861; Notice 90–15]

RIN 2105–AB53

Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Correction to notice of proposed rulemaking (NPRM).

SUMMARY: In the notice of proposed rulemaking published at 55 FR 11120, March 26, 1990, the docket number was inadvertently omitted from the address section of the Proposed Rule. That NPRM proposed to amend the portion of the Department of Transportation rule to implement section 504 of the Rehabilitation Act of 1973, as amended, concerning Federally-assisted mass transit services. The proposed amendment responds to a Federal court decision concerning the present regulation on this subject and Department of Transportation policy to improve transportation accessibility for handicapped persons. In order to prevent confusion and to have documents filed properly, the correct address including the docket number is reprinted below.

DATES: Comments should be received by May 25, 1990. Late-filed comments will be considered to the extent practicable.

ADDRESS: Comments should be sent to Docket Clerk, Docket No. 46861, Department of Transportation, 400 7th Street SW., room 4107, Washington, DC 20590. For the convenience of persons who will be reviewing the docket, it is requested that commenters provide duplicate copies of their comments. Comments will be available for inspection at this address Monday through Friday from 9 a.m. through 5:30 p.m. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The docket clerk will date-stamp the postcard and mail it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC 20590. Telephone 202–366–9306 (voice); 202–755–7687 (TDD). Taped copies of the NPRM are available on request.

Issued at Washington, DC on April 26, 1990.

Phillip D. Brady,

General Counsel.

[FR Doc. 90-10248 Filed 5-2-90; 8:45 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 55, No. 86
Thursday, May 3, 1990

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs; Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced-price meals or free milk for the period from July 1, 1990 through June 30, 1991. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, and Child and Adult Care Food Program and by commodity schools. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, or by phone at (703) 756–3619.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Executive Order 12291 and has been classified not major. This notice will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556 and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced-price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child and Adult Care Food Program (7 CFR Part 226), and commodity schools (7 CFR Part 210), and the guidelines for free milk in the Special Milk Program (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced-price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below *185* percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

"Income," as the term is used in this Notice, means income before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, includng wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

"Income," as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1990 through June 30, 1991. The Department's guidelines for free meals and milk and reduced-price meals were obtained by multiplying the 1990 Federal income poverty guidelines by *1.30* and *1.85*, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

INCOME ELIGIBILITY GUIDELINES

[Effective From July 1, 1990 to June 30, 1991]

Household size	Federal proverty guidelines			Free meals—130%			Reduced-price meals—185%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories:									
1	6,280	524	121	8,164	681	157	11,618	969	224
2	8,420	702	162	10,946	913	211	15,577	1,299	300
3	10,560	880	204	13,728	1,144	264	19,536	1,628	376
4	12,700	1,059	245	16,510	1,376	318	23,495	1,958	452
5	14,840	1,237	286	19,292	1,608	371	27,454	2,288	528
6	16,980	1,415	327	22,074	1,840	425	31,413	2,618	605
7	19,120	1,594	368	24,856	2,072	478	35,372	2,948	681
8	21,260	1,772	409	27,638	2,304	532	39,331	3,278	757
For each add. family member add	+2,140	+179	+42	+2,782	+232	+54	+3,959	+300	+77
Alaska:									
1	7,840	654	151	10,192	850	196	14,504	1,209	279
2	10,520	877	203	13,676	1,140	263	19,462	1,622	375
3	13,200	1,100	254	17,160	1,430	330	24,420	2,035	470
4	15,880	1,324	306	20,644	1,721	397	29,378	2,449	565
5	18,560	1,547	357	24,128	2,011	464	34,336	2,862	661
6	21,240	1,770	409	27,612	2,301	531	39,294	3,275	756
7	23,920	1,994	460	31,096	2,592	598	44,252	3,688	851
8	26,600	2,217	512	34,580	2,882	665	49,210	4,101	947
For each add. family member add	+2,680	+224	+52	+3,484	+291	+67	+4,958	+414	+96
Hawaii:									
1	7,230	603	140	9,399	784	181	13,376	1,115	258
2	9,690	808	187	12,597	1,050	243	17,927	1,494	345
3	12,150	1,013	234	15,795	1,317	304	22,478	1,874	433
4	14,610	1,218	281	18,993	1,583	366	27,029	2,253	520
5	17,070	1,423	329	22,191	1,850	427	31,580	2,632	608
6	19,530	1,628	376	25,389	2,116	489	36,131	3,011	695
7	21,990	1,833	423	28,587	2,383	550	40,682	3,391	783
8	24,450	2,038	471	31,785	2,649	612	45,233	3,770	870
For each add. family member add	+2,460	+205	+48	+3,198	+267	+62	+4,551	+380	+88

Authority: 42 U.S.C. 1758(b)(1).

Dated: April 26, 1990.

Betty Jo Nelson,

Administrator.

[FR Doc. 90-10308 Filed 4-30-90; 1:11 pm]

BILLING CODE 3410-30-M

Forest Service

Upper Camp Creek (FY 91) and Duncle Creek (FY 91) Timber Sales; Deerlodge National Forest, Granite County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in the Schively Gulch, Stony Creek, portions of the West Fork of Rock Creek, and portions of the main stem of Rock Creek. The project area is located approximately 15 air miles west of Philipsburg, Montana (45 miles southeast of Missoula, Montana). Portions of the proposed actions are located within the 103,266 acre Stony Mountain Roadless Area (#01–808).

DATES: Written comments concerning the scope of the analysis should be received on or before June 18, 1990.

ADDRESSES: Send written comments to Philipsburg District Ranger, Box H, Philipsburg, Montana 59858.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Dan Mainwaring, Interdisciplinary Team Leader, Philipsburg Ranger District, phone: (406) 859–3211.

SUPPLEMENTARY INFORMATION: This EIS will tier to the Forest Plan (approved September 23, 1987) which provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the desired future condition for the area being analyzed. The potentially affected area includes the following Management Areas (described in the Deerlodge Forest Plan on pages III–4 through III–71): A1, A4, A5, A6, C1, C2, C3, C4, D2, E1, E2, E3, F1, and F3.

The proposed actions will occur primarily in Management Areas E1, E2, and E3. The purpose and goals for the proposed actions for these management areas are:

Management Area E1:

—To help satisfy the short-term demands for timber, maintain a continuous supply of timber for the future.

—To produce a distribution of size and age classes of timber stands that more fully realize site potential, are healthier, and are more resistant to disease and insect infestations.

—To maintaining overall levels of wildlife habitat, livestock grazing and dispersed recreation.

Management Area E2:

—To provide for maintenance of soil productivity, water quality, stream stability, and downstream fishery habitat.

—To provide dispersed recreation opportunities, wildlife habitat, and livestock use.

—To provide for healthy stands of timber and an appropriate level of timber harvest consistent with the fishery values of the Rock Creek drainage.

Management Area E3:

—To optimize forage production and cover for deer, elk, and bighorn sheep on winter range.

—To provide for big game cover, on both summer and winter range, maintain healthy stands of timber, and optimize timber growing potential.

—To provide dispersed recreation opportunities and livestock use.

An environmental analysis for this proposal was begun in 1984. As a result of that analysis and extensive scoping the Forest concluded the proposal may have significant effect on the quality of the human environment and decided to prepare this EIS. The previous scoping and analysis also identified the following tentative issues for the proposed action:

*What will be the effects of the proposal on big game security cover and displacement?

*What will the impacts be on the fisheries?

*How will the proposal affect the roadless character of the area?

*How will the proposal affect water quality, water quantity, and riparian areas in relation to Rock Creek?

*How will the proposal contribute to a healthy productive forest that will economically provide timber for the market place on a sustained basis for the present and the future.

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues for the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the **Federal Register.**

Preparation of the EIS will include the following steps.

1. Identification of potential issues.

2. Elimination of issues of minor importance or those that have been covered by previous and relevant environmental analysis.

3. Selection of issues to be analyzed in depth.

4. Identification of reasonable alternatives to the proposed action.

5. Identification of the potential environmental effects of the alternatives.

Step 4 will consider a range of alternatives developed from the key issues. One of these will be the "No Action" alternative, in which all harvest and regeneration are deferred. Other alternatives will consider various levels and locations of harvest and regeneration in response to issues and non-timber objectives.

Step 5 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest Plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented, in addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of those mitigation measures will be disclosed.

The boundary of the area used for analysis starts at a point just south of where Juno Gulch intersects the Deerlodge National Forest boundary and then runs southerly and easterly along the forest boundary to the point where the boundary intersects Montana State Highway 38, thence westerly along said road to the divide at Skalkaho Pass, thence northerly along the divide to Dome Shaped Mountain and then northeasterly along the administrative boundary between the Deerlodge and Lolo National Forests to the point of beginning. Of the 54,000 acres in the area, approximately 25,000 acres are within the roadless area boundary on the Deerlodge National Forest. These 25,000 acres are in the southeast quarter of the Stony Roadless Area.

In addition to the area defined above the scope of the analysis for the issue of "effects on roadless character" will be the entire 103,299 acre roadless area.

The proposed management activities would be administered by the Philipsburg Ranger District of the Deerlodge National Forest in Granite County, Montana.

Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process (the next 45 days) and, (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and be available for public review on January 1, 1991. At that time the EPA will publish a notice of availability of the Draft EIS in the **Federal Register.** The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the note of availability in the **Federal Register.**

The Forest Service believes it is important to alert reviewers several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and so that it alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

The final EIS is expected to be released March 1, 1991. The Forest Supervisor for the Deerlodge National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, response, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: April 25, 1990.

Van C. Elsbernd,

Forest Supervisor, Deerlodge National Forest.

[FR Doc. 90–10298 Filed 5–2–90; 8:45 am]

BILLING CODE 3410–11

Scientific Advisory Board; Mount St. Helens National Volcanic Monument; Gifford Pinchot National Forest, Clark County, Vancouver, WA; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 8:30 a.m., June 27, 1990, in the Silver Lake Room at the Mount St. Helens Visitor Center, 3029 Spirit Lake Highway, Castle Rock, Washington 98611, to receive information on and discuss the following:

1. Coldwater/Johnston Complex and Road Access Update.
2. Castle Lake Update.
3. St. Helens Research Initiative Update.
4. Open discussion of topics of interest to the Advisory Board and public comments.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 6926 E. Fourth Plain Blvd., Vancouver, Washington 98668, 202–696–7570. Written statements may be filed with the Board before or after the meeting.

Dated: April 25, 1990.

John E. Lowe,

Acting Regional Forester.

[FR Doc. 90–10277 Filed 5–2–90; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Big and Double Creeks Watershed, Stokes and Surry Counties, NC

AGENCIES: North Carolina Department of Environment, Health, and Natural Resources and the United States Department of Agriculture, Soil Conservation Service.

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 of Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Division of Soil and Water Conservation, North Carolina Department of Environment, Health, and Natural Resources and the Soil Conservation Service, United States Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Big and Double Creeks Watershed, Stokes and Surry Counties, North Carolina.

FOR FURTHER INFORMATION, CONTACT: David W. Sides, Director, Division of Soil and Water Conservation, North Carolina Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611, Telephone (919) 733–2302 or Bobbye J. Jones, State Conservationist, Soil Conservation Service, 310 New Bern Avenue, room 535, Fifth Floor, Federal Building, Raleigh, North Carolina 27601, Telephone (919) 790–2888.

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, Bobbye J. Jones, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for water protection. The planned works of improvement include accelerated technical and financial assistance to apply land treatment measures on 5,400 acres of cropland and 8 acres of woodland.

The Notice of A Finding of No Significant Imapct (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 David W. Sides.

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

("This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.")

Dated: April 11, 1990.

Bobbye J. Jones,

State Conservationist.

[FR Doc. 90–10292 Filed 5–2–90; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Advisory Committee: Availability of Report on Closed Meetings

AGENCY: Department of Commerce.

ACTION: Announcing public availability of report on closed meetings of advisory committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially-closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newpaper and Current Periodicals Reading Room, room LM133, Madison Building, 1st and Independence Avenues SE., Washington, DC 20540.

Department of Commerce, Central Reference and Records Inspection Facility, room 6628, Herbert C. Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230, Telephone (202) 377–3271.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially-closed meetings held in 1989 of 58 committees and their subcommittees, the names of which are listed below:

Advisory Committee on Advanced Television
Automated Manufacturing Equipment Technical Advisory Committee
Automated Patent System Industry Review Advisory Committee
Biotechnology Technical Advisory Committee
Board of Overseers of the Malcolm Baldrige National Quality Award
Committee of Chairmen of Industry Advisory Committees for Trade Policy Matters (TPM)
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer System Security and Privacy Advisory Board
Computer Systems Technical Advisory Committee
—Hardware Subcommittee
—Licensing Procedures Subcommittee
—Software Subcommittee
Electronic Instrumentation Technical Advisory Committee
—Laser and Opto-Electronic Subcommittee
Industry Policy Advisory Committee for Trade Policy Matters (TPM)
ISAC on Aerospace Equipment for TPM
—Government Supports Subcommittee
—Military Trade Subcommittee
—Purchase/Finance Subcommittee
—Space Equipment Subcommittee
ISAC on Capital Goods for TPM
ISAC on Chemicals and Allied Products for TPM
ISAC on Consumer Goods for TPM
ISAC on Electronics and Instrumentation for TPM
—Multilateral Trade Negotiations Subcommittee
ISAC on Energy for TPM
ISAC on Ferrous Ores and Metals for TPM
ISAC on Footwear, Leather, and Leather Products for TPM
ISAC on Industrial and Construction Material and Supplies for TPM
ISAC on Lumber and Wood Products for TPM
ISAC on Nonferrous Ores and Metals for TPM
ISAC on Paper and Paper Products for TPM
ISAC on Services for TPM
ISAC on Small and Minority Business for TPM
ISAC on Textiles and Apparel for TPM
ISAC on Transportation, Construction, and Agricultural Equipment for TPM
—Trade Policy Subcommittee
ISAC on Wholesaling and Retailing for TPM
Importers and Retailers' Textile Advisory Committee
Industry Functional Advisory Committee on Customs Matters for TPM

Industry Functional Advisory Committee on Intellectual Property Rights for TPM
Industry Functional Advisory Committee on Standards for TPM
—Certification and Accreditation Subcommittee
Judges Panel of the Malcolm Baldrige National Quality Award
Management-Labor Textile Advisory Committee
Marine Fisheries Advisory Committee
Materials Technical Advisory Committee
Militarily Critical Technologies List Technical Advisory Committee
National Medal of Technology Nomination Evaluation Committee
President's Export Council
—Subcommittee on Export Administration
See Grant Review Panel
Semiconductor Technical Advisory Committee
Telecommunications Equipment Technical Advisory Committee
—Radio Subcommittee
—Switching Subcommittee
Transportation and Related Equipment Technical Advisory Committee
Visiting Committee on Advanced Technology

FOR FURTHER INFORMATION CONTACT: Jan Jivatode, Management Analyst, Office of the Secretary, Department of Commerce, Washington, DC 20230, Telephone (202) 377–3271.

Dated: April 26, 1990.

Jan Jivatode,

Management Support Division, Office of Management and Organization.

[FR Doc. 90–10278 Filed 5–3–90; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form 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: Bureau of the Census.
Title: Governments' Construction Reporting Evaluation (State and Local Governments).
Form Number(s): C–747.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 250 hours.
Number of Respondents: 500.
Average Hours Per Response: 30 minutes.
Needs and Uses: This survey will verify the accuracy of construction expenditures reported by State and local governments in the Annual Survey of Government Finances. The Bureau of the Census will use the results of this study to improve the Bureau's estimates of State and local governments' construction expenditures.
Affected Public: State or local governments.
Frequency: One time only.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Don Arbuckle, 395–7430.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Office, (202) 377–3271, Department of Commerce, room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–10232 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–07–M

Agency Form 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: Bureau of the Census.
Title: Survey of Local Government Finances (School Systems).
5Form Number(s): F–33, F–33–1, F–33–L1.
Type of Request: New collection.
Burden: 2,300 hours.
Number of Respondents: 766.
Avg Hours Per Response: 3 hours and 2 minutes.
Needs and Uses: The Bureau of the Census uses this survey, which has historically been part of the Annual Survey of State and Local Government Finances to collect financial data for public school systems. Data are incorporated with other local government finance data and entered into the national income accounts. Data are also used in long-established Bureau reports and provided to the National Center for Education Statistics (NCES). Census coordinates the school finance portion of the Annual Survey of State and Local Government Finances closely with the NCES. Because Census and NCES plan to collect some of the data jointly and because the school finance data collection needs a different approval time, we are submitting the forms to collect this information as a separate clearance.
Affected Public: State or local governments.
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Don Arbuckle, 395–7430.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–10233 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–07–M

Agency From 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: Bureau of the Census.
Title: Anual Survey of State and Local Government Finances.
Form Number(s): F–11, 12, 13, 21, 22, 25, 28, 29, 32, 42.
Agency Approval Number: 0607–0585.
Type of Request: Revision of a currently approved collection.
Burden: 35,730 hours.
Number of Respondents: 11,734.
AVG Hours Per Response: 3 hours and 2 minutes.
Needs and Uses: This annual survey collects data in non-census years on the taxes, receipts, expenditures, and indebtedness of states, counties, cities, and other governmental units. The Census Bureau uses these data to issue reports containing benchmark statistics on public revenue, expenditure, debt, and assets. The public and private sectors use these reports widely to follow the changing characteristics of the government sector of the economy. The Bureau of Economic Analysis uses the data in determining the Gross National Product. Census coordinates the school finance component of this program closely with the National Center for Education Statistics

(NCES). We are submitting the forms to collect that data as a separate clearance.

Affected Public: State or local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–10234 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–07–M

Bureau of Export Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held, May 15, 1990, 9:30 a.m., Herbert C. Hoover Building, room 1617–F, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman and Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. General Update of Changes Requested for:
   (a) Magnetic Tapes.
   (b) Optical Files.
   (c) Local Area Network.
   (d) Workstations.
   (e) Magnetic Media Production Equipment.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th & Constitution Avenue, NW., room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: April 26, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–10237 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–DT–M

Transportation and Related Equipment Technical Advisory Commitee; Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held May 16, 1990, at 9:30 a.m., in the Herbert C. Hoover Building, room 1617–F, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 13, 1989, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information, call Ruth D. Fitts at 202–377–4959.

Dated: April 26, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–10238 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–247–003]

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Intent To Revoke Antidumping Finding

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

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic. Interested parties

who object to this revocation must submit their comments in writing not later than May 31, 1990.

EFFECTIVE DATE: May 3, 1990.

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

SUPPLEMENTARY INFORMATION:

Background

On May 4, 1963, the Department of the Treasury published an antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic (28 FR 4507). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than May 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by May 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by May 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: April 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–10239 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Endangered Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 1 to Permit No. 670.

Notice is hereby given that pursuant to the provisions of §§ 216.3(d) and (2) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and § 220.24 of the Regulations Governing Endangered Species (50 CFR part 217–222), Scientific Research Permit No. 670 issued to LGL, Limited, Environmental Research Associates, 22 Fisher Street, P.O. Box 457, King City, Ontario, LOG 1KO, Canada, on April 24, 1989 (54 FR 18565) is modified.

This modification authorizes continuation of the study of acoustic effects of oil production activities on Arctic whales during the spring of 1990 and subsequent spring seasons through 1993. An environmental assessment was prepared on this project which addresses the potential cumulative effects on Arctic whale populations.

This modification becomes effective on April 27, 1990.

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

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910; and

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802.

Dated: April 25, 1990.

Nancy Foster,

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

[FR Doc. 90–10241 Filed 5–2–90; 8:45 am]

BILLING CODE 3510–22–M

[P77 #37]

Marine Mammals; Withdrawal of Application; Southwest Fisheries Center, NMFS

On January 19, 1990, notice was published in the **Federal Register** (55 FR 1860) that an application had been filed by the Southwest Fisheries Center, NMFS for a permit to collect an unspecified number of cetaceans and pinnipeds taken incidentally to U.S. commercial fishing operations.

Notice is hereby given that on April 4, 1990, the application was withdrawn and the withdrawal request has been acknowledged and accepted.

Documents submitted in connection with the above application are available for review by appointment in the following offices:Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910 (301/427–2289); and Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514–6196).

Dated: April 26, 1990.

Nancy Foster,

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

[FR Doc. 90–10242 Filed 5–2–90; 8:45am]

BILLING CODE 3510–22–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: Parent Subsidiary Verification System; No Forms; OMB Control Number 0704–0236.

Type of Request: Extension of a previously approved collection for which approval is nearing expiration.

Average burden hours/minutes per response: 2 Hours per response.

Frequency of response: One response per respondent.

Annual number of respondents: 130.

Annual burden hours: 260.

Annual responses: 130.

Needs and uses: The annual publication entitled, "100 Companies Receiving the Largest Dollar Volume of Prime Contract Awards," provides total DOD awards reported during a fiscal year to a company and all of its subsidiaries. To ensure that the published data are accurate, a listing is sent to the companies likely to appear in this publication requesting information on their subsidiaries. The companies are not required to respond.

Affected public: Businesses or other for-profit.

Respondent's obligation: Voluntary.

OMB desk officer: Dr. J. Timothy Sprehe.

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

DOD clearance officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated April 27, 1990.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–10254 Filed 5–2–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of the chiropractic care demonstration project.

SUMMARY: Notice is hereby given that a demonstration project will be conducted in Colorado and Washington state under the provisions of chapter 55, title 10 U.S.C. 1092(a) which authorizes OCHAMPUS to establish demonstrations of alternative methods of encouraging the efficient and economical delivery of health care services. The 1985 Defense Authorization Act (Public Law 98–525, section 632(b)) mandated the conduct of a CHAMPUS demonstration project to evaluate the cost effectiveness of chiropractic care.

EFFECTIVE DATE: May 1, 1990.

FOR FURTHER INFORMATION CONTACT: Lt. Col. John Wylie, Program Initiatives Branch, OCHAMPUS, telephone (303) 361–4337. Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Operations Division, Program Initiatives Branch, Aurora, CO 80045–6900.

SUPPLEMENTARY INFORMATION:

A. Background

The 1985 Defense Authorization Act (Public Law 98–525, section 632(b)) mandated the conduct of a CHAMPUS demonstration project to evaluate the cost effectiveness of chiropractic care. This notice provides details regarding this demonstration under CHAMPUS. The Conference Report on the Act (Conference Report 98–1080, page 299, dated September 25, 1984) further required that the demonstration be structured to provide additional data on the benefits and cost of chiropractic care including the extent to which chiropractic, as an alternative source of care, would replace other medical services rather than merely adding to the program costs. The conferees intended that the scope of this demonstration project be sufficiently broad to ensure that adequate data will be available upon which to base a future decision whether chiropractic should be provided in Uniformed Services facilities and under CHAMPUS. To find the best approach for meeting this broad mandate, in September 1985, OCHAMPUS awarded a contract to the Midwest Research Institute to conduct a "Chiropractic Evaluation Study" (Contract Number MDA906–85–M–0016). This study consisted of four tasks. Task One was to provide a historical background analysis, which traced the development of chiropractic, discussed the chiropractic treatment modalities and examined the utilization of chiropractic. Task Two was to provide a Historical Summary Report that examined the costs and use of chiropractic in MEDICARE and MEDICAID programs, and was intended to discuss coverage of chiropractic by other private third party payers. Unfortunately, the forty-one insurance companies contacted did not respond with any of the requested information. Task Three was a Report of the Relevant Literature that focused on chiropractic qualifications, risks associated with chiropractic and ailments for which the chiropractic procedure (modality) is efficacious. Task Four was a Report on Chiropractic Policy Options.

This study was followed by an analysis of the Federal Employee Health Benefits Program national indemnity insurance offerings for chiropractic benefits. The indemnity insurance offerings were examined because of their wide availability as opposed to the health maintenance organizations and preferred provider organizations, which have limited geographic availability. In addition, the CHAMPUS fiscal intermediaries were asked to furnish information regarding chiropractic benefits contained in their private insurance offerings.

Using the information gathered through the chiropractic evaluation study, the third party payor analysis and other sources, a demonstration design was developed. After design approval, unforeseen implementation problems surfaced that required design modifications. Demonstration implementation instructions incorporate these modifications.

Due to the absence of reliable state chiropractic utilization data, national data compiled by the National Center for Health Statistics (HCHS) was used to estimate usage in the two demonstration states. Health Interview Survey data from 1978 published by the NCHS indicated that 3.6% of the general population used chiropractic services one or more times in a 12-month period. Composite 1983 data from five third party carriers indicated charges for an annual average of 8.6 chiropractic visits per user. Application of the 3.6% utilization rate and 8.6 annual average visit rate to the eligible CHAMPUS beneficiary populations (using 1988 DEERS data) in the two demonstration states resulted in an estimated combined user population of 10,932 and 94,015 total visits.

B. What the Demonstration Tests

Evaluation of the demonstration project will be based on detailed review of a statistically significant sampling of various populations with similar diagnoses. Population "A" will be those patients who use only a chiropractor to resolve their complaint; population "B" will be those patients who use both chiropractors and traditional physicians; and population "C" will be those patients who use only traditional providers. Data will be collected during the first 12 months of the demonstration (May 1, 1990 to May 1, 1991), to measure cost, utilization, patient satisfaction and, where available, time lost from work. These data will then be compared to decide if there is a statistically supportable value expressing the "offset" of chiropractic care that was used in lieu of traditional medicine. Where this can be measured, savings will be identified. All other chiropractic benefit expenses will be considered additions to the total CHAMPUS outlay.

C. Key Features

1. Benefits. Only medically necessary outpatient chiropractic care is covered by this demonstration. The same standards for medical necessity used for traditional medicine will be used for chiropractors. No inpatient or home care services shall be reimbursed under this demonstration. In the State of Washington, the chiropractic benefit is limited to spinal manipulation and diagnostic x-ray, if ordered by the attending chiropractor. In Colorado, the benefit includes spinal manipulation, diagnostic x-ray, if orderd by the

attending chiropractor, and appropriate adjunctive physiotherapy or ancillary services the chiropractor is licensed to perform in support of the required treatment and which are authorized CHAMPUS benefits (which excludes any educational programs, diet therapy and similar treatment modalities).

2. Deductibles and cost shares will remain the same as under standard CHAMPUS.

3. Authorized chiropractic care is limited to CHAMPUS beneficiaries 16 years of age or older.

4. To participate in this demonstration chiropractors must: (1) Be licensed by the appropriate state, (2) accept assignment on all claims, (3) collect appropriate CHAMPUS outpatient cost-share and deductibles, (4) understand they are subject to the same penalties as traditional providers for fraud and abuse, (5) submit a completed diagnosis summary sheet for each new participating patient each time a diagnosis changes and upon completion for treatment, (6) fully document all care provided to participating beneficiaries using the guidelines published in the addendum to the CHAMPUS Provider Handbook, (7) fully brief all CHAMPUS eligible beneficiaries on the conditions that govern participation in the demonstration, provide each participant a copy of the beneficiary handbook and insure that every beneficiary signs the beneficiary participation agreement, (8) forward the beneficiary participation agreement to the CHAMPUS Fiscal Intermediary (FI), (9) read the Chiropractic Care Demonstration Project Provider Handbook addendum, and (10) sign a provider participation agreement.

5. Beneficiaries participating in the demonstration project must sign an agreement that states that they will complete written surveys and authorize access to their clinical records including those maintained by the attending chiropractor, all traditional providers and those maintained in military medical treatment facilities.

6. The Chiropractor cannot seek reimbursement from the patient or sponsor for any chiropractic care determined to be unnecessary or inappropriate through operation of the demonstration utilization review process.

D. Pre-Implementation Actions

During April 1990, workshops will be held in various locations in the States of Colorado and Washington. Prior to these workshops, each licensed chiropractic in the two states will have received a mailing containing the participating provider agreement. It is anticipated that the provider agreements will be signed and returned to the FI representative at the scheduled workshops, or by mail. The FI will then validate each agreement with licensure information from the State, and will return the approved agreements to the chiropractic provider. The effective date of each agreement will be the date of approval by the FI. It is expected that this process will take between 15 and 30 days.

E. Standards of Care

There are no generally accepted standards of chiropractic care that could be adopted for purposes of this demonstration. In the absence of these standards, determinations of the quality of chiropractic care reviewed through the FI's utilization review process shall be based on standards of practice and utilization guidelines as reflected in the document *Chiropractic Standards of Practice and Utilization Guidelines in the Care and Treatment of Injured Workers*, published by the Chiropractic Advisory Committee, Department of Labor and Industries, State of Washington, September 1988. While these guidelines have been provided to the FI for use in the development of its utilization review proposal, the FI may modify them if such modifications are clinically justificable and approved by the OCHAMPUS Demonstration Projects Section.

Due to the differences in nosological practices between chiropractic and traditional providers, the given conditions shall evolve during the demonstration. Chiropractic providers who choose to participate in the demonstration shall be required to complete a diagnostic summary sheet which documents chiropractic diagnostic information necessary for evaluation and utilization review. Claims documentation will include both CPT–4 and ICD–9–CM assignment. The diagnosis summary sheet and claims documentation will be used by a Registered Records Administrator (RRA) to verify the diagnosis and coding information submitted by the attending chiropractor. It will also allow an analysis of the cost and efficiency of chiropractic care to be performed based on episodes of care for the same diagnoses and the analyses of cost effectiveness of treatment based on age, sex, and diagnoses.

F. Utilization Review

Essential characteristics of the utilization review (UR) process are: (1) It will contain two levels of review of the necessity and appropriateness of care, with chiropractors performing the review at both levels; (2) the reviews shall be double blind, that is neither the attending chiropractor nor the reviewing chiropractior will know the name of the other; (3) a minimum 25 cases will be reviewed each quarter. Care rendered to participating beneficiaries shall be automatically reviewed at the following treatment points; (a) daily treatment exceeding two consecutive weeks, (b) three times per week treatment exceeding four weeks; (c) extended office visits for more than two weeks or more than six in number for the same patient and diagnosis and (d) chiropractic care for the same diagnosis extending past 120 days following the initial visit. Participating chiropractors or beneficiaries can appeal adverse decisions through the CHAMPUS appeal process.

If an insufficient number of cases is identified based on these criteria, cases shall be randomly selected on a postpayment basis from the population of all claims processed during the quarter for participating beneficiaries. Providers shall be notified when any of the above listed triggers are met or when randomly selected for review. Subsequent claims for that chiropractor treating that patient shall be suspended until the UR process is complete. The UR review shall determine that all care was appropriate, that some or all care was (a) inappropriate, (b) unnecessary, or (c) that the appropriateness or necessarity cannot be determined. All first level reviews that could result in suspension of payments or other sanctions will be referred for second level review. Sanctions may be denial of payment for specific claims, termination of the chiropractor's participation agreement, or a letter advising the chiropractor that the sanction of termination of agreement is a possibility should further unacceptable practices occur.

Dated: April 27, 1990.

Linda Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 90–10255 Filed 5–2–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Advisory Committee on Military Personnel Testing

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on

May 3, 1990, and from 8:30 a.m. to 10:30 a.m. on May 4, 1990. The meeting will be held at the Crockett Hotel, 320 Bonham, San Antonio, Texas 78205–2083. The purpose of the meeting is to review planned changes in the Department of Defense's Student Testing Program and progress in developing paper-and-pencil and computerized enlistment tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Anita R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force Management and Personnel), room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (202) 697-9271, no later than April 30, 1990.

Dated: April 27, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–10256 Filed 5–2–90; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

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

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

Dates of Meeting: 22–24 May 1990.

Time: 0800–1630.

Place: Fort Belvoir, VA.

Agenda: The Army Science Board 1990 Summer Study on the Use of Army Systems and Technologies in the National War on Drugs will meet for discussions focused on the role of the Army Materiel Command (AMC) in providing support to the drug interdiction efforts as well as the technologies currently being pursued within the laboratories and centers of AMC. This meeting will be closed to the public in accordance with section 552(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C. appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90–10207 Filed 5–2–90; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Intent To Prepare an Environmental Impact Statement for Possible Closure of Naval Air Station Chase Field, TX

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of the possible closure of Naval Air Station (NAS) Chase Field. This action is taken pursuant to the Secretary of Defense announcement of January 29, 1990 of candidate bases to be evaluated for possible closure or realignment. This EIS will be part of a report submitted to the Congress in conjunction with the President's annual Department of Defense Budget Authorization request.

The EIS will evaluate the environmental effects of possible closure of NAS Chase Field and, to the extent known, of possible relocations of some NAS Chase Field facilities to NAS Meridian, Mississippi, and NAS Kingsville, Texas. The analysis will include impacts both on-Station (e.g., operational requirements and support availability) and off-Station community impacts (e.g., population changes, school impacts, traffic, noise, and availability of housing). The EIS will address the No Action alternative.

The EIS will not address the ultimate disposal and possible re-use options of NAS Chase Field, as these possible future scenarios cannot be clearly defined. Disposal and subsequent re-use of NAS Chase Field will be evaluated in subsequent environmental documentation when these issues are more defined and ripe for evaluation in accordance with NEPA.

The Navy will inititate a scoping process for the purpose of determining the scope of issues to be addressed in the EIS and for identifying the significant issues related to this action. The Navy will hold a public scoping meeting on May 24, 1990, from 7 pm to 11 pm at the Bee County Coliseum, Farm Road 351, Beeville, Texas. This meeting will be announced in local newspapers.

A short formal presentation will precede request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to 5 minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meetings. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentator believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than 30 days from the date of this notice to Southern Division, Naval Facilties Engineering Command, P.O. Box 10068, 2155 Eagle Drive, Charleston, SC, 29411–0068, (attn: Mr. Laurens Pitts, Code 202, telephone (803) 743–0893).

Dated: April 27, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR DOc. 90–10225 Filed 5–2–90; 8:45 am]

BILLING CODE 3810–AE–M

Government-Owned Inventions; Availability of Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patent cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $1.50 each. Requests for copies if patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Copies also may be ordered by telephone request to (703) 487–4650. Request for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217–5000, telephone (202) 696–4001.

Patent 4,432,556: PISTON SEALING ARRANGEMENT FOR A CRYOGENIC

REFRIGERATOR; filed 1 June 1983; patented 21 February 1984.
Patent 4,433,291: OPTICAL FIBER FOR MAGNETOSTRICTIVE RESPONSIVE DETECTION OF MAGNETIC FIELDS; filed 9 January 1981; patented 21 February 1984.
Patent 4,442,446: SENSITIZED EPITAXIAL INFRARED DETECTOR; filed 17 March 1982; patented 10 April 1984.
Patent 4,445,120: RADIOSONDE; filed 7 April 1981; patented 24 April 1984.
Patent 4,445,338: A SWIRLER ASSEMBLY FOR VORBIX AUGMENTOR; filed 23 October 1981; patented 1 May 1984.
Patent 4,447,804: SERIAL TO PARALLEL DATA CONVERSION INTERFACE CIRCUIT; filed 22 June 1981; patented 8 May 1984.
Patent 4,448,068: SHALLOW WATER ENVIRONMENTAL/OCEANOGRAPHIC MEASUREMENT SYSTEM; filed 31 August 1981; patented 15 May 1984.
Patent 4,449,105: PASSIVE MASER USING TIMESHARING FOR CONTROL OF THE CAVITY AND CONTROL OF THE OSCILLATOR ON THE LINE OF STIMULATED EMISSION; filed 19 May 1981; patented 15 May 1984.
Patent 4,449,472: DETACHABLE STORAGE TANK FOR HYDROFOILS; filed 28 May 1982; patented 22 May 1984.
Patent 4,452,533: EXTERNAL CAVITY DIODE LASER SENSOR; filed 22 July 1981; patented 5 June 1984.
Patent 4,461,009: OUTPUT COUPLER FOR LASER RESONATOR; filed 15 September 1981; patented 17 July 1984.
Patent 4,463,701: PARAVANE WITH AUTOMATIC DEPTH CONTROL; filed 28 February 1980; patented 7 August 1984.
Patent 4,469,976: SINGLE-SIDE CONNECTED TRANSDUCER; filed 6 July 1982; patented 4 September 1984.
Patent 4,471,774: OXYGEN BREATHING APPARATUS SIMULATOR USING SUPPLEMENTAL OXYGEN; filed 23 June 1982; patented 18 September 1984.
Patent 4,493,514: MECHANISM FOR PROPORTIONATELY LEADING DUAL THRUST BEARING ASSEMBLIES AGAINST AXIAL THRUST LOADS; filed 12 March 1984; patented 15 January 1985.
Patent 4,494,039: GYROTRON TRAVELING-WAVE DEVICE INCLUDING QUARTER WAVELENGTH ANTI-REFLECTION DIELECTRIC LAYER TO ENHANCE MICROWAVE ABSORPTION; filed 19 October 1982; patented 15 January 1985.
Patent 4,494,760: PRESSURE BALANCED FLOATING SEAL; filed 29 July 1983; patented 22 January 1985.
Patent 4,495,433: DUAL CAPABILITY PIEZOELECTRIC SHAKER; filed 22 November 1983; patented 22 January 1985.
Patent 4,497,400: LOAD-UNLOAD DEVICE-LIMIT OVERLOAD SENSING DEVICE; filed 7 February 1983; patented 5 February 1985.
Patent 4,513,664: IMPACT SWITCH FOR GUIDED PROJECTILES; filed 13 May 1983; patented 30 April 1985.
Patent 4,515,065: AUTOMATIC CENTERING SERVO ACTUATOR; filed 30 August 1982; patented 7 May 1985.
Patent 4,534,648: GYRO SENSOR BLOCK SUSPENSION; filed 7 November 1983; patented 13 August 1985.
Patent 4,546,200: 2,2-DINITROBUTANE-1,4-DIOL AND MONOESTERS; filed 6 May 1983; patented 8 October 1985.
Patent 4,623,514: LIQUID METAL CURRENT COLLECTOR FOR SUPERCONDUCTING MACHINERY SYSTEMS; filed 13 May 1985; patented 18 November 1986.
Patent 4,626,611: SHORT DURATION THERMOELECTRIC GENERATOR; filed 2 July 1985; patented 2 December 1986.
Patent 4,628,819: DISINTEGRATING TAMPER MASS; filed 16 August 1985; patented 16 December 1986.
Patent 4,629,975: COAXIAL PROBE FOR MEASURING THE CURRENT DENSITY PROFILE OF INTENSE ELECTRON BEAMS; filed 19 June 1984; patented 16 December 1986.
Patent 4,630,048: THREE HUNDRED AND SIXTY DEGREE IFF VIDEO RESYNCHRONIZER UNIT; filed 28 June 1982; patented 16 December 1986.
Patent 4,630,049: DIGITAL-TO-COMPOSITE IFF VIDEO CONVERTER; filed 26 June 1982; patented 16 December 1986.
Patent 4,631,505: RIGHT ANGLE MICROWAVE STRIPLINE CIRCUIT CONNECTOR; filed 3 May 1985; patented 23 December 1986.
Patent 4,633,503: VIDEO ZOOM PROCESSOR; filed 19 March 1984; patented 30 December 1986.
Patent 4,696,362: RETRACTABLE, LEVER ACTION, SCROLL SEAL FOR SURFACE EFFECT SHIPS; filed 24 February 1986; patented 29 September 1987.
Patent 4,706,568: CHEMILUMINESCENT MARKING WARHEAD; filed 9 June 1986; patented 17 November 1987.
Patent 4,707,217: SINGLE CRYSTAL THIN FILMS; filed 28 May 1986; patented 17 November 1987.
Patent 4,719,120: DETECTION OF OXYGEN IN THIN FILMS; filed 29 September 1986; patented 12 January 1988.
Patent 4,719,969: VIBRATION AND SHOCK RESISTANT HEAT EXCHANGER; filed 28 May 1986; patented 19 January 1988.
Patent 4,729,317: CONCENTRIC LAYER RAMJET FUEL; filed 8 December 1986; patented 8 March 1988.
Patent 4,731,881: NARROW SPECTRAL BANDWIDTH, UV SOLAR BLIND DETECTOR; filed 30 June 1986; patented 15 March 1988.
Patent 4,745,007: METHOD OF FORMING SILICON CARBIDE FILMS ON TANTALUM CONTAINING SUBSTRATES; filed 29 August 1985; patented 17 May 1988.
Patent 4,754,040: METHOD OF PREPARING AN EXPLOSIVE COMPOUND; filed 25 February 1985; patented 28 June 1988.
Patent 4,759,067: ACOUSTIC REGENERATOR; filed 15 October 1985; patented 19 July 1988.
Patent 4,759,973: SEMI-FOAMED POLYETHYLENE MOLDING TAPE; filed 9 December 1986; patented 26 July 1988.
Patent 4,760,348: BROADBAND IN-LINE AMPLIFIER FOR SUBMARINE ANTENNAS; filed 2 April 1987; patented 26 July 1988.
Patent 4,766,440: TRIPLE FREQUENCY, COPLANAR, U-SLOT MICROSTRIP ANTENNA; filed 15 September 1986; patented 23 August 1988.
Patent 4,784,473: FERROELECTRIC OPTICAL SWITCHING; filed 2 March 1987; patented 15 November 1988.
Patent 4,851,661: PROGRAMMABLE NEAR-INFRARED RANGING SYSTEM; filed 26 February 1988; patented 25 July 1989.
Patent 4,876,979: APPARATUS FOR DEPLOYING & RECOVERING A SEABORNE VESSEL; filed 11 January 1988; patented 31 October 1989.
Patent 4,878,296: APPARATUS AND METHOD FOR LOCATING THE AXIS OF SYMMETRY (CENTER OF CIRCULAR CROSS SECTION) OF THREE DIMENSIONAL OBJECTS; filed 22 April 1988; patented 7 November 1989.
Patent 4,878,695: EXPANDING RING JOINT; filed 5 December 1988; patented 7 November 1989.
Patent 4,878,718: METHOD FOR HOLOGRAPHIC CORRECTION OF BEAMS OF COHERENT LIGHT; filed 5 December 1986; patented 7 November 1989.
Patent 4,881,080: AN APPARATUS FOR AND A METHOD OF DETERMINING COMPASS HEADINGS; filed 24 June 1985; patented 14 November 1989.
Patent 4,881,270: AUTOMATIC CLASSIFICATION OF IMAGES; filed 28 October 1983; patented 14 November 1989.
Patent 4,881,813: PASSIVE STABILIZATION OF A FIBER OPTIC NONLINEAR INTERFEROMETRIC SENSOR; filed 20 May 1988; patented 21 November 1989.
Patent 4,882,970: MOTION TRANSLATOR; filed 4 January 1989; patented 28 November 1989.
Patent 4,885,324: COMBINATION PRIMER/TOPCOAT COATING; filed 28 March 1989; patented 5 December 1989.
Patent 4,885,930: GARMENT PRESSURIZING APPARATUS; filed 30 August 1988; patented 12 December 1989.
Patent 4,885,994: ARMOR PENETRATION RESISTANCE ENHANCEMENT; filed 16 May 1983; patented 12 December 1989.
Patent 4,886,225: INFLATABLE FUEL TANK BUFFER; filed 6 June 1983; patented 12 December 1989.
Patent 4,886,358: ORGANIC VAPOR ASSAY BY RAMAN SPECTROSCOPY; filed 31 May 1988; patented 12 December 1989.
Patent 4,887,049: SOLID STATE SPACE HARMONIC AMPLIFIER; filed 1 March 1988; patented 12 December 1989.
Patent 4,888,816: TWO-WAY OPTIC COMMUNICATION SYSTEM FOR ATMOSPHERIC USE; filed 5 January 1989; patented 19 December 1989.
Patent 4,889,986: SERIAL INTERFEROMETRIC FIBER-OPTIC SENSOR ARRAY; filed 18 August 1988; patented 26 December 1989.
Patent 4,890,109: LIGHTWEIGHT, BROADBAND, PULSED, FREQUENCY AGILE, SELF SCREENING JAMMER FOR AIRBORNE DEPLOYMENT; filed 13 July 1977; patented 26 December 1989.
Patent 4,890,917: SMALL ANGLE GENERATING APPARATUS; filed 5 July 1988; patented 2 January 1990.
Patent 4,892,417: ELASTOMETRIC MOUNT FOR THRUST BEARING SHOE; filed 30 December 1988; patented 9 January 1990.

Patent 4,892,445: MAN PORTABLE SHALLOW WATER STRUCTURE; filed 29 April 1987; patented 9 January 1990.
Patent 4,892,629: ELECTROCHEMICAL PREPARATION OF SILVER OXIDE ELECTRODES HAVING HIGH THERMAL STABILITY; filed 2 August 1989; patented 9 January 1990.
Patent 4,893,563: MONOLITHIC RF/EMI DESENSITIZED ELECTROEXPLOSIVE DEVICE; filed 5 December 1988; patented 16 January 1990.
Patent 4,893,655: DOUBLE VALVE MECHANISM FOR AN ACOUSTIC MODULATOR; filed 23 August 1989; patented 16 January 1990.
Patent 4,893,930: MULTIPLE AXIS, FIBER OPTIC INTERFEROMETRIC SEISMIC SENSOR; filed 25 January 1988; patented 16 January 1990.
Patent 4,897,543: METHOD AND APPARATUS FOR MINIMIZING POLARIZATION–INDUCED SIGNAL FADING IN INTERFEROMETRIC FIBER–OPTIC SENSORS USING INPUT–POLARIATION CONTROL; filed 25 January 1989; patented 30 January 1990.
Patent 4,897,623: NON–CONTACTING PRINTED CIRCUIT WAVEGUIDE ELEMENTS; filed 13 April 1988; patented 30 January 1990.
Patent 4,899,659: SAFE AND ARM DEVICE; filed 30 June 1989; patented 13 February 1990.
Patent 4,900,373: SENSITIZATION PRETREATMENT OF PB–SALT EPITAXIAL FILMS FOR SCHOTTKY DIODES BY SULFUR VAPOR EXPOSURE; filed 19 July 1989; patented 13 February 1990.
Patent 4,900,715: METHOD OF PREPARING SUPERCONDUCTING OROTHORHOMBIC TYPE COMPOUNDS IN BULK USING C1–C6 ALKANOIC ACID SALTS; filed 29 February 1988; patented 13 February 1990.
Patent 4,901,028: FIELD EMITTER ARRAY INTEGRATED DISTRIBUTED AMPLIFIERS; filed 22 March 1988; patented 13 February 1990.
Patent 4,901,039: COUPLED STRIP LINE CIRCUIT; filed 6 March 1989; patented 13 February 1990.
Patent 4,906,873: CMOS ANALOG FOUR-QUADRANT MULTIPLIER; filed 12 January 1989; patented 6 March 1990.
Patent 4,906,879: TERBIUM-DYPROSIUM MAGNETOSTRICTIVE HIGH POWER TRANSDUCERS; filed 30 June 1989; patented 6 March 1990.
Patent 4,906,909: ANALOG ELECTRONIC CONTROL DIFFERENTIAL TRANSMITTER; filed 28 April 1989; patented 6 March 1990.
Patent 4,907,238: APPARATUS FOR THE EFFICIENT WAVELENGTH CONVERSION OF LASER RADIATION; filed 26 June 1989; patented 6 March 1990.
Patent Application 271,546: HETEROSTRUCTURE DEVICE USEABLE AS A FAR INFRA-RED PHOTODETECTOR; filed 15 November 1988.
Patent Application 274,216: SYNTHESIS AND POLYMERIZATION OF PHTHALONITRILE RESINS CONTAINING SULFIDE LINKAGES; filed 21 November 1988.
Patent Application 345,339: PORTABLE, RAPID INSTALLABLE DOLPHIN SYSTEM; filed 1 May 1989.
Patent Application 352,325: FORMATION OF HIGH TC SUPERCONDUCTING Y-BA-CU-O FILMS BY ORGANOMETALLIC CHEMICAL VAPOR DEPOSITION; filed 16 May 1989.
Patent Application 352,327: SYNTHESIS OF PHTHALONITRILE RESINS CONTAINING EITHER AND IMIDE LINKAGES; filed 16 May 1989.
Patent Application 354,559: HIGH-POWER, HIGH SENSITIVITY MICROWAVE CALORIMETER; filed 22 May 1989.
Patent Application 356,044: PRODUCTION OF MONOCLONAL ANTIBODIES TO TREPONEMA DENTICOLA BY HYBRIDOMA; filed 22 May 1989.
Patent Application 361,078: PREPARATION OF BI-SR-CA-CU-O HIGH TC SUPERCONDUCTING LAYERS AND COATED PLATINUM WIRES BY DIPPING AND POST ANNEALING; filed 5 June 1989.
Patent Application 385,032: LASER DISCRIMINATION BY STIMULATED EMISSION; filed 25 July 1989.
Patent Application 387,047: VOLATILE DIVALENT DOUBLE METAL ALKOXIDES; filed 31 July 1989.
Patent Application 397,549: DOUBLE VALVE MECHANISM FOR AN ACOUSTIC MODULATOR; filed 23 August 1989.
Patent Application 414,499: X-RAY WITH ENHANCED X-RAY GAIN THROUGH PHOTODEPOPULATION; filed 29 September 1989.
Patent Application 415,505: ORGANOMETALLIC ANTIMONY COMPOUNDS USEFUL IN CHEMICAL VAPOR DEPOSITION PROCESSES; filed 29 September 1989.
Patent Application 415,736: NONVOLATILE, FAST RESPONSE WIRE CUTTER; filed 2 October 1989.
Patent Application 415,758: VERSATILE NONELECTRIC DEARMER; filed 2 October 1989.
Patent Application 417,623: MONOLITHIC OPTICAL PROGRAMMABLE SPECTROMETER; filed 4 October 1989.
Patent Application 421,899: IN SITU FORMATION OF HARDENING ELEMENTS BY ELECTRO CHEMICAL TECHNIQUES; filed 16 October 1989.
Patent Application 429,959: ION BEAM TREATMENTS FOR IMPROVED ADHESION OF COATINGS TO CERAMICS SUBSTRATES; filed 31 October 1989.
Patent Application 432,108: FAST ALGORITHM FOR GRID GENERATION; filed 31 October 1989.
Patent Application 433,245: HIGH TC COPPER-OXIDE SUPERCONDUCTORS; filed 8 November 1989.
Patent Application 436,509: ACOUSTIC INTENSITY PROBE; filed 13 November 1989.
Patent Application 442,085: HIGH GLOSS CORROSION-RESISTANT COATINGS; filed 28 November 1989.
Patent Application 442,815: PROCESS OF THREE DIMENSIONAL LITHOGRAPHY IN AMORPHOUS POLYMERS; filed 29 November 1989.
Patent Application 442,961: A NEW CLASS OF LUBRICANTS BASED ON ARCHAEBACTERIAL-LIKE LIPIDS; filed 29 November 1989.
Patent Application 444,253: ULTRA-LOW-LOSS SUPERCONDUCTING STRIP-TYPE TRANSMISSION LINES, CIRCUITS, AND RESONATORS; filed 1 December 1989.
Patent Application 444,350: HEAT ENGINE BASED ON SHAPE MEMORY ALLOYS; filed 1 December 1989.
Patent Application 447,321: UNDERWATER OBJECT DETECTION SYSTEM; filed 7 December 1989.
Patent Application 450,754: ABLATIVE COOLING OF AERODYNAMICALLY HEATED RADOMES; filed 14 December 1989.
Patent Application 450,963: FORMATION OF EPITAXIAL SI-GE HETERSTRUCTURES; filed 15 December 1989.
Patent Application 455,031: ROOM-TEMPERATURE, FLASH PUMPED, 2 MICRON SOLID STATE LASER WITH HIGH SLOPE EFFICIENCY; filed 22 November 1989.
Patent Application 459,155: DESIGN AND FABRICATION SEQUENCE FOR INP JUNCTION FETS AND JUNCTION HEMTS; filed 29 December 1989.
Patent Application 463,063: IMPROVED COMPACT OPTICAL RF SPECTRUM ANALYZER; filed 10 January 1990.
Patent Application 465,677: DIFFERENTIAL POLARIMETRIC FIBER-OPTIC SENSOR; filed 16 January 1990.
Patent Application 471,316: OPTICAL HIGH SPEED PARALLEL BACKPLANE; filed 29 January 1990.
Patent Application 472,934: APPARATUS AND METHOD FOR OPTIMIZING THE MODULATION EFFICIENCY OF A REMOTELY-LOCATED, POLARIZATION-SENSITIVE, INTEGRATED OPTIC MODULATOR; filed 31 January 1990.
Patent Application 473,752: PROCESS FOR FABRICATING SELF ALIGNED FIELD EMITTER ARRAYS; filed 2 February 1990.
Patent Application 473,807: ADAPTIVE POLARIZATION DIVERSITY DETECTION SCHEME FOR COHERENT COMMUNICATIONS AND INTERFEROMETRIC FIBER SENSORS; filed 2 February 1990.

Dated: April 24, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–10217 Filed 5–2–90; 8:45 am]

BILLING CODE 3810–AE–M

CNO Executive Panel Advisory Committee; Closed Meeting

Notice was published on April 18, 1990, at 55 FR 14456 that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Space and Electronic Combat Standing Task Force will meet on May 8–9, 1990 at 4401 Ford

Avenue, Alexandria, Virginia. This meeting has been rescheduled for May 11, 1990 because of operational necessity. In accordance with 5 U.S.C. 552b(e)(2), the meeting rescheduling is publicly announced at the earliest practical time.

Dated: April 27, 1990.

Sandra M. Kay, Department of the Navy,
Alternate Federal Register Liaison Officer.

[FR Doc. 90-10226 Filed 5-2-90; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Suppression of Enemy Fighter Defense Over Land in the Year 2000 and Beyond will meet on May 21-23, 1990. The meeting is scheduled for May 21, 1990 at Air Test and Evaluation Squadron FOUR (VX-4), Pt. Mugu, California; and May 22-23, 1990 at the Naval Weapons Center, China Lake, California. The meeting will commence at 8 a.m. and terminate at 5 p.m. on May 21-23, 1990. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members related to the ability of U.S. naval forces to suppress enemy fighter defenses over land in support of strike operations, or ground operations in the year 2000 and beyond. The agenda will include briefings and discussions on the threat, a VX-4 overview of U.S. naval force systems, and a MAWTS-1 overview of Marine Corps systems, tactics and deficiencies. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 2217-5000, Telephone Number: (202) 696-4488.

Dated: April 27, 1990.

Sandra M. Kay,
Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90-10227 Filed 5-2-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

International Education Programs; National Advisory Board

AGENCY: National Advisory Board on International Education Programs; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the National Advisory Board on International Education Programs (NABIEP). Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATES: May 17, 1990.

LOCATION: The Rosslyn Westpark Hotel, (The Dogwood Room), 1900 North Fort Myer Drive, Arlington, Virginia 22209, telephone: 703-527-4814.

FOR FURTHER INFORMATION CONTACT: Harry M. Gardner, Executive Director, National Advisory Board on International Education Programs, U.S. Department of Education, 7th and D Streets SW., room 4907, Washington, DC 20202-5100, telephone: 202-732-1862.

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under section 621 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986 (Pub. L. 99-498; 20 U.S.C. 1131). The Board's mandate is to advise the Secretary of Education on the conduct of programs under this title.

This meeting of the National Advisory Board on International Education Programs is open to the public.

The agenda will include (1) A report on the status of the Higher Education Act Reauthorization; (2) a report on a (reauthorization) Subcommittee meeting; (3) a report on the Plans for New Initiatives for the Center for International Education; (4) a report on Center Directors Meeting; (5) a report on the Status of the Advisory Board (legislation); (6) a report on CIE Grants and Programs and the Budget Outlook for Fiscal Year 1991; (7) a report on the Outcome of CAFLIS; (8) a report on the United States International Cultural and Trade Center, by Sheryl J. Swed, Director, International Trade Programs; and (9) a report on Chinese Language Studies Abroad Programs; Survey, by Richard T. Thompson, Assistant Dean for Graduate Studies, School of Language and Linguistics, Georgetown University.

Records are kept on the Board's proceedings and are available for public inspection at the Office of Postsecondary Education, from 8 a.m. to 4 p.m., ROB-3, 7th and D Streets SW., Room 4907, Washington, DC.

Signed in Washington, DC on April 27, 1990.

Leonard L. Haynes, III,
Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 90-10330 Filed 5-2-90; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Meeting

AGENCY: National Council on Vocational Education.

ACTION: Notice of public meeting of the Council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming subcommittee meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATES AND TIME: May 20, 1990-5:30 to 7:30 p.m. May 21, 1990-9:00 to 4:30 p.m.

ADDRESS: Ramada Renaissance TechWorld, 999 9th Street NW., Washington, DC 20001-9000, phone: (202) 898-9000.

ROOM: Meeting Room #6.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576.

The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto,

and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

AGENDA: The proposed agenda will include: Discussions of the Reauthorization of the Carl D. Perkins Act, the National Awareness Campaign, Occupational Competencies Reports, Comments on the Future Directions of Vocational-Technical Education, Committee Reports and New Initiatives.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street SW., MES–Suite 4080, Washington, DC 20202–7580, (202) 732–1884.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9 a.m. to 4:30 p.m.

Signed at Washington, DC, April 25, 1990.

Joyce Winterton,

Executive Director.

[FR Doc. 90–10208 Filed 5–2–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER90–329–000 et al.]

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

April 26, 1990.

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

1. Florida Power & Light Co.

[Docket No. ER90–329–000]

Take notice that on April 23, 1990, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Fifteen to Revised Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and the City of Vero Beach (Rate schedule FERC No. 58).

FPL states that under Amendment Number Fifteen, FPL will transmit power and energy for the City of Vero Beach as is required in the implementation of its interchange agreement with Orlando Utilities Commission, the City of Tallahassee and Reedy Creek Improvement District.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective May 1, 1990. FPL states that a copy of the filing was served on City of Vero Beach.

Comment date: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Power & Light Co.

[Docket No. ER84–571–008, ER85–486–003, and ER86–300–003 (phase II)]

Take notice that on April 16, 1990, Utah Power & Light Company (Utah) tendered for filing revised copies of Rate Schedule No. 138 (Manti City) and Rate Schedule No. 140 (Provo City) in the above referenced dockets.

Comment date: May 10, 1990, in accordance with Standard Paragraph E end of this notice.

3. South Carolina Electric & Gas Co.

[Docket No. ER90–226–000]

Take notice that South Carolina Electric & Gas Company on April 23, 1990, tendered for filing proposed changes in its January 15, 1974 service agreement with the City of Orangeburg, South Carolina.

Under the proposed changes, South Carolina Electric and Gas Company proposes to cancel the Exhibit A dated October 21, 1980 for the Orangeburg No. 2 115 KV–46 KV substation and to replace the current Exhibits A for the Orangeburg No. 1 115 KV substation and the Orangeburg East 230 KV to 115 substation with the revised Exhibits A. These Exhibits A have been revised to reflect the current terms and conditions of service to these delivery points.

By letter dated April 2, 1990, the Company amended its filing to include cost support data for the monthly operation and maintenance charge included in section 7 of exhibit A, Delivery Point and Service Specifications, for the Orangeburg East 230 KV to 115 KV substation.

Also, the Company proposed to amend section 7 of Exhibit A, Delivery Point and Service Specification for the Orangeburg No. 1 115 KV to 46 KV substation by eliminating subparagraph (d) and redesignating the remaining subparagraphs.

Copies of this filing were served upon the City of Orangeburg, South Carolina.

Comment date: May 10, 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 23, 1990, Minnesota Power & Light Company tendered for filing an amendment to its April 2, 1990 filing of a Firm Power Interchange Transaction Agreement between Minnesota Power & Light Company and Interstate Power Company. The amendment provides for a revision in the energy charge under the 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: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. The Toledo Edison Co.

[Docket No. ER90–325–000]

Take notice that on April 19, 1990, The Toledo Edison Company (Toledo) tendered for filing a proposed Interconnection and Service Agreement between Toledo and American Municipal Power-Ohio, Inc. (AMP-Ohio). Toledo states that the Interconnection and Service Agreement supersedes the existing Municipal Resale Service Rate Agreement between Toledo AMP-Ohio, and balances, the desire of AMP-Ohio for greater flexibility in meeting the needs of its member municipal electric systems as economically as possible from all sources of power which are or may become available to it in the future, and the desire of Toledo to continue serving a portion of the bulk power supply requirements of AMP-Ohio on a long-term basis.

Toledo has requested waiver of the Commission's regulations in order to permit the Interconnection and Service Agreement to become effective as of December 1, 1989.

Comment date: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Co.

[Docket No. ER90–326–000]

Take notice that Carolina Power & Light Company (CP&L), on April 19, 1990 tendered for filing changes to CP&L's Backstand Power and Transmission rates previously filed as Exhibit No. 1 to appendix A of the "Amendment to the Service Agreement Between the City of Fayetteville and Carolina Power & Light Company" (Amendment) dated January 16, 1986. This filing is made as a result of a change in the Commission's advisory benchmark rate of return on common equity which is a component of CP&L's Backstand Power and Transmission rates. The changes to the rates are proposed to become effective on July 1,

1990 and are for the period July 1, 1990 through June 30, 1991.

Copies of this filing have been sent to the Fayetteville Public Works Commission, North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

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

[Docket No. ER90-327-000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light (PacifiCorp), on April 20, 1990, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Revised appendix 1 for the state of Oregon and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Oregon (Bonneville's Docket No. 5-A1-8903) dated March 29, 1990. The Revised appendix 1 calculates the ASC for the state of Oregon applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective August 22, 1989, which it claims is the date of commencement of service.

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

Comment date: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Electric & Gas Co.

[Docket No. ER90-328-000]

Take notice that Public Service Electric and Gas Company (PS) on April 20, 1990, tendered for filing proposed revised schedules 1.03, 10.04, 2.01 and 3.04 to the existing Interconnection Agreement between PS and Jersey Central Power and Light Company (JC) dated November 29, 1960, as supplemented (PS FERC Rate Schedule No. 28.)

PS states that the reason for the filing is to cover the facilities, cost sharing, and payments associated with supplying service to JC's Readington Substation.

PS requests that the filing be permitted to become effective as of the date the facilities were placed in service, June 6, 1989, and therefore requests waiver of the Commission's notice requirements.

PS states that a copy of this filing has been sent to JC and the New Jersey Board of Public Utilities.

Comment date: May 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. EUA Power Corp.

[Docket No. ER90-330-000]

Take notice that on April 23, 1990, EUA Power Corporation (EUA Power) tendered for filing a rate schedule for the sale of post-commercial short-term energy from the Seabrook nuclear unit to Montaup Electric Company (Montaup). Also filed were agreements for the sale by Montaup of EUA Power energy to its affiliates Eastern Edison Company (Eastern Edison), Blackstone Valley Electric Company (Blackstone) and Newport Electric Corporation (Newport).

The EUA Power rate schedule and the three agreements are explained as follows:

1. EUA Power has a 12.1324% ownership interest in the Seabrook No. 1 nuclear unit (the Unit), which is expected to commence test power generation within the next several days. Its affiliate Montaup is the wholesale bulk power supply entity for the EUA system and provides wholesale service to Blackstone, Eastern Edison and Newport as well as providing wholesale service to other customers.

2. EUA Power expects to sell all of its power under long-term agreements, but until such agreements are in place it intends to sell short-term energy to non-affiliates and to Montaup. On March 29, 1990 EUA Power filed a rate schedule for the sale of test power to Montaup in Docket No. ER90-291-000. The rate schedule filed by EUA Power on April 23, 1990 would supersede that rate schedule when Seabrook enters commercial service.

3. The price to be paid by Montaup EUA Power energy under the enclosed rate schedule is 90% of Montaup's avoided cost.

4. The agreements between Montaup and Eastern, Montaup and Blackstone, and Montaup and Newport provide for the sale of EUA Power energy by Montaup to Eastern Edison and Blackstone in the same amount and at the same rate as provided in Montaup's M-rate wholesale tariff.

EUA Power requests that the enclosed rate schedule for the sale of short-term energy be allowed to become effective as of the date when Seabrook enters commercial service. EUA Power requests waiver of the 60-day notice requirement should Seabrook enter service within the 60 days. In the alternative, Montaup asks that the rate schedule be allowed to become effective 60 days from the date of filing.

Waiver of the 60-day notice requirement is requested to permit the agreements among Montaup, Eastern Edison, Newport and Blackstone to become effective when test generation commences.

Copies of this filing have been mailed to the Massachusetts Department of Public Utilities, the Rhode Island Division of Public Utilities and Common Carriers, the Attorneys General of Massachusetts and Rhode Island, and Montaup's other M-rate customers.

Comment date: May 10, 1990, 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. 90-10245 Filed 5-2-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1554-001]

Colorado Interstate Gas Co.; Compliance Filing

April 26, 1990.

Take notice that Colorado Interstate Gas Company ("CIG"), on April 16, 1990, tendered for filing six copies of Original Volume No. 3 of its F.E.R.C. Gas Tariff as a compliance filing to conform with the Commission's Order of March 15, 1990 in the captioned docket which authorized CIG to perform open-access storage service on a firm and interruptible basis. The Order of March 15, 1990 attached certain conditions to the Commission's authorization and ordered certain modifications. CIG states that its Volume No. 3 incorporates those conditions and modifications. Also according to CIG, Original Volume No. 3 includes, in all other respects, the

provisions of CIG's existing Volume No. 1A.

CIG states that it has filed a Request for Rehearing of the Order of March 15 and CIG adds that CIG is not accepting the certificate issued by that order at this time. CIG proposes that the above-referenced tariff sheets become effective upon CIG's acceptance of the certificate issued by the Order of March 15 as that certificate may be altered on rehearing. According to CIG, once CIG accepts the certificate and Original Volume No. 3 becomes effective, those tariff sheets will supersede, in its entirety, CIG's existing Second Revised Volume No. 1A pursuant to § 154.33 of the regulations.

CIG states that the storage rates included in this compliance filing are the FS–1 and IS–1 initial rates required by the Commission and set forth in the Order of March 15, 1990.

CIG requests any necessary waiver of the Commission's regulations to permit such tariff sheets to become effective as proposed.

CIG states that copies of the filing were served upon all of the parties listed on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426 by May 3, 1990, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–10246 Filed 5–2–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–4–18–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 26, 1990.

Take notice that on April 16, 1990, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Twenty-eighth Revised Sheet No. 10
Twenty-eighth Revised Sheet No. 10A
Thirteenth Revised Sheet No. 12
Tenth Revised Sheet No. 12A
Fourth Revised Sheet No. 12B
Fourth Revised Sheet No. 12C

Original Volume No. 2–A

Fourth Revised Sheet No. 14

The proposed tariff sheets are being filed as part of Texas Gas's first Annual Reconciliation of Take-or-Pay Settlement Payments contained in Docket Nos. RP89–119, RP89–209, and RP90-58. The filing makes the appropriate adjustments and restates both the Fixed Monthly TOP Charge and the Commodity TOP Surcharge to be collected during the second Annual Recovery Period beginning May 1, 1990, and ending April 30, 1991.

Texas Gas requests an effective date of May 1, 1990, for the proposed tariff sheets. Texas Gas further states that it has served copies of this filing upon the company's sales and transportation customers and interested state commissions.

Texas Gas will maintain copies of this filing at its Owensboro, Kentucky, offices for public inspection during regular business hours.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 3, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing exclusive of Confidential Binder B, are on file with the Commission and are available for public inspection in the Public Reference Room. A copy of this filing, including Confidential Binder B, is in the nonpublic file with the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 90–10247 Filed 5–2–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 90–06–NG]

Indeck Energy Services of Corinth, Inc.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 22, 1990, of an application filed by Indeck Energy Services of Corinth, Inc. (Indeck-Corinth), for authorization to import up to 6.5 Bcf per year of natural gas from Canada for a term of 15 years. The natural gas would be transported within the United States through existing and proposed pipeline facilities. Indeck-Corinth requests that the authorization commence November 1, 1991, the date that the new facilities required to transport this natural gas are to commence initial operation. The natural gas would be used to fuel the applicant's new 119-megawatt (MW), gas-fired cogeneration facility to be constructed in the Village of Corinth, New York.

The application is filed pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than June 4, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667

SUPPLEMENTARY INFORMATION: Indeck-Corinth, an Illinois corporation, is a wholly-owned subsidiary of Indeck Energy Services, Inc. (Services), also an Illinois corporation, with its principal office in Wheeling, Illinois. Services and its subsidiaries are engaged in the development, ownership, operation and maintenance of cogeneration projects. Indeck-Corinth is currently constructing a new 119-megawatt, gas-fired cogeneration facility adjacent to the existing International Paper Company plant in the Village of Corinth, New York. The cogenerator is expected to be completed and in commercial operation by November 1, 1991. It will be operated

as a "qualifying facility" under section 201 of the Public Utility Regulatory Policies Act of 1978. In addition, Indeck-Corinth has filed a Certification of Compliance (55 FR 1610, January 17, 1990) with the coal capability requirement for proposed new electric powerplants pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended.

Indeck-Corinth states that all the natural gas imported under its requested authorization will be used to fuel the new cogeneration facility. Under anticipated normal operating conditions, the cogenerating facility will consume an average of 24,000 Mcf per day. Indeck-Corinth asserts that its request for authority to import up to 6.5 Bcf per year is necessary to meet the facilities fuel needs, allow for transportation shrinkage, and provide a reasonable margin for any unforeseen exigency. The electric power to be produced by the facility is under contract for sale to Consolidated Edison of New York, Inc., (Con Ed).

Indeck-Corinth will buy the Canadian natural gas from Indeck Gas Supply Corporation (Supply), a wholly-owned subsidiary of Services, in accordance with their natural gas purchase agreement dated October 10, 1989. Supply has agreed to sell and deliver up to a maximum of 26 MMcf of natural gas per day and up to an annual contract quantity of 6.5 Bcf. The price will equal Supply's weighted average cost of the natural gas delivered to Indeck-Corinth, including a management fee described below, and all costs related to transportation in Canada by NOVA Corporation of Alberta (NOVA) and TransCanada PipeLines Limited (TCPL) to the point at the international border where Indeck-Corinth receives the volumes. The agreement between Indeck-Corinth and Supply is for a term of 18 years. Indeck-Corinth estimates that the delivered price it will pay Supply during the first year of the proposed import arrangement would be $2.70 per Mcf. Indeck-Corinth bases this estimate on its calculation of Supply's weighted average cost of natural gas per Mcf purchased from producers under four contracts submitted as part of this application.

The volumes of natural gas that Supply proposes to resell to Indeck-Corinth will be provided by Northstar Energy Corporation (Northstar); Trilogy Resources Corporation (Trilogy); Devnic Energy Inc. (Devnic); Altex Resources, Ltd., Iverness Petroleum, Ltd., and Universal Explorations Ltd. (Altex, *et al*). Together, those Canadian producers contracted under terms described below to sell to Supply, on a firm basis, a total of 9.14 Bcf of natural gas per year, and up to an additional 1.08 Bcf of natural gas per year on an interruptible basis. According to the application, after TCPL's transportation shrinkage allowance, estimated to be approximately 7 percent, these volumes net Supply a total of 9.5 Bcf per year for export at the international border. Of the total volumes purchased by Supply, 6.5 Bcf per year will be sold to Indeck-Corinth and 3.0 Bcf per year will be sold to Indeck-Corinth's affiliate, Indeck Energy Services of Ilion, Inc. (Indeck-Ilion), to fuel a cogeneration facility it is planning to build near the Village of Ilion, New York. Indeck-Ilion has an application for authority to import that natural gas from Supply pending before the DOE in FE Docket No. 90-07-NG.

Indeck-Corinth states that the four contracts encompassing the entire quantity of natural gas purchased by Supply will be administered by a single producer, Northstar. Northstar will also act as Supply's liaison with TCPL for the transportation of Supply's gas through TCPL's system. For its services, Northstar will receive a fee from Supply of approximately $0.02 (U.S.) per Mcf of purchased natural gas which will be included in the price of natural gas paid by Indeck-Corinth.

Indeck-Corinth described Supply's natural gas purchase agreements with the Canadian producers as follows:

A. Northstar Agreement

Under the Northstar natural gas sales agreement, Supply has agreed to purchase 2,500 MMBtu per day of natural gas for an initial term of 12 years. Supply has agreed to take or pay for 0.86 Bcf per year. If any amounts are paid for and not taken, Supply has the right to receive any prepaid volumes at any time up to two years after the end of the 12-year term. The parties have further agreed to purchase and sale, on an interruptible basis, of any additional volumes which may be needed by the Corinth and Ilion projects.

Supply has agreed to pay an adjusted base price in effect during the calendar month gas is delivered. According to the contract the adjusted base price of the natural gas at the Alberta border will consist of a base price of $1.55 per MMBtu (U.S.) for May 1989, which includes all transportation and distribution costs, any taxes, royalties and duties assessed on the natural gas and any related losses or unaccounted for retainage, as adjusted monthly with the proportional change in Con Ed's average cost of all purchased gas (ACAPG) ($2.50 (U.S.)/per MMBtu during April 1989). The adjusted base price effective during a calendar month shall be equal to the product of the adjusted base price effective during the previous calendar month multiplied by the ratio of the most recently available Con Ed ACAPG to the previously available Con Ed ACAPG.

Northstar has agreed to dedicate the reserves necessary to supply the approximately 10.95 Bcf of total contract volume or the reserves required to maintain a rolling average of five years of daily deliverability of 2,500 MMBtu. The dedication of the required reserves is to be verified by an engineering report prepared by an independent engineering firm and furnished to Supply at the beginning of each contract year. In the event Northstar cannot deliver the full 2,500 MMBtu per day of firm sales volumes from the dedicated reserves due to production problems or other reasons, Northstar is obligated to reimburse Supply all reasonable incremental costs incurred to substitute production from other sources.

B. Trilogy Resources Corporation

Trilogy has agreed to supply a total contract quantity of 32.5 million MMBtu of natural gas to be delivered at a point of interconnection between the facilities of NOVA and TCPL near the Alberta-Sasakatchewan border (the Alberta border), at which point title to the gas will be transferred to Supply and transported to the international border by TCPL.

Under this agreement, Supply will purchase with a lump sum payment in the amount of $19,987,500 (U.S.) to be paid on November 1, 1990, a total volume of 32.5 million MMBtu of natural gas to be delivered over a maximum contract term of 18 years. Supply will also reimburse Trilogy for its production gathering, and processing costs and expenses in an amount based on an initial rate of $0.25 (U.S.) per MMBtu. On January 1, 1992, the reimbursement amount will be increased annually by 5 percent. Additionally, Supply will reimburse Trilogy for all related royalty payments and transportation costs up to the Alberta border.

The actual term of the delivery obligation will be determined by the actual daily and annual takes by Supply. For example, if Supply takes the maximum 2.75 million MMBtu annual quantity every year, the total delivery obligation would be met, and the contract would expire in approximately 11.8 years. However, any portion of the total contract quantity not taken by the end of the 18-year term will be forfeited.

According to its agreement, Supply would take a minimum of 7,000 MMBtu

of natural gas per day toward meeting the expected total average daily requirement of approximately 36,000 MMBtu for the two cogeneration projects to be supplied. The expected average daily requirements of the Corinth and Ilion projects are 24,000 MMBtu and 12,000 MMBtu, respectively.

The Trilogy agreement does not provide for the dedication of reserves, but in the event Trilogy for any reason is unable to deliver the maximum daily or annual contract quantities, Trilogy has agreed, *inter alia*, to reimburse Supply for the costs of acquiring substitute supplies that exceed the incremental costs that would have been paid for the Trilogy supplies. The Trilogy reserves, however, are dedicated to the project pursuant to the Canadian export license issued in Hearing Order GH–5–89. Additionally, Trilogy has agreed to post an irrevocable letter of credit to secure the lump-sum prepayment amount. The letter of credit will be amended each year to secure the then-current value of the remaining prepayment.

C. Devnic Energy Inc.

Under the agreement between Supply and Devnic, Supply has agreed to purchase 8,000 MMBtu per day of natural gas for an initial term of 15 years. Supply has agreed to take or pay 2.75 Bcf per year. In the event any amounts are paid for and not taken, Supply has the right to receive any prepaid volumes at any time up to two years after the end of the 15-year term. The contract also provides for the sale, on an interruptible basis, of any additional volumes which may be needed by the Corinth and Ilion projects.

The base price of the natural gas at the Alberta border will be $1.48 per MMBtu (U.S.) in May 1989. It includes the same costs and is adjusted monthly in the same manner as the base price under the Northstar agreement. Supply is to pay for deficiency volumes at the weighted average of applicable prices for the year such volumes are delivered. Devnic's agreement to the dedication of reserves and reimbursement of cost are similar to those stated in the Northstar agreement.

D. Altex Resources, et al.

Under the terms of the Altex agreement, Supply has agreed to purchase 7,000 MMBtu per day of natural gas for an initial term of 15 years. Supply has agreed to take or pay for 2.41 Bcf per year. In the event amounts that are paid for and not taken, Supply has the right to receive the prepaid volumes at any time up to two years after the 15-year term. The contract also provides for the interruptible sale of additional volumes that may be needed by the Corinth and Ilion projects. It is not anticipated that these sales would exceed 0.43 Bcf.

A base price of $1.53 pr MMBtu (U.S.) in May 1989, at the Alberta border, is subject to price adjustment provisions identical to those found in the Northstar and Devnic contracts.

The Altex agreement contains reserve dedication and reimbursement provisions similar to those found in the Northstar and Devnic agreements.

In support of its application, Indeck-Corinth states that the imported natural gas is needed as a long-term fuel supply for its new cogeneration facility and that the natural gas would be purchased under competitive pricing terms with sufficient flexibility to assure that the imported gas would remain competitive over the term of the requested authorization. Indeck-Corinth further asserts that Supply's agreements with its several Canadian sources of suppy assures it a secure supply of gas over the term.

The decision on Indeck-Corinth's application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for natural gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the natural gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is needed, competitive and its natural gas sources will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a conditional or final opinion and order may be issued based on the official record, including the

application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Indeck-Corinth's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 27, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–10320 Filed 5–2–90; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. 90–07–NG]

Indeck Energy Services of Ilion, Inc.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 22, 1990, of an application filed by Indeck Energy Services of Ilion, Inc. (Indeck-Ilion), for authorization to import up to 3.0 Bcf per year of natural gas from Canada for a term of 15 years. The natural gas would be transported within the United States through existing and proposed pipeline facilities. Indeck-Ilion requests that the authorization commence on or about November 1, 1991, the date that the new facilities required to transport this natural gas are to commence initial operation. The natural gas would be used to fuel the applicant's new 44-megawatt (MW), gas-fired cogeneration facility to be constructed in the Village of Ilion, New York.

The application is filed pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 02-04–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than June 4, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9394.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Indeck-Ilion, and Illinois corporation, is a wholly-owned subsidiary of Indeck Energy Services, Inc. (Services), also an Illinois corporation, with its principal office in Wheeling Illinois. Services and its subsidiaries are engaged in the development, ownership, operation and maintenance of cogeneration projects. Indeck-Ilion is currently constructing a new 55–MW, gas-fired cogeneration facility adjacent to the existing DuPont Remington Arms Company Plant in the Village of Ilion, Neww York. The cogenerator is expected to be completed and in commercial operation by November 1, 1991. It will be operated as a "qualifying facility" under section 201 of the Public Utility Regulatory Policies Act of 1978. In addition, Indeck-Ilion has filed a Certification of Compliance (55 FR 1610, January 17, 1990) with the coal capacity requirement for proposed new electric powerplants pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended.

Indeck-Ilion states that are the natural gas imported under its requested authorization will be used to fuel the new cogeneration facility. Under anticipated normal operating conditions, the cogenerating facility will consume an average of 12,000 Mcf per day. Indeck-Ilion asserts that its request for authority to import up to 3.0 Bcf per year is necessary to meet the facility's needs, allow for transportation shrinkage, and provide a reasonable margin for any unforeseen exigency. The electric power to be produced by the facility is under contract for sale to Consolidated Edison Of New York, Inc., (Con Ed).

Indeck-Ilion will buy the Canadian natural gas from Indeck Gas Supply Corporation (Supply), a wholly-owned subsidiary of Services, in accordance with their natural gas purchase agreement dated October 10, 1989. Supply has agreed to sell and deliver up to a maximum of 26 MMcf of natural gas per day and up to an annual contract quantity of 3.0 Bcf. The price will equal Supply's weighted average cost of the natural gas delivered to Indeck-Ilion, including a management fee described below, and all costs related to transportation in Canada by NOVA Corporation of Alberta (NOVA) and TransCanada PipeLines Limited (TCPL) to the point at the international border where Indeck-Ilion receives the volumes. The agreement between Indeck-Ilion receives the volumes. The agreement between Indeck-Ilion and Supply is for a term of 18 years. Indeck-Ilion estimates tht the delivered price it will pay Supply during the first year of the proposed import arrangement would be $2.70 per MMBtu. Indeck-Ilion bases this estimate on its calculation of Supply's weighted average cost of natural gas per Mcf purchased from producers under four contracts submitted as part of this application.

The volumes of natural gas that Supply proposes to resell to Indeck-Ilion will be provided by Northstar Energy Corporation (Northstar); Trilogy Resources Corporation (Trilogy); Devnic Energy Inc. (Devnic); Altex Resources, Ltd., Iverness Petroleum, Ltd., and Universal Explorations Ltd. (Altex, et al). Together, those Canadian producers contracted, under terms described below, to sell to Supply, on a firm basis, a total of 9.14 Bcf of natural gas per year, and up to an additional 1.08 Bcf on natural gas per year on an interruptible basis. According to the application, after TCPL's transportatin shrinkage allowance, estimated to be approximately 7 percent, these volumes net Supply a total of 9.5 Bcf per year for export at the international border. Of the total volumes purchased by Supply, 3.0 Bcf per year will be sold to Indeck-Ilion and 6.5 Bcf per year will be sold to Indeck-Ilion's affiliate, Indeck Energy Services of Corinth, Inc. (Indeck-Corinth), to fuel a cogeneration facility it is planning to build near the Village of Corinth, New York. Indeck-Corinth has an application for authority to import that natural gas from Supply pending before the DOE in FE Docket No. 90–06–NG.

Indeck-Ilion states that the four contracts encompassing the entire quantity of natural gas purchased by Supply will be administered by a single producer, Northstar. Northstar will also act as Supply's liaison with TCPL for the transportation of Supply's gas through TCPL's system. For its services, Northstar will receive a fee from Supply of approximately $0.02 (U.S.) per Mcf of purchased natural gas which will be included in the price of natural gas paid by Indeck-Ilion.

Indeck-Ilion described Supply's natural gas purchase agreements with the Canadian producers as follows:

A. Northstar Agreement

Under the Northstar natural gas sales agreement, Supply has agreed to purchase 2,500 MMBtu per day of natural gas for an initial term of 12 years. Supply has agreed to take or pay for 0.86 Bcf per year. If any amounts are paid for and not taken, Supply has the right to receive any prepaid volumes at any time up to two years after the end of the 12-year term. The parties have further agreed to the purchase and sale, on an interruptible basis, of any additional volumes which may be needed by the Corinth and Ilion projects.

The base price of the natural gas at the Alberta border will by $1.55 per MMBtu (U.S.) in May, 1989 that includes all transportation and distribution costs, any taxes, royalties and duties assessed on the natural gas and any related losses or unaccounted for retainage as adjusted monthly with the proportional change in Con Ed's average cost of all purchased gas (ACAPG) ($2.50 per MMBtu (U.S.) for April, 1989). The adjusted base price effective during a calendar month shall be equal to the product of the adjusted base price effective during the previous calendar month multiplied by the ratio of the most recently available Con Ed ACAPG to the previously available Con Ed ACAPG.

Northstar has agreed to dedicate the reserves necessary to supply the approximately 10.95 Bcf of total contract volume or the reserves required to maintain a rolling average of five years of daily deliverability of 2,500 MMBtu. The dedication of the required reserves is to be verified by an engineering report prepared by an independent engineering firm and furnished to Supply at the beginning of each contract year. In the event Northstar cannot deliver the full 2,500 MMBtu of firm sales volumes from the dedicated reserves due to production problems or other reasons, Northstar is obligated to reimburse Supply all reasonable incremental costs incurred to substitute production from other sources.

B. Trilogy Resources Corporation

Trilogy has agreed to supply a total contract quantity of 32.5 milion MMBtu of natural gas to be delivered at a point of interconnection between the facilities of NOVA and TCPL near the Alberta-Saskatchewan border (the Alberta border), at which point title to the gas will be transferred to Supply and transported to the international border by TCPL.

Under this agreement, Supply will purchase with a lump sum payment in the amount of $19,987,500 (U.S.) to be paid on November 1, 1990, a total volume of 32.5 million MMBtu of natural gas to be delivered over a term of 18 years. Supply will also reimburse Trilogy for its production gathering, and processing costs and expenses in an amount based on an initial rate of $0.25 (U.S.) per MMBtu. On January 1, 1992, the reimbursement amount will be increased annually by 5 percent. Additionally, Supply will reimburse Trilogy for all related royalty payments and transportation costs up to the Alberta border.

The actual term of the delivery obligation will be determined by the actual daily and annual takes by Supply. For example, if Supply takes the maximum 2.75 million MMBtu annual quantity every year, the total delivery obligation would be met, and the contract would expire in approximately 11.8 years. However, the portion of the total contract quantity not taken by the end of the 18-year term will be forfeited.

Supply has agreed to take a minimum of 7,000 MMBtu of natural gas per day, toward meeting the expected total average daily requirement of approximately 36,000 MMBtu for the two congeneration projects to be supplied. The expected average daily requirements of the Corinth and Ilion projects are 24,000 MMBtu and 12,000 MMBtu, respectively.

The Trilogy agreement does not provide for the dedication of reserves, but in the event Trilogy for any reason is unable to deliver the maximum daily or annual contract quantities, Trilogy has agreed, inter alia, to reimburse Supply for the costs of acquiring substitute supplies that exceed the incremental costs that would have been paid for the Trilogy supplies. The Trilogy reserves, however, are dedicated to the project pursuant to the Canadian export license issued in Hearing Order GH–5–89. Additionally, Trilogy has agreed to post an irrevocable letter of credit to secure the lump-sum prepayment amount. The letter of credit will be amended each year to secure the then-current value of the remaining prepayment.

C. Devnic Energy Inc.

Under the agreement between Supply and Devnic, Supply has agreed to purchase 8,000 MMBtu per day of natural gas for an initial term of 15 years. Supply has agreed to take or pay for 2.75 Bcf per year. In the event any amounts are paid for and not taken, Supply has the right to receive any prepaid volumes at any time up to two years after and end of the 15-year term. The contract also provides for the sale, on an interruptible basis, of any additional volumes which may be needed by the Corinth and Ilion projects.

The base price of the natural gas at the Alberta border will be $1.48 per MMBtu (U.S.) in May 1989. It includes the same costs and is adjusted monthly in the same manner as the base price under the Northstar agreement. Supply is to pay for deficiency volumes at the weighted average of applicable prices for the year such volumes are delivered. Devnic's agreement to the dedication of reserves and reimbursement of cost are similar to those stated in the Northstar agreement.

D. Altex Resources, et al.

Under the terms of the Altex agreement, Supply has agreed to purchase 7,000 MMBtu per day of natural gas for an initial term of 15 years. Supply has agreed to take or pay for 2.41 Bcf per year. In the event amounts that are paid for and not taken, Supply has the right to receive the prepaid volumes at any time up to two years after the 15-year term. The contract also provides for the interruptible sale of volumes that may be needed by the Corinth and Ilion projects. It is not anticipated that these sales would exceed 0.43 Bcf.

A base price of $1.53 per MMBtu (U.S.) in May 1989, at the Alberta border, is subject to price adjustment provisions identical to those found in the Northstar and Devnic contracts.

The Altex agreement contains reserve dedication and reimbursement provisions similar to those found in the Northstar and Devnic agreement.

In support of its application, Indeck-Ilion states that the imported natural gas is needed as a long-term fuel supply for its new cogeneration facility and that the natural gas would be purchased under competitive pricing terms with sufficient flexibility to assure that the imported gas would remain competitive and cover the term of the requested authorization. Indeck-Ilion further asserts that Supply's agreements with its several Canadian sources of supply assures it a secure supply of gas over the term.

The decision on Indeck-Ilion's application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters that will be considered in making a public interest determination

include need for the natural gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the natural gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is needed, competitive and its natural gas sources will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application.

All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a conditional or final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Indeck-Ilion's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 27, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-10321 Filed 5-2-90; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 89-73-NG]

Long Island Cogeneration Limited Partnership; Conditional Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of conditional order authorizing importation of natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a conditional order authorizing Long Island Cogeneration Limited Partnership (LI Cogen), to import up to a daily contract quantity of 15,300 Mcf of Canadian natural gas for firm deliveries and up to a total of 105 Bcf over a 20-year term. The order also conditionally authorizes LI Cogen to import up to an additional 2,000 Mcf per day of Canadian natural gas under a blanket gas supply arrangement for a total of 1.4 Bcf over a two-year term. The imported gas under both gas supply arrangements would be used to fuel a proposed 79-megawatt cogeneration plant and would be transported to the proposed plant via expanded pipeline facilities to be constructed by the Transcontinental Gas Pipeline Corporation (Transco) and a proposed 8,400-foot pipeline to be constructed by the Long Island Lighting Company. When the DOE's evaluation of the impact of LI Cogen's import project has been completed in accordance with the provisions of the Environmental Policy Act of 1969 (NEPA), the FE will then reconsider this conditional order and issue an appropriate final opinion and order.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 23, 1990.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-10322 Filed 5-2-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3762-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Petroleum Refineries (Subpart J): Recordkeeping and Reporting Requirements. (EPA ICR #1054.04; OMB #2060–0022). This request would reinstate a previously approved collection for which clearance has expired.

Abstract: Owners and operators of petroleum refineries must notify the delegated State authority of construction, modificaion, start-up dates and malfunctions. Furthermore, they must submit semi-annual reports of any recorded excess emission rates for sulfur dioxide and carbon monoxide. EPA needs this information in order to determine compliance with federal standards regulating emissions from petroleum refineries.

Burden statement: The public reporting burden for this collection of information is estimated to average 14 hours and 54 minutes per respondent. Recordkeeping is estimated to average 87 hours and thirty minutes per respondent. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Petroleum Refineries.

Estimated number of respondents: 118.

Responses per respondent: 2.

Estimated total annual burden on respondents: 13,841

Frequency of collection: Semi-annually.

Send comments regarding the burden estimates, or any other aspects of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #0595.04; Notice of Pesticide Registration by States to Meet Special Local Need; was approved 4/10/90; OMB #2070–0055, expires 4/30/93.

EPA ICR #0574.04; Premanufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; expiration date extended to 9/30/90.

Dated: April 27, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90–10328 Filed 5–2–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3762–2]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act; U.S. Scrap Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed settlement under section 122(h) concerning the U.S. Scrap Site in Chicago, Illinois. The proposed settlement requires 89 potentially responsible parties to pay $566,332 of the remaining $923,592 incurred by U.S. EPA in performing an Immediate Removal Action and Special Study/Expanded Site Inspection at the Site. A cost recovery case has been filed against 14 defendants to recover the approximately $357,260 in unrecovered past costs.

DATES: Comments must be provided on or before June 4, 1990.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, and should refer to: In the Matter of: U.S. Scrap Site.

FOR FURTHER INFORMATION CONTACT: Mary E. Butler, U.S. EPA, Office of Regional Counsel, 5CS–TUB–3, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–8514

Notice of section 122(h) Cost-Recovery Settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, notice is hereby given that on or about July 24, 1989, a proposed administrative settlement was agreed to by 89 potentially responsible parties (PRPs). The proposed settlement requires these PRPs to pay $566,332 in costs incurred by U.S. EPA in performing an Immediate Removal Action and Special Study/Expanded Site Inspection at the U.S. Scrap Site located at 12300 South Cottage Grove Avenue in Chicago, Illinois. The Emergency Removal Action was conducted from August 1985 to July 1986. The Special Study/Expanded Site Inspection was begun in November 1986, and a final report is expected in 1990.

U.S. EPA is entering into this agreement under the authority of sections 122(h) and 107 of CERCLA. Section 122(h) authorizes administrative settlement of a claim under section 107. Where total response costs incurred by the United States for the facility concerned exceed $500,000 (excluding interest), the Attorney General of the United States must also approve the Settlement. In this case, response costs incurred thus far exceed $1.5 million. Accordingly, the Attorney General has approved this Settlement.

Under the terms of the Settlement, the 89 PRPs will pay the full amount within 30 days of the effective date of the agreement. In return, the U.S. EPA covenants not to sue these PRPs for those costs. U.S. EPA has filed a lawsuit against 14 non-settling PRPs for the remaining costs.

The Environmental Protection Agency will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed settlement agreement.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Additional background information relating to the Settlement is available for review at this address.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C., sections 9601–9675.

Dated: October 26, 1989.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 90–10329 Filed 5–2–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License number: 1960R.

Name: United American Freight, Inc.

Address: 9324 Harrison Rd., Romulus, MI 48174.
Date revoked: January 3, 1990.
Reason: Failed to maintain a valid surety bond.
License number: 140.
Name: Baxter Co. Customhouse Brokers, Inc.
Address: 228 St. Charles Ave., suite 832, New Orleans, LA 70130.
Date revoked: February 14, 1990.
Reason: Surrendered license voluntarily.
License number: 3215.
Name: Flying Cloud Forwarding, Inc.
Address: 8133 NW. 67th St., Miami, FL 33266.
Date revoked: February 19, 1990.
Reason: Failed to maintain a valid surety bond.
License number: 2599R.
Name: American Overseas Transport (AMTRANS) Corporation.
Address: 7209 Cessna Dr., P.O. Box 18923 Greensboro, NC 27419–9823.
Date revoked: April 9, 1990.
Reason: Surrendered license voluntarily.
License number: 3157.
Name: Sea Freight Services, Inc.
Address: 3034 McKaughnan, Houston, TX 77035.
Date revoked: April 12, 1990.
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Acting Director, Bureau of Domestic Regulation.

FR Doc. 90–10253 Filed 5–2–90; 8:45 am]

BILLING CODE 6730–01–M

[Petition No. P1–90]

Investigations, Hearings, Petitions, etc.; Maritime Administration

In the Matter of Maritime Administration, Department of Transportation Rules Affecting Foreign Commerce of the United States

The Maritime Administration has requested a one-week extension of time to May 4, 1990, for filing responses to the petition in this matter, noticed in the Federal Register on March 2, 1990 (55 FR 7563). MARAD states that the Maritime Administrator is out of the country this week and unable to approve MARAD's filing. Petitioner does not oppose the request for extension.

Sufficient reason appearing, the request is granted. Responses are now due May 4, 1990. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001 and shall consist of an original and 15 copies. Responses shall also be served on Donald J. Brunner, Esq., Military Sealift Command, Building 210, Washington Navy Yard, Washington, DC 20398–5100. Time for replies by MSC also is extended to May 24, 1990.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90–10265 Filed 5–2–90; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long-Term Care Statistics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the NCVHS Subcommittee on Long-Term Care Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2), of the Public Health Service Act, as amended, announces the following meeting.

Name: NCVHS subcommittee on Long-Term Care Statistics.

Time and date: 12:30 p.m.–5 p.m., May 23, 1990.

Place: Room 337A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: To consider the Subcommittee charge and to review the status of the Health Care Financing Administration's (HCFA) resident assessment project and HCFA's quality of life survey and certification procedures for nursing homes.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone number (301) 436–7050.

Dated: April 26, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–10306 Filed 5–2–90; 8:45 am]

BILLING CODE 4160–18–M

Health Care Financing Administration

[BPD–676–NC]

RIN No. 0938–AE75

Medicare Program; Definition of Surgical Services

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

ACTION: Notice of definition of surgical services for physician volume performance standard rates for increase with comment.

SUMMARY: This notice announces the definition of surgical services for purposes of the performance standard rates of increase for expenditures and volume of physician services and the appropriate fee schedule updates under the Medicare Supplementary Medical Insurance (Part B) program as required by section 6102 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239). Surgical services are defined as follows:

- All services currently classified as type of service "surgery" in the Medicare payment record that are performed by surgical specialists, including podiatrists and oral surgeons.
- All services currently classified as type of service "assistant at surgery" in Medicare payment records.

This definition includes procedures recognized in the surgical section of Current Procedural Terminology published by the American Medical Association and certain other invasive procedures.

This definition would not lead to payment differentials by physician specialty. Any differential in annual updates because of separate performance standard rates would be procedure-specific without regard to specialty.

DATES: *Effective Date:* This notice is effective June 4, 1990.

Comment Date: To assure consideration, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5 p.m. on July 2, 1990.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–676–NC, P.O. Box 26676, Baltimore, Maryland 21207.

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

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

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

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

In commenting, please refer to file code BPD–676–NC. Comments received timely will be available for public inspection as they are received,

beginning approximately three weeks after publication of this document, in room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Terrance L. Kay, (301) 966–4494.

SUPPLEMENTARY INFORMATION:

I. Background and Summary of New Legislation

On December 19, 1989, the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) was enacted. Section 6102 of Public Law 101–239 amended title XVIII of the Social Security Act (the Act) by adding a new section 1848, Payment for Physicians' Services. Section 1848 of the Act provides for a comprehensive package of Medicare physician payment reform that includes the following provisions:

- The current reasonable charge payment mechanism, which uses actual, customary, and prevailing charges, will be replaced by a resource-based fee schedule (RBRVS).
- Performance standard rates of increase are established to control the rate of growth of expenditures for physician services.
- Limitations are placed on the amount that Medicare beneficiaries can be billed by physicians who do not accept assignment.

Section 1848(f) of the Act requires the Secretary to establish performance standard rates of increase for expenditures for physician services. Congress enacted this new provision to address the problem of unacceptably high annual rates of increase in Medicare expenditures for physician services. Past efforts, such as freezing physician fees (which was done from 1984 to 1986), have achieved only limited success in slowing the rate of increase because both the volume and intensity of physician services have increased. The use of performance standard rates of increase is intended to involve physicians in the effort to slow the unacceptably high annual rate of increase in expenditures by having physicians carefully evaluating their services and eliminating those services that are inappropriate or ineffective, or both.

Section 1848(f)(1)(C) of the Act specified that the physician performance standard rate of increase for Federal fiscal year (FY) 1990, as determined by the Secretary under the provisions in section 1848(f)(1)(D) of the Act, must be published not later than January 1, 1990. Section 1848(f)(1)(D) of the Act specified the formula the Secretary was to use and the components the Secretary was to estimate. We published the FY 1990 performance standard rate of increase for all categories of physicians on December 29, 1989 (54 FR 53818).

Under section 1848(f)(1)(A) of the Act, by April 15 of each year beginning in 1990, the Secretary is to recommend to Congress performance standard rates of increase for expenditures for physician services for the fiscal year that begins the following October 1. Under section 1848(f)(1)(B) of the Act, the Physician Payment Review Commission will review the Secretary's recommendations and make its own recommendations to Congress by May 15. Congress will then establish the performance standard rates of increase or, if Congress does not act by October 15, the performance standard rates of increase will be determined through an automatic default mechanism that includes a formula set forth in section 1848(f)(2)(A) of the Act. This formula is explained below.

The performance standard rates of increase are not limits on expenditures. Payments for services would not be withheld if the performance standard rates of increase are exceeded. Instead, under section 1848(d)(3) of the Act, the appropriate fee schedule update increases would be adjusted to reflect the success or failure in meeting the performance standard rates of increase. For example, the performance standard rate of increase for FY 1990, which was announced in the **Federal Register** on December 29, 1989 (54 FR 53818), is 9.1 percent. If, in FY 1991, an evaluation of FY 1990 data shows that actual expenditures were to increase by 11.0 percent, this increase would be 1.9 percentage points more than the announced performance standard rate of increase. If the fee schedule update increases announced in 1991 for calendar year 1992 would otherwise be 4.0 percent, then absent Congressional action the increase in payment levels in 1992 would be 2.1 percent (4.0 percent minus 1.9 percent). Thus, we would reduce the 1992 fee schedule update increases by 1.9 percentage points because the actual rate of increase in FY 1990 expenditures compared with FY 1989 expenditures exceeded the performance standard rate of increase by 1.9 percentage points.

Conversely, if the actual rate of increase in expenditures in FY 1990 were to increase by 7.5 percent, this would be 1.6 percentage points less than the announced rate. If the update index increase in calendar year 1992 would otherwise be 4.0 percent, then absent Congressional action, the increase in payment levels in 1992 would be 5.6 percent; that is, 4.0 percent plus 1.6 percent. Thus, we would increase the update by 1.6 percentage points because the actual rate of growth in expenditures was 1.6 percentage points less than the performance standard rate of increase.

Section 1848(d)(3)(B) of the Act limits the amount of downward adjustment in the update to 2.0 percentage points for 1992 and 1993, 2.5 percentage points for 1994 and 1995, and 3.0 percentage points in a subsequent year. There is no limit on increases in the update index amount.

As stated above, section 1848(f)(1)(A) of the Act requires that the Secretary recommend to Congress the physician performance standard rates of increase for the following Federal fiscal year by not later than April 15, beginning with 1990. In making the recommendations, the Secretary is required to confer with organizations that represent physicians and to consider the following factors—

- Inflation;
- Changes in the number of Medicare enrollees under part B (excluding risk health maintenance organization (HMO) enrollees);
- Aging of Medicare enrollees;
- Changes in technology;
- Evidence of inappropriate utilization of services;
- Evidence of lack of access to necessary physician services; and
- Other factors determined appropriate by the Secretary.

Section 1848(f)(1)(A) of the Act requires the Secretary's recommendation to include "* * * performance standard rates of increase for all physicians' services and for each category of such services * * *."

Section 1848(d)(2) of the Act requires that the Secretary recommend to the Congress by April 15 of each year, beginning with 1991, the annual update in the Medicare fee schedule for all physician services. Section 1848(d)(2)(A) of the Act gives the Secretary the authority to recommend one update or different updates for different categories or groups of services.

Under section 1848(j) of the Act, "category" means "* * * surgical services, and all physician's services other than surgical services, and such other category or categories * * *" as the Secretary may choose to define in regulations. In addition, section 1848(j) of the Act requires the Secretary to consult with organizations representing physicians and to publish a definition of surgical services in the **Federal Register** by May 1, 1990.

II. Definition of Surgical Services

In considering how to define surgical services, we recognized that surgical services could be defined by the particular procedure code, by the specialty of the physician furnishing the service, or by some combination of the individual service and the specialty of the physician furnishing the service. We took into account that the American Medical Association (AMA) publishes and updates annually Physicians' Current Procedural Terminology) (CPT), which contains 5-digit codes for all medical procedures and groups the codes into five sections: Medicine, Anesthesia, Surgery, Radiology, and Pathology. HCFA uses the CPT procedure codes as the basis for identifying and paying for physician services in the HCFA Common Procedure Coding System (HCPCS). The CPT codes are supplemented by a limited number of unique HCPCS codes. In addition, HCFA data systems classify physicians into 50 specialty categories. It should be noted that for the most part a physician is permitted to designate his or her specialty without any review of the physician's credentials by HCFA or the carriers.

The intent of Congress in creating the performance standard rates of increase can only be carried out if the annual increases in expenditures for the categories of physician services can be accurately measured. As we stated in our December 29, 1989 announcement of the FY 1990 performance standard rate of increase (54 FR 53819), we were unable to include certain items (primarily diagnostic tests furnished in hospital outpatient departments) in the FY 1990 performance standard rate of increase because of the limitations of the existing data systems. A similar problem exists concerning establishing separate standard rates of increase for physician services categories such as surgical services.

The only mechanism currently available to measure growth in national Medicare expenditures for physician services is the Medicare payment record. The payment record groups payments for physician services by type of service (TOS). These groups correspond roughly to the five sections of codes in the CPT. Each physician service is coded by a carrier according to instructions issued by HCFA. The instruction for the surgery category is the following:

> Includes procedures recognized in the surgical section of Current Procedural Terminology published by the AMA and covers services pertaining to incision, excision, repair, suture, destruction, introduction, fractures, manipulation, dislocations, amputation, and endoscopy.

This definition of surgery is broader than just the procedure codes in the surgery section of the CPT. In addition, the payment record does not separately distinguish each individual procedure or line item on a Medicare claim, so we cannot measure changes in expenditures using a procedure-specific definition of surgery at this time. Also, the current payment record surgery category encompasses nearly all surgical services done by surgeons, as well as surgical services in the CPT performed by other specialities, such as endoscopies, which are performed primarily by internal medicine and gastroenterology specialties.

The payment record also includes some services under the surgery category that are not included in the CPT surgery codes. The most significant examples of this are the cardiac catheterization codes, 93501 through 93562. These services are primarily furnished by cardiologists, but are coded as surgery by most Medicare carriers and represent about four percent of all surgery in the Medicare payment record.

Finally, because of the way the data are aggregated by carriers before submittal to HCFA, the surgery category within the payment record contains some expenditures for nonsurgical services. In the payment record system, the type of service for a record is determined by the largest allowed charge reported on the bill. Thus, nonsurgical services are included in the payment record surgery category to the extent that physicians include both surgical and nonsurgical services on the same bill. However, we do not believe that this data issue is a major limitation in the short term because the performance standard rates of increase are to be used for measuring annual rates of growth. We think that expenditures for nonsurgical services are a small percentage of the expenditures within the payment record surgery category. Thus, these nonsurgical services would not measurably affect the surgical services performance standard rate of increase.

As required by section 1848(j) of the Act, we consulted with organizations representing physicians in establishing the definition of surgical services for the purposes of developing performance standard rates of increase. Meetings were held with the AMA and the American College of Surgeons (ACS). Representatives of many specialty societies attended a meeting coordinated by the AMA. We also received letters from the American Podiatric Medical Association (APMA) and the American Society for Gastrointestinal Endoscopy (ASGE) in which their views were set forth.

The AMA and the American Academy of Family Physicians (AAFP) stated that they prefer that surgery be defined on the basis of the service performed without including the specialty of the physician as a factor. The AAFP expressed concern that incorporating specialty in the definition of surgical services might ultimately introduce specialty differentials into the resource-based fee schedule. The AMA indicated that at this time they have no position on whether diagnostic procedures included in the surgery section of CPT (such as endoscopies) should be classified as surgery for purposes of the performance standard rates of increase. However, in the long term, the AMA indicated that it would like a comprehensive review of all CPT services to determine whether the service should be considered as a surgical procedure.

The ACS stated that it strongly prefers that surgical services be defined in terms of the procedures predominantly performed by surgeons. The ACS argued that the purpose of the separate performance standard rate of increase for surgery is to give surgeons the opportunity to influence the behavior of their peers to reduce the amount of unnecessary or ineffective surgery. The ACS maintained that it has little influence over physicians other than surgeons who may perform procedures in the payment record surgery category. Therefore, the ACS believes that surgeons should not be held responsible for the behavior of these other physicians who perform surgery.

The APMA indicated a preference for a service-based definition and not one based on the specialty of the physician providing the service. However, it did not object to the ACS definition as long as podiatry is recognized as a surgical specialty for purposes of a separate performance standard rate of increase for surgery. The ASGE urged exclusion of endoscopic procedures from the definition of surgical services, regardless of the specialty of the physician performing the service.

Based on our discussions with AMA and ACS and the letter from APMA, it is clear that all three groups recognize that limitations of our current data systems prevent us at this time from establishing a definition of surgical services on the basis of the specific surgical procedure performed. The Common Working File (CWF), which is a new Medicare data

system that has been under development for some time, is expected to give us this capability when it becomes fully implemented in FY 1991. Thus, as discussed in more detail below, we will redefine surgical services in the future. Presently, the two options that emerged as the most feasible methods of defining surgical services for the performance standard rates of increase are the following:

- Surgical services means those services that are currently classified by carriers in the surgery category in the Medicare payment record.
- Surgical services means those services that are both performed by a surgical specialist and are currently classified by carriers in the surgery category in the Medicare payment record.

Each definition is comprehensive and includes all services listed in the CPT surgery section, as well as a few other invasive services, as discussed earlier. Each definition would be relatively simple to administer and consistent with existing payment record data collection systems. Either would include visits to the extent that they are past of global billings.

The primary difference between the two options is that the first would include some services furnished by nonsurgical specialists, which account for about 13 percent of the expenditures within the category surgery in the Medicare payment record.

For example, the first option would capture endoscopic services, which account for a large segment of the "surgical" services performed by nonsurgeons. In contrast, the second option would include only surgical services performed by surgical specialists, thus excluding procedures such as endoscopic procedures, which are included within the surgery section of CPT, when performed by an internist or gastroenterologist.

After careful consideration of all factors, we have decided to select the second option to define surgical services for purposes of the performance standard rates of increase. As stated above, under this definition, "surgical services" mean those services that are both performed by a surgical specialist and are currently in the category surgery in the Medicare payment record. A surgical specialist means a type of specialist listed below:

- General surgeon.
- Neurological surgeon.
- Obstetrician.
- Gynecologist.
- Ophthalmologist.
- Oral surgeon.
- Orthopedic surgeon.
- Otorhinolaryngologist.
- Plastic surgeon.
- Proctologist.
- Thoracic surgeon.
- Urologist.
- Hand surgeon.
- Podiatrist.
- Dermatologist.
- Multispecialty clinic.

We would classify podiatrists and oral surgeons as surgical specialists because most of the Medicare services they perform are surgical services. Although we cannot determine the individual specialties of physicians in multispecialty clinics, we are including clinic in our definition because it is one of the largest providers of services in the surgery category.

The main reason for selecting this option is to arrive at a "pure" definition of surgical services. This optin includes about 87 percent of all services in the surgery category in the Medicare payment record. The 13 percent excluded is comprised almost entirely of endoscopies performed by gastroenterologists, cardiac catheterizations performed by cardiologists, and minor surgeries performed by internists and general practitioners. We do not believe these are true surgical services.

Although our proposed definition captures true surgeries and 87 percent of all surgery in the payment record, we would prefer to define surgical services on a procedure-specific basis. We agree with the AMA that all services in the surgery section of the CPT–4 should be examined to determine which are true surgical services, and intend to pursue this matter with them. As soon as this can be done and the accuracy of the Common Working File can be verified, we intend to define surgical services on the procedure-specific basis.

We are also including all services classified as type of service "assistant at surgery" in Medicare payment records in our definition of surgical services. This is because whether an assistnat at surgery is required and who that assistant will be is a decision made by the surgeon. We believe, therefore, that surgeons should be held responsible for increases or decreases in expenditures and volume of services of assistants at surgery.

As previously noted in this preamble, certain nonsurgical specialty groups, such as the American Academy of Family Physicians, expressed concern that out proposed definition of surgical services would violate Congressinal intent in implementing the resource-based fee schedule by introducting specialty payment differentials. This is not the case. Including surgical specialties in our definition of surgical services for performance standard rates of increase purposes does not commit us to establishing different payment levels for surgical procedures that are performed by both surgical and nonsurgical specialties. Indeed, although section 1848(c)(5) of the Act prohibits specialty payment differentials under Medicare fee schedules, section 6102(d) of Public Law 101–239 requires the Secretary to conduct a study to determine the feasibility of establishing separate performance standard rates of increase by geographic area, specialty, or type of service.

Increases in expenditures which exceed or are less than the performance standard rates of increase affect the annual fee schedule update recommendation. Should different update amounts be recommended for surgical services and nonsurgical services because of different performance standard rates of increase, the update amounts would be procedure-specific *without* regard to specialty. For example, if a higher update amount is recommended for surgical services because increases in expenditures did not exceed the surgery performance standard rate of increase, the payment amount under the fee schedule for each surgical service would be the same within a geographic area, regardless of the specialty of the physician providing the service. We would not introduce specialty payment differentials into the fee schedule.

III. Regulatory Impact Analysis

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competititon, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice will not have a significant economic impact on a substantial number of small entities. For

purposes of the RFA, all physicians and assistants at surgery are treated as small entities.

We have determined that this notice, in itself, will not produce any effects that will meet any of the criteria of E.O. 12291 or of the RFA. This is because this notice merely defines surgical services for purposes of the performance standard rates of increase for expenditures and volume of physician services and the appropriate fee schedule updates under the Medicare Supplementary Medical Insurance (Part B) program. This is required under section 6102 of Public Law 101–239.

Therefore, we have determined that neither a regulatory impact analysis under E.O. 12291 not a regulatory flexibility analysis under the RFA are required. We have determined, and the Secretary certifies, that this notice will not have a significant effect on a substantial number of small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice will have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hopsital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

For the same reasons as discussed under in section III.B., above, we are not preparing a rural impact statement. We have determined, and the Secretary certifies, that this notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

IV. Other Required Information

A. Waiver of Proposed Rulemaking

We ordinarily publish a proposed notice in the **Federal Register** and provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impracticable, unnecessary, or contrary to the public interest. When we do so, we incorporate an explanation of our findings in the notice to be issued.

The provisions in section 1871(b) of the Act provide that the requirement for a proposed notice and a period for public comment does not apply when a law provides a specific deadline for implementation of a provision that is less than 150 days after the date of enactment of the law. Public Law 101–239 was enacted on December 19, 1989, and section 6102(b) of the Public Law 101–239 added section 1848(j)(l) of the Act, which requires that the Secretary define surgical services in a **Federal Register** document by May 1, 1990. Because section 6102(b) of Public Law 101–239 requires that the document must be published within 150 days of the date of enactment of Public Law 101–239, it is clear that a proposed notice is unnecessary and impracticable. Therefore, we find good cause to waive publication of a proposed notice and to issue this notice to become effective May 1, 1990. Nonetheless, we are providing a 60-day comment period as indicated at the beginning of this notice.

B. Paperwork Reduction Act

This notice does not impose paperwork or information collection requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

C. Public Comment Period

Because of the large number of pieces of correspondence we normally receive on notices, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date specified in the "Dates" section of this notice, and we will respond to the comments in the final notice setting forth the FY 1991 physician performance standard rates of increase.

(Sections 1848(f) and (j) of the Social Security Act)

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

Dated: April 23, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: April 27, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90–10418 Filed 5–1–90; 12:57 pm]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–90–3069]

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, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 23, 1990.

John T. Murphy,

Director, Information policy and Management Division.

Proposal: Accountability in the Provision of HUD Assistance, FR–2731.

Office: Administration.

Description of the need for the information and its proposed use: The interim rule contains provisions designed to ensure greater accountability and integrity in the

supplying of certain types of assistance administered by the Department.

Form number: None.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-profit Institutions, and Small Businesses or Organizations.

Frequency of submission: On Occasion.

Reporting burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
Initial Applications	6,775		1		5		33,875
Updates	1,693		1		1		1,693

Total estimated burden hours: 35,568.

Status: New.

Contact: Susan Burkett, HUD, (202) 755–4250. John Allison, OMB, (202) 395–6880.

Dated: April 23, 1990.

[FR Doc. 90–10266 Filed 5–2–90; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–90–3070]

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 requried by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washignton, 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 24, 1990.

John T. Murphy,

Director, Information Policy and Managment Division.

Proposal: Contract and Subcontractor Activity Report for Public and Indian Housing.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: Executive Orders 11625 and 12432 establish the Department's responsibility for the collection of data on Minority Business Enterprise participation in HUD programs vital to program monitoring. The affected public includes PHAs/IHAs, contractors, and minority businesses.

Form number: HUD–2516.

Respondents: State Or Local Governments, Businesses Or Other For-Profit, and Small Businesses Or Organizations.

Frequency of submission: Semi-annually.

Reporting burden:

	Number of respondents	X	Frequency of response	X	Hours per response	=	Burden hours
HUD–2516:							
Public Housing Authorities	3,230		2		1		6,460
Indian Housing Authorities	170		2		1		340

Total estimated burden hours: 6,800.

Status: Reinstatement.

Contact: Patricia G. Hampton, HUD, 0(202) 755–0539. Scott Jacobs, OMB, (202) 395–6880.

Dated: April 24, 1990.

[FR Doc. 90–10267 Filed 5–2–90; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–90–3071]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New

Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list 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 25, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Contract For Inspection Services-Turnkey.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: This contract affects Public Housing Agencies (PHAs) and architects/engineers selected to inspect Turnkey projects. PHAs use this contract to establish legal obligations and conditions relating to services of the architect/engineer.

Form number: HUD–5084.

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
HUD–5084	135		1		1.5		200
Recordkeeping	135		1		.38		51

Total estimated burden hours: 251.

Status: Reinstatement.

Contact: William C. Thorson, HUD (202) 755–6460; John Allison, OMB, (202) 395–6880.

Date: April 25, 1990.

Proposal: Format: Memorandum of Acceptance for Occupancy (MAO).

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: The Format will be used by a public housing agency to formalize a determination that the contractor has completed all or portions of a project to the point that the completed portions may provide satisfactory housing with safe access and essential utilities in place.

Form number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	23		2		.9		41
Recordkeeping	46		1		.25		11

Total estimated burden hours: 52.
Status: Extension.
Contact: William C. Thorson, HUD, (202) 755–6460; John Allison, OMB, (202) 395–6880.

Date: April 25, 1990.

Proposal: Procedures for Obtaining Certificates of Insurance for Development and Modernization Projects.

Office: Public and Indian Housing.
Description of the need for the information and its proposed use: The Department requires public housing agencies to obtain certificates of insurance from contractors and subcontractors involved in construction work for development of a new public housing project or modernization of an existing project. These certificates are maintained on file during the course of the project.

Form number: None.
Respondents: State or Local Governments and Non-Profit Institutions.
Frequency of Submission: Recordkeeping.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual reporting	13,500		3.22		.5		21,750
Recordkeeping	1,206		1		18.03		21,750

Total estimated burden hours: 43,500.
Status: Reinstatement.
Contact: Theodore R. Daniels, HUD, (202) 755–8145; John Allison, OMB, (202) 395–6880.

Date: April 25, 1990.

[FR Doc. 90–10268 Filed 5–2–90; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–90–3072]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of

the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 26, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Notification of Extension of Contract Time and Assessment of Liquidated Damages.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: Public Housing Authorities will use the Notification to transmit, officially, amendments to construction contracts that concern extensions of contract time for assessments of liquidated damages.

Form number: None.

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
Report burden	300		.27		.75		60
Recordkeeping	80		1		.25		20

Total estimated burden hours: 80.

Status: Reinstatement.

Contact: William Throrson, HUD, (202) 755–6460; Scott Jacobs, OMB, (202) 395–6880.

Dated: April 26, 1990.

[FR Doc. 90–10269 Filed 5–2–90; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Consultation Hearings on Indian Education Issues

In the matter of consultation hearings on the reorganization and status of the Area and Agency Field Offices of the Office of Indian Education Programs, Bureau of Indian Affairs, Activity 3100, Element 10 funds and other Indian education issues.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of consultation hearings.

SUMMARY: The Office of Indian Education Programs of the Bureau of Indian Affairs (BIA) announces forthcoming consultation hearings with parents, school boards, tribal representatives and other interested parties on several items, including, reorganization of its field offices which currently consists of Area and Agency Education Offices; as well as the restructuring of the headquarters office; status of regulations on the Indian School Equalization Formula (ISEP); special education; Johnson-O'Malley; higher education; early childhood; safety; adult education; school construction applications; gifted and talented guidelines; status of Memorandum of Agreements of Department of Education programs (Substance Abuse and Chapter 1 Applications): State plan for Special Education; and the following matters: Public Law 100–297 grant forms; JOM applications; off-reservation boarding school applications; cooperative agreements; FY 1991 Education initiatives; vocational education, child protection issues; ISEP student count certification and audit guide; BIA testing policy; and the overall consultation process required by Public Law 100–297.

DATE AND TIME: Hearing Date: May 24 and May 25, 1990, 9 a.m. until 6 p.m. (local time) at each site each day.

ADDRESSES: Hearing Locations:
Albuquerque, New Mexico
Phoenix, Arizona
Portland, Oregon
Rapid City, South Dakota
Green Bay, Wisconsin
Billings, Montana
Tulsa, Oklahoma
Nashville, Tennessee
Sacramento, California
Gallup, New Mexico
Anchorage, Alaska

LOCATION CONTACT PERSONS:
New Mexico: Val Cordova, 505/766–3034
Arizona: Peter Soto or Bobby Thompson, 602/241–6741, 602/338–4647
Oklahoma: Delton Cox, 918/687–2460
Wisconsin: Laura Garcia, 612/349–3635
Oregon: Van Peters, 503/230–5682
South Dakota: Harry Eagle Bull or Richard Bordeaux, 605/226–7431, 605/964–8722
Tennessee: Jim Baker, 703/235–3233
Alaska: Bill Walters or Gerald Jones, 907/271–4115, 907/586–7193
Montana: Levon French or Larry Parker, 406/657–6375
California: Ken Whitehorn, 916/978–4680

Interested persons may present oral testimony or file written statements. All written statements must be received no later than July 30, 1990, in the Bureau of Indian Affairs, Office of Indian Education Programs, Room 3516–MIB, 1849 C Street NW., Washington, DC 20240, ATTN: Edward Parisian, Deputy to the Assistant Secretary—Indian Affairs/Director (Indian Education Programs).

FOR FURTHER INFORMATION CONTACT: Betty Walker, Dennis Fox, or Jim Martin, Bureau of Indian Affairs, Office of Indian Education Programs, Room 3516–MIB, 1849 C Street NW., Washington, DC 20240, (202) 343–2175; (202) 343–7387; or (202) 343–7388.

SUPPLEMENTARY INFORMATION: The current education field structure of the Bureau of Indian Affairs currently consists of 21 Agencies and 12 Area Education offices nationally. The Office of Indian Education Programs has operated with such mid-line field offices since the passage of Public Law 95–561, The Education Amendments of 1978. In FY 1990, the Congress has appropriated a limit of $6.6 million dollars to fund such mid-line field offices.

In January 1990, the Bureau made an initial allocation of these funds to reflect the $1.5 million dollar reduction imposed by the Congress. Based on numerous Tribal comments regarding the method initially used to distribute such funds for FY 1990, the Bureau has reconsidered its initial decision and has decided to distribute the available FY 1990 funds to its field offices based on the same method used in FY 1989. Consultatin on the distribution of the Activity 3100, Element 10 funds is being held so that a method for the distribution of FY 1991 funds can be identified.

Each consultation hearing will be chaired by an individual from a different geographical region so as to avoid any possible conflict of interest. The headquarters office structure currently consists of the Office of the Director, Assistant Directors for field operations, the Division of Administration, the Division of Education Programs and seven branch program offices. The Bureau is considering that the management of the education programs can be improved by reorganizing the

headquarters office and field structure to better serve the Indian tribes, programs and schools. Written tribal input received to date indicates that additional discussions are needed on the Element 10 issue.

The Office of Indian Education Programs has several regulations in various stages of development. These include the Indian School Equalization Formula; higher education; adult education; special education; early childhood; Johnson O'Malley and gifted and talented. There are also two separate MOA's with the Department of Education Programs, Substance Abuse and Chapter I, which will need to be renegotiated. The State Plan for special education will be discussed. The following documents which will require review and possible updating; Public Law 100–297 grant applications; JOM forms; ORBS student application forms; school construction applications and cooperative agreements. Also to be considered are the FY 1991 Education initiatives; vocational education; ISEP student count certification and audit guide; BIA testing policy and child protection issues. In accordance with 102 Stat. 376, Public Law 100–297, Sec. 5111, notice is hereby given that hearings on the above entitled topics will be held for the purpose of consulting with parents, school boards, tribal representatives, and other interested parties. Consulting under the aforementioned statute means a process involving open discussion and joint deliberation of all options with respect to the documents referenced between the Bureau of Indian Affairs and all interested parties. During such discussions and joint deliberations, interested parties shall be given an opportunity to present issues including proposals regarding changes in current practices or to present other alternatives. Further consultation will be held in the Fall, 1990.

Dated: April 24, 1990.

Eddie Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 90–10282 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA–150–00–4830–11–ADVB–2410]

Renewal; Grazing Advisory Boards

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of renewal; Grazing Advisory Boards.

SUMMARY: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior has renewed the Bureau of Land Management's (BLM) 40 grazing advisory boards, listed below.

The 40 boards that have been renewed are as follows:

Arizona: Arizona Strip District Grazing Advisory Board Kingman Resource Area Grazing Advisory Board Phoenix-Lower Gila Resource Areas Grazing Advisory Board Safford District Grazing Advisory Board

California: Bakersfield District Grazing Advisory Board California Desert District Grazing Advisory Board Susanville District Grazing Advisory Board

Colorado: Canon City District Grazing Advisory Board Craig District Grazing Advisory Board Grand Junction District Grazing Advisory Board Montrose District Grazing Advisory Board

Idaho: Boise District Grazing Advisory Board Burley District Grazing Advisory Board Idaho Falls District Grazing Advisory Board Salmon District Grazing Advisory Board Shoshone District Grazing Advisory Board

Montana: Butte District Grazing Advisory Board Lewistown District Grazing Advisory Board Miles City District Grazing Advisory Board

Nevada: Battle Mountain District Grazing Advisory Board Carson City District Grazing Advisory Board Elko District Grazing Advisory Board Ely District Grazing Advisory Board Las Vegas District Grazing Advisory Board Winnemucca District Grazing Advisory Board

New Mexico: Albuquerque District Grazing Advisory Board Las Cruces District Grazing Advisory Board Roswell District Grazing Advisory Board

Oregon: Lakeview District Grazing Advisory Board Prineville District Grazing Advisory Board Vale District Grazing Advisory Board

Utah: Cedar City District Grazing Advisory Board Moab District Grazing Advisory Board Richfield District Grazing Advisory Board Salt Lake District Grazing Advisory Board Vernal District Grazing Advisory Board

Wyoming: Casper District Grazing Advisory Board Rawlins District Grazing Advisory Board Rock Springs District Grazing Advisory Board Worland District Grazing Advisory Board.

FOR FURTHER INFORMATION CONTACT: Dave Johnson, Division of Congressional Affairs (150), Bureau of Land Management, Main Interior Building, room 5558, Washington, DC 20240, telephone (202) 343–2054.

The certification of renewal is published below.

Certification

I hereby certify that the renewal of the grazing advisory boards is necessary and in the public interest in connection with the Secretary of the Interior's statutory responsibilities to manage the lands and resources administered by the Bureau of Land Management.

Dated: April 13, 1990.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 90–10219 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–84–M

[ID–010–00–4980–10–4779]

Meeting of Boise District Avisory Council

AGENCY: Boise District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Boise District Advisory Council will meet May 10 to discuss the Air Force's Draft Environmental Impact Statement on the Realignment of Mountain Home Air Force Base and the Proposed Expansion of the Saylor Creek Range. The meeting is open to the public and a comment period will be held at 1 p.m.

DATES: The meeting will begin at 8:30 a.m. on Thursday, May 10. It will be held in the district office conference room.

ADDRESSES: The Boise District Office is located at 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Boise BLM District 208–334–9661.

Dated: April 27, 1990.

Rodger E. Schmitt,

Associate District Manager.

[FR Doc. 90–10305 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–GG–M

[CO–030–90–4410–13–1784]

Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR part 1784, that a meeting of the Montrose District Advisory Council will be held Wednesday May 23, 1990 in Montrose, Colorado.

DATES: The meeting is scheduled for May 23, 1990.

ADDRESSES: For further information contact Kate Kitchell, Bureau of Land Management (BLM), Montrose District Office, 2465 S. Townsend Ave., Montrose, CO 81401; telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: The Council will convene at the Montrose District Office at 10 a.m. Agenda items will include the following:

(1) Update of 1989–1990 activities.

(2) The National Backcountry Byway Program and the Alpine Loop Backcountry Byway in the Montrose District.

(3) Drought conditions in southwestern Colorado.

(4) The Four Corners Tribute scheduled at the Anasazi Heritage Center in Dolores, CO for June 19–21, 1990.

(5) BLM's proposal for a Gunnison Gorge National Conservation Area.

(6) Discussion of the Anasazi Cultural Commission and Trail.

(7) Various other District issues.

District Advisory Council meetings are open to the public.

Dated: April 25, 1990.

Alan L. Kesterke,

District Manager.

[FR Doc. 90–10273 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–JB–M

[WY–030–00–4351–02]

Meeting of Rawlins District Advisory Council

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting of the Rawlins District Advisory Council.

SUMMARY: Notice is hereby given of a meeting of the Rawlins District Advisory Council, in accordance with Public Law 94–597.

DATES: June 7, 1990.

ADDRESSES: Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Grant Peterson, Public Affairs Specialist, or Richard Bastin, District Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, WY 82301, (307) 324–7171.

SUPPLEMENTARY INFORMATION: The meeting will be held at 9:00 a.m. at the Great Divide Resource Area, 812 East Murray Street, Rawlins Wyoming. A public comment period will be held at 9:45 a.m. The agenda items include: Welcome, Public Session; tour of North Platte River NRA study area, including seminoe State Park and Seminoe Dam; discussions of miracle Mile coordinated plan, black-footed ferret reintroduction, Wyoming Gas and Fish fence inventory, wild horse program, and major rights-or-way projects; and, identification of advisory council resolutions.

Dated: April 26, 1990.

Leslie A Olver,

Associate District Manager.

[FR Doc. 90–10274 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–00–4111–15; WYW68917]

Proposed Reinstatement of Terminated Oil and Gas Lease

April 24, 1990.

Pursuant to the provisions of Pub. L. 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 WYW68917 for lands in Big Horn 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 16⅔ 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 our in section 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 WYW 68917 effective October 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly J. Poteet,

Supervisory Land Law Examiner.

[FR Doc. 90–10220 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–22–M

[WY–920–00–4111–15; WYW68918]

Proposed Reinstatement of Terminated Oil and Gas Lease

April 24, 1990.

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 WYW68918 for lands in Big Horn 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 16⅔ 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 section 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 WYW68918 effective October 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly J. Poteet,

Supervisory Land Law Examiner.

[FR Doc. 90–10221 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–22–M

[CA–010–82–3110–CAPL; Casefile No. CA 23587]

Realty Action; Exchange of Public and Private Lands in Kern and San Luis Obispo Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described lands will be acquired from The Nature Conservancy by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian

T.12N., R.25W.
Sec. 33 Lots 3 & 4, SW¼, W½SE¼.
T.11N., R24W.
Sec. 19 Lots 3 & 4, W½NE¼,E½SW¼, NW¼SE¼, S½SE¼
Sec. 30 Lots 1, 2, 3, 4, NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 31 NE¼
T.11N., R. 25W.
Sec. 24 N½SE¼
Sec. 25 NE¼, S½NW¼, SW¼, N½E¼.
Containing 1,984.17 acres, more or less.

SUPPLEMENTARY INFORMATION: This notice supplements a previously published notice for this exchange, which defined the federal lands involved in this exchange. This notice was published in the **Federal Register** on December 1, 1988, Vol. 53, No. 231, page

48589. It was also published in a local newspaper. At the time of publication of the previous notice, the private lands to be acquired had not yet been specifically determined, but they were known to be within the Carrizo Plain Natural Area. This Natural Area would promote the conservation of threatened and endangered species and preserve a representative sample of the historic San Joaquin Valley flora and fauna. The exchange is on an equal value basis. Acreage of the private land has been adjusted to approximate equal values. Full equalization of value will be achieved by future exchanges under a pooling agreement with The Nature Conservancy.

DATES: Interested parties may submit information and comments on these private lands to be acquired to the Area Manager at the address below until June 18, 1990.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Caliente Resource Area Office, 4301 Rosedale Highway, Bakersfield, California 93308; (805) 861–4236.

Dated: April 16, 1990.

Daniel E. Vaughn,

Acting Area Manager.

[FR Doc. 90–10281 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–40–M

[ID–060–90–4212–13; I–27240 and unserialized]

Exchange of Public Lands; Coeur d'Alene District, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Initiation; Exchange of Public Lands in Bonner, Kootenai and Shoshone Counties, Idaho.

SUMMARY: This Notice is to advise the public that the Emerald Empire Resource Area, Coeur d'Alene District of the Bureau of Land Management will be conducting two land exchanges. The first exchange will involve BLM and W–I Forest products Company, L.P., to date an unserialized case. The second exchange will involve BLM and Idaho Forest Industries, Inc., I–27240. The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

W–I/BLM Exchange:

A. *Federal Lands (BLM)*

Boise Meridian, Idaho

Bonner County:

Township	Range	Section	Description	Acres
59N	2W	6	Lots 1 and 2, S½NE¼	160.60
		4	total	160.60

IFI/BLM Exchange:

B. *Federal Lands (BLM)*

Boise Meridian, Idaho

Kootenai County:

Township	Range	Section	Description	Acres
48N	1E	21	W½SE¼	80.00
		22	NW¼NW¼	40.00
		28	SW¼NW¼, E½SW¼, SW¼SW¼W½SE¼	240.00
		33	N½NE¼, NE¼NW¼	120.00
48N	1W	6	Lots 2 and 3	80.09
49N	1W	31	Lots 1 and 2, NW¼NE¼, W½SW¼	201.05

Shoshone County:

48N	1E	22	NE¼NE¼	40.00
		35	NE¼NW¼	40.00
			Total	841.14

In exchange for the above described Federal Lands, the BLM proposes to acquire the following described Non-federal Lands from W–I and IFI, respectively:

W–I/BLM Exchange:

A. *Non-federal Lands (Private)*

Boise Meridian, Idaho

Shoshone County:

Township	Range	Section	Description	Acres
47N	1E	1	Lots 3 and 4	65.79
47N	2E	7	NW¼NE¼, E½NW¼	120.00
			Total	185.79

IFI/BLM Exchange:

B. *Non-federal Lands (Private)*

Boise Meridian, Idaho

Shoshone County:

Township	Range	Section	Description	Acres
47N	1E	26	NW¼, W½SW¼, SE¼SW¼	280
		27	E½NE¼, SW¼NE¼, SE¼	280.00
		35	NE¼NW¼	40.00
47N	2E	5	Lot 1, SE¼NE¼	74.21
48N	2E	32	S½SE¼SE¼	20.00
		33	SW¼SW¼	40.00
			Total	734.21

The purpose of the land exchanges is to facilitate more efficient management of the public lands through consolidation of ownership and to benefit the public interest by obtaining important resource values. The public lands to be exchanged are isolated and difficult to manage parcels with limited resource values. The private lands being offered have very important values for timber, wildlife habitat, watershed and access that merit acquisition for public ownership. The exchange is consistent with the Bureau of Land Management land use plans and the public interest will be well served by making this exchange. Final determination on disposal will await completion of an environmental analysis, which will be made available to the public.

The estimated time for processing these two exchanges to completion will be approximately 14 months from the date of publication of this notice.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

ADDRESSES: Detailed information concerning the exchanges is available for review at the Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objcetions,

this realty action will become the final determination of the Department of the Interior.

Dated: April 24, 1990.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 90–10279 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–GG–M

[NV–930–00–4212–13; N–51436]

Partial Termination of Private Exchange Application Involving Public Lands in Clark County, NV; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Notice of Partial Termination of Private Exchange Proposal Involving Public Lands in Clark County, NV.

SUMMARY: The notice appearing on page 5515 of the **Federal Register** (FR Doc. 90–3545), published on Thursday, February 15, 1990, incorrectly stated that, upon publication of the notice in the **Federal Register**, the segregative effect terminated on those public lands that have been withdrawn from the exchange proposal. Said notice is hereby corrected to show that the segregative effect on the public lands that have been withdrawn from the exchange proposal terminated on March 15, 1990, and on that same day the lands became open to the full operation of the public land laws.

Robert G. Steele,

Acting State Director, Nevada.

[FR Doc. 90–10300 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–HC–M

[MT–020–90–4410–08]

Availability of Proposed Planning Criteria for the Big Dry Resource Management Plan/Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of proposed planning criteria for the Big Dry Resource Management Plan/Environmental Impact Statement.

SUMMARY: In accordance with 43 CFR 1610.4–2, Proposed Planning Criteria have been prepared for the Big Dry Resource Management Plan/Environmental Impact Statement (RMP/EIS) in the Miles City District, Montana. The planning criteria were developed by the Bureau of Land Management (BLM) to focus the planning process on issues and management concerns identified by BLM and the public. They are based upon applicable law, BLM and Montana State Director's guidance, the results of public participation, coordination with other Federal agencies, State and local governments, and Indian tribes.

Copies will be available at each public library and at each County Commissioner's Office in the following counties: Daniels, Sheridan, Roosevelt, Garfield, McCone, Richland, Dawson, Wibaux, Prairie, Fallon, Rosebud, Custer, and Carter. Copies are also available upon request from the Big Dry Resource Area Office, Miles City Plaza, Miles City, Montana 59301; telephone (406) 232–7000. Public reading copies will be available for review at the following BLM locations:

Bureau of Land Management, Office of Public Affairs, Main Interior Building, room 5600, 18th and C Streets NW., Washington, DC 20240.

Bureau of Land Management, Public Affairs Office, Montana State Office, 222 North 32nd Street, Billings, Montana 59107.

Bureau of Land Management, Miles City District Office, Box 940, Miles City, Montana 59301.

Bureau of Land Management, Big Dry Resource Area, Miles City Plaza, Miles City, Montana 59301.

Bureau of Land Management, Powder River Resource Area, Miles City Plaza, Miles City, Montana 59301.

Bureau of Land Management, Billings Resource Area, 810 East Main, Billings, Montana 59105.

DATES: The public has until June 4, 1990, to comment on the Proposed Planning Criteria through oral and/or written comments.

ADDRESSES: Written comments on the Proposed Planning Criteria should be addressed to: Don Nelson, Area Manager, Bureau of Land Management, Big Dry Resource Area, Miles City Plaza, Miles City, Montana 59301; or telephone (406) 232–7000.

FOR FURTHER INFORMATION CONTACT: Allen Kutt, Team Leader, Big Dry Resource Area, Miles City Plaza, Miles City, Montana 59301; telephone (406) 232–7000.

SUPPLEMENTARY INFORMATION: The Proposed Planning Criteria for the RMP/EIS generally apply to northeastern Montana and include the following counties: Daniels, Sheridan, Roosevelt, Garfield, McCone, Richland, Dawson, Wibaux, Prairie, Fallon, and portions of Rosebud, Custer, and Carter counties.

The Proposed Planning Criteria outline the goals and objectives for the Big Dry RMP/EIS and also contain a discussion of planning issues and management concerns.

Mat Millenbach,

District Manager, Miles City District.

[FR Doc. 90–10275 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–DN–M

[NV–930–00–4212–22]

Filing of Plats of Survey; Nevada

April 18, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filings were effective at 10 a.m. on April 17, 1990.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION: The Plats of Survey of land described below were officially filed at the Nevada State Office, Reno, Nevada on April 17, 1990.

Mount Diablo Meridian, Nevada

T. 8 N., R. 44 E.—Supplemental Plats S½ of Section 19 and NW¼ of Section 29.

T. 15 N., R. 26 E.—Dependent Resurvey and Subdivision of Section 20.

Both listed surveys were accepted on March 27, 1990. T. 15 N., R. 26 E. was executed to meet certain administrative needs of the Bureau of Indian Affairs. The other listed survey was executed to meet certain administrative needs of the Bureau of Land Management.

All of the above-listed surveys are now the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 90–10299 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council

AGENCY: Department of the Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460 ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9 a.m. to 5 p.m. Thursday, May 17, 1990 and from 8 a.m. to 3 p.m. on Friday, May 18, 1990.

PLACE: The meeting will be held at the Southwest Fisheries Center, 8604 La Jolla Shores Drive, La Jolla, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

The Klamath Council will review its planning work to date, consisting of identifying and structuring issues and goals. The Council will then proceed to identify options and structure them in an options field, consisting of lists of action options arranged by category.

Dated: April 24, 1990.

David L. McMullen,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–10280 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer, Minerals Management Service; Mail Stop 632; 381 Elden Street; Herndon, Virginia 22070–4817 and to the Office of Management and Budget, Interior Department Desk Officer; Paperwork Reduction Project No. (1010–0067); Washington, DC 20503; telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Subpart E, Well-Completion Operations, 30 CFR part 250.

OMB Approval Number: 1010–0067.

Abstract: This information will be used by Minerals Management Service's District Supervisors to evaluate and approve or disapprove the adequacy of equipment and/or procedures to be used during the conduct of well-completion operations. The information collection requirements are being modified to clarify the information the lessees are required to document concerning blowout preventer tests.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Estimated Completion Time: .5 hours.

Annual Responses: 1,110.

Recordkeeping Hours: 298.

Annual Burden Hours: 1,408.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: April 11, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90–10243 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer, Minerals Management Service; Mail Stop 632; 381 Elden Street; Herndon, Virginia 22070–4817 and to the Office of Management and Budget, Interior Department Desk Officer; Paperwork Reduction Project No. (1010–0043); Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Subpart F, Well-Workover Operations.

OMB Approval Number: 1010–0043.

Abstract: The information will be used by Minerals Management Service's District Supervisors to evaluate and approve or disapprove the adequacy of equipment and/or procedures to be used during the conduct of well-workover operations. The information collection requirements are being modified to clarify the information the lessees are required to document concerning blowout preventer tests.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Estimated Completion Time: .5 hour.

Annual Responses: 1,110.

Recordkeeping Hours: 326.

Annual Burden Hours: 1,436.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: April 11, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90–10222 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer, Minerals Management Service; Mail Stop 632; 381 Elden Street; Herndon,

Virginia 22070–4817 and to the Office of Management and Budget, Interior Department Desk Officer; Paperwork Reduction Project No. (1010–0053); Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 464; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Subpart D, Drilling Operations, 30 CFR part 250.

OMB Approval Number: 1010–0053.

Abstract: This information is needed to ascertain the conditions of a drilling site. This is necessary to mitigate the hazards inherent in drilling operations and to increase the margin of safety of personnel and the environment. The information collection requirements are being modified to clarify the information the lessees are required to document concerning blowout preventer tests.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Estimated Completion Time: 4.9 hours.

Annual Responses: 1,460.

Recordkeeping Hours: 13,270.

Annual Burden Hours: 20,430.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: April 11, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90–10223 Filed 5–2–90; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–311]

Certain Air Impact Wrenches; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 26, 1990, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Ingersoll-Rand Company, P.O. Box 1776, Allen & Martinsville Roads, Liberty Corner, New Jersey 07938. The complaint was amended on April 12, 1990, and on April 20, 1990. The complaint, as amended, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain air impact wrenches based upon the United States after importation of certain air impact wrenches based upon a violaton of section 43(a) of the Lanham Act, 15 U.S.C. 1125(a); violations of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45; a violation of section 304 of the Tariff Act of 1930, 19 U.S.C. 1304; fundamental design infringement; a violation of U.S. Customs country-of-origin marking regulations, 19 CFR 134.46; and common law trademark infringement.

The complaint requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

FOR FURTHER INFORMATION CONTACT: George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, Telephone 202–252–1582.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on April 23, 1990, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain air impact wrenches, by reason of (1) alleged infringement of Ingersoll-Rand's common law design trademark, or (2) alleged false designation of origin, the threat of effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this Notice of Investigation shall be served:

(a) The Complaintant is: Ingersoll-Rand Company, P.O. Box 1776, Allen & Martinsville Roads, Liberty Corner, New Jersey 07938.

(b) The respondents are the following companies alleged to be in violation of section 337, and the parties upon which the complain is to be served:

Astro Pneumatic Tool Co., 4455 East Sheila Street, Los Angeles, California 90040

Kuan-1 Gear Corporation, #891–26 Chung Cheng Road, Sin Chuang, Taipei, Taiwan.

(c) George C. Summerfield, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401F Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the Notice of Investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.21(a), such response will be considered by the Commission if received not later than 20 days after the date of service of the complaint and Notice of Investigation. Extensions of time for submitting responses to the complaint and Notice of Investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this Notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this Notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this Notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order, or a cease and desist order, or both, directed against such respondent.

By order of the Commission.

Issued: April 23, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-10303 Filed 5-2-90; 8:45 am]

BILLING CODE 7020 -02 -M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-312]

Certain Dynamic Random Access Memories, Static Random Access Memories, Components Thereof, and Products Containing Same; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 26, 1990, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SGS-Thomson Microelectronics, Inc., 1310 Electronics Drive, Carrollton, Texas 75006. The complaint was supplemented on April 13, 1990. The complaint, as supplemented, alleges violations of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memories, static random access memories, components thereof, and products containing same by reason of alleged infringement of (1) claims 4 and 5 of U.S. Letters Patent 3,969,706; (2) claim 1 of U.S. Letters Patent 4,061,954; (3) claim 1 of U.S. Letters Patent 4,061,999; (4) claim 5 of U.S. Letters Patent 4,392,210; (5) claims 1, 2, 4, 5, 6, 7, and 9 of U.S. Letters Patent 4,397,003; (6) claims 1, 4, 5, and 6 of U.S. Letters Patent 4,125,854; (7) claims 1, 6, 11, 14, and either claim 12 or claims 9, 10, and 13 of U.S. Letters Patent 4,251,876; and (8) claims 1, 2, 3, 7, and 10 of U.S. Letters Patent 4,297,721, that an industry in the United States exists with respect to dynamic random access memories as reqired by subsection (a)(2) of section 337, and that an industry in the United States exists or is in the process of being established with respect to static random access memories as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: Thomas L. Jarvis, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1568.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on April 23, 1990, *Ordered* that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic random access memories, static random access memories, components thereof, and products containing same by reason of infringement of: (1) claims 4 and 5 of U.S. Letters Patent 3,969,706; (2) claim 1 of U.S. Patent 4,061,954; (3) claim 1 of U.S. Letters Patent 4,061,999; (4) claim 5 of U.S. Letters Patent 4,392,210; (5) claims 1, 2, 4, 5, 6, 7, and 9 of U.S. Letters Patent 4,397,003; (6) claims 1, 4, 5, and 6 of U.S. Letters Patent 4,125,854; (7) claims 1, 6, 9, 10, 11, 12, 13, and 14 of U.S. Letters Patent 4,251,876; or (8) claims 1, 2, 3, 7, and 10 of U.S. Letters Patent 4,297,721, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is— SGS-Thomson Microelectronics, Inc. 1310 Electronics Drive, Carrollton, Texas 75006.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hyundai Electronics Industries Co., Ltd., 11th Floor, Hyundai Jeonja Building, 66 Jeokeseon-Ku, Chongro-Ku, Republic of Korea 110-052

Hyundai Electronics America, 166 Bay Point Parkway, San Jose, California 75134

(c) Thomas L. Jarvis, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., room 401J, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to such respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Issued: April 23, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-10304 Filed 5-2-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-451 (Final)]

Gray Portland Cement and Cement Clinker From Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–451 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of gray portland cement and cement clinker, provided for in subheadings 2523.10.00, 2523.29.00, and 2523.90.00 of the Harmonized Tariff Schedule of the United States (previously under item 511.14 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is further extended, Commerce will make its final LTFV determination on or before July 10, 1990 and the Commission will make its final injury determination by August 23, 1990 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: April 6, 1990.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–252–1191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of gray portland cement and cement clinker from Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on September 26, 1989 by counsel on behalf of the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement of Washington, DC. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 48326).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than May 24, 1990. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than May 24, 1990. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on June 29, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 19, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 6, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 11, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is July 12, 1990. If prehearing briefs contain business proprietary information, a non-business proprietary version is due July 13, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public

hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on July 25, 1990. If posthearing briefs contain business proprietary information, a non-business proprietary version is due July 26, 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 25, 1990.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than July 30, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A non-business proprietary version of such additional comments is due July 31, 1990.

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 25, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-10301 Filed 5-2-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-439 (Final)]

Industrial Nitrocellulose From Brazil

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: April 20, 1990.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202-252-1181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION: On March 1, 1990, the Commission instituted the subject investigation and established a schedule for its conduct (55 FR 9781, March 15, 1990). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 14, 1990, to May 28, 1990 (55 FR 11417, March 28, 1990). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 18, 1990; the prehearing conference will be held at the U.S. International Trade Commission Building on May 23, 1990; the prehearing staff report will be placed in the nonpublic record on May 14, 1990; the deadline for filing prehearing briefs is May 23, 1990; the hearing will be held at the U.S. International Trade Commission Building on May 29, 1990; the deadline for filing posthearing briefs is June 4, 1990, and the deadline for Parties to file additional written comments on business proprietary information and on the effect of the Commerce final determination is June 8, 1990.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 23, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-10302 Filed 5-2-90; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Private Sector Options for Juvenile Corrections; Correction

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

ACTION: Notice of correction of previous program announcement.

This Notice is published to correct errors in the award amount, program strategy and the date for submission of a previous program announcement entitled, "Private Sector Options for Juvenile Corrections", published in the Federal Register on March 19, 1990 (55 FR 10121).

The correct award amount is up to $600,000. Stage I of the Program Strategy is being amended to add that the recipient, in addition to developing the selection criteria for selecting at least four demonstration sites, will also be required to make the awards to the sites, subject to OJJDP approval. (The additional $200,000 added to this initiative is to be budgeted for this purpose.)

The application submission date is extended to May 31, 1990.

Robert W. Sweet, Jr.,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 90-10377 Filed 5-2-90; 8:45 am]

BILLING CODE 4410-19-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment

and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 23rd day of April 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
American Flange & Mfg. Co., Inc. (workers)	Linden, NJ	4/23/90	4/09/90	24,306	Closures Caps for Drums & Bottles.
Arrow Cedar Co. (company)	Concrete, WA	4/23/90	4/09/90	24,307	Cedar Shakes.
Burlington Industries, Inc. (workers)	Dublin, VA	4/23/90	4/05/90	24,308	Textiles.
Burndy Corp. (workers)	Milford, CT	4/23/90	3/05/90	24,309	Connectors.
Calmor, Inc. (company)	Adairsville, GA	4/23/90	4/12/90	24,310	Ladies Sportswear.
Caltex Petroleum Corp. (workers)	Irving, TX	4/23/90	4/12/90	24,311	Oil & Gas.
Chicopee Undergarment Corp. (workers)	Chicopee, MA	4/23/90	4/10/90	24,312	Ladies' Undergarments.
Dynamic Industries of Michigan	Warren, MI	4/23/90	4/06/90	24,313	Auto Switches.
Greenville Mfg. Works (workers)	Greenville, OH	4/23/90	3/22/90	24,314	Conveyors.
Happy Valley Shake Co. (company)	Sedro Wooley, WA	4/23/90	4/11/90	24,315	Shakes & Shingles.
Hercules, Inc. (OCAW)	Radford, VA	4/23/90	3/29/90	24,316	Artillery Propellant.
Kreamer Textiles (workers)	Womelsdorf, PA	4/23/90	4/06/90	24,317	Yarn.
North Star Directional Drilling Co. Inc. (workers).	Lafayette, LA	4/23/90	4/12/90	24,318	Oil & Gas.
Northern Geophysical of America (workers)	Englewood, CO	4/23/90	3/22/90	24,319	Oil & Gas.
O&K Trojan, Inc. (IBB)	Batavia, NJ	4/23/90	4/12/90	24,320	Construction Equipment.
PBI Machine & Welding, Inc. (workers)	Sweetwater, TX	4/23/90	4/01/90	24,321	Pumps.
Prairie Producing Co. (workers)	Houston, TX	4/23/90	3/30/90	24,322	Oil & Gas.
Smith Corona Corp. (workers)	Cortland, NY	4/23/90	3/09/90	24,323	Typewriters.
Sprague Electric Co. (workers)	Lansing, NC	4/23/90	3/05/90	24,324	Capacitors.
Strata Search (workers)	Denver, CO	4/23/90	4/10/90	24,325	Oil & Gas.

[FR Doc. 90-10314 Filed 5-2-90; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,942; Kelsey-Hays Co., Sedalia, MO

TA-W-23,873; Foster-Forbes Glass Co., Glass Div., Millville, NJ

TA-W-23,985; L.P. #2, Inc., Forks, WA

TA-W-24,012; Ampex Corp., Recording Systems Div., Video Systems Div., Colorado Springs, CO

TA-W-24,024; Kay Windsor, Inc., Lawrenceburg, TN

TA-W-24,025; Kramer Trenton Co., Trenton, NJ

TA-W-24,031; Natalie Knitting Mills, Chilhowie, VA

TA-W-23,857; SGS-Thomson Microelectronics, Inc., Montgomeryville, PA

TA-W-23,858; SGS-Thomson Microelectronics, Inc., Somerset, NJ

TA-W-24,007; Welles Embroidery Corp., Union City, NJ

TA-W-24,019; Elysburg Fashions, Inc., Elysburg, PA

TA-W-24,033; NGK Metals Corp., Reading, PA

TA-W-23,998; Sol Duc Shake & Shingles, Beaver, WA

TA-W-24,073; Simplicity Pattern Co., Inc. Niles, MI

TA-W-23,481; AT&T Communications & Computer Products Sourcing and Manufacturing, Little Rock, AR

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,909; Manville Sales Corp., Berlin, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,018; El Paso Brick Co., El Paso, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,158; Junior Gallery, Inc., Secaucus, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,017; Control Data Corp., Bloomington, MN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,724; Chrysler Corp., Kokomo, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,022; Green Mountain Marble Co., Windsor, VT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,977; J & G Shake Co., Forks, WA

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-24,060; ICAS Computer Systems, Sparta, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,027; Loral Defense Systems, Litchfield Park, AZ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,981; Joseph Corn & Son, Inc., New York, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-23,925; Blackstone Corp., Jamestown, NY

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-23,933; Gilman Assembly Automation, Janesville, WI

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-24,102; Orchard M/C, Inc., Long Island City, NY

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-24,016; Champion Chemicals, Inc., Levelland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,064; Malapai Resources Co., Christensen Ranch & Irigaray Mines, Buffalo, WY

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

TA-W-24,065; Midland Sample Cut, Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,021; Gateway Coal Co., Prosperity, PA

U.S. imports of coal are negligible.

TA-W-24,074; The Stroh Brewing Co., Allentown, PA

U.S. imports of beer (Malt Beverages) declines absolutely and relative to domestic shipments in 1989 compared to 1988.

TA-W-24,063; Johnson Controls, Inc., Glendale, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,062; Johnson Controls, Inc., Milwaukee, WI, North Greenbay Ave. Plant, East Chicago St Plant, West Boden Court Plant, East Michigan Plant, North Humboldt Ave Plant

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,034 and TA-W-24,035; Polychrome Corp., Yonkers, NY and Robbinsville, NJ

The investigation revealed that criterion (2) has not been met. Sales of production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-24,048; Crucible Specialty Metals Corp., Syracuse, NY

A certification was issued covering all workers separated on or after February 14, 1989.

TA-W-23,923; ACPC, Inc., Vanvouver, WA

Certification was issued covering all workers separated on or after January 17, 1989.

TA-W-24,042; Wells Aluminum Corp., Moultrie Div.-Remelt Dept., Moultrie, GA

A certification was issued covering all workers separated on or after January 29, 1989 and before December 31, 1989.

TA-W-24,072; Schooner Knitwear Corp., New York, NY

A certification was issued covering all workers separated on or after February 5, 1989 and before March 30, 1989.

TA-W-23,980; Jones Shake & Logging Co., Rockport, WA

A certification was issued covering all worker separation on or after February 1, 1989.

TA-W-23,958; Temple Manufacturing Co., Temple, OK

A certification was issued covering all workers separated on or after October 25, 1989 and before March 1, 1990.

TA-W-24,040; United Industries, Inc., Beloit, WI

A certification was issued covering all workers separated on or after December 1, 1989.

TA-W-24,032; New Hyer Boat Co., El Paso, TX

A certification was issued covering all workers separated on or after February 5, 1989.

TA-W-23,971; Fair Shake Co., Inc., Forks, WA

A certification was issued covering all workers separated on or after February 1, 1989.

TA-W-24,013; Becton Dickinson Infusion Systems, Lincoln Park, NJ

A certification was issued covering all workers separated on or after January 26, 1989.

TA-W-23,819; Rivoli Fashions, Inc, Orange, NJ

A certification was issued covering all workers separated on or after December 19, 1988.

TA-W-24,075 and TA-W-24,075A; The Thomson Co., Millen, GA and Martinez, GA

A certification was issued covering all workers separated on or after February 1, 1990 and before May 1, 1990.

TA-W-24,068; Orweco, Inc., Mechanicsburg, PA

A certification was issued covering all workers separated on or after February 12, 1989 and before March 24, 1990.

TA–W–24,068A; Orweco, Inc. Operation at Various Locations In The State of PA

A certification was issued covering all workers separated on or after February 12, 1989, and before March 24, 1990.

TA–W–24,068B; Orweco, Inc., New York, NY

A certification was issued covering all workers separated on or after February 12, 1989 and before March 24, 1990.

TA–W–24,029; Mission Resources, Inc., Alameda, CA

A certification was issued covering all workers separated on or after February 6, 1989.

TA–W–24,030; Mission Resources, Inc., Bakersfield, CA

A certification was issued covering all workers separated on or after February 6, 1989.

TA–W–24,052; Delta Chemicals, Inc., Searsport, ME

A certifications was issued covering all workers separated on or after September 1, 1989.

TA–W–23,982; Lawton Manufacturing Co., Lawton, OK

A certification was issued covering all workers separated on or after October 25, 1989 and before March 2, 1990.

TA–W–23,845; Jacques DeLoux, Inc., Sellersville, PA

A certification was issued covering all workers separated on or after December 21, 1988.

TA–W–24,002; Target Sportswear, Inc., Target Square Facility, Clearfield, PA

A certification was issued covering all workers separated on or after January 25, 1989.

TA–W–24,055; Fenwick Fishing Rods, Bainbridge Island, WA

A certification was issued covering all workers separated on or after February 9, 1989.

TA–W–24.070; Phoenix Fashions, Inc., Perth Amboy, NJ

A certification was issued covering all workers separated on or after December 27, 1988.

TA–W–24,061; Jodi Shirt Co., Inc., Fruitland, MD

A certification was issued covering all workers separated on or after February 5, 1989 and before January 31, 1990.

TA–W–24,056; Forte Cashmere Co., Inc., Woonsocket, RI

A certification was issued covering all workers separated on or after October 1, 1989.

TA–W–24,037; Sun Refining & Marketing Dallas Computer Center (Formerly Sun Co., Inc. Dallas Computer Center), Dallas, TX

A certification was issued covering all workers separated on or after February 2, 1989 and April 15, 1990.

TA–W–23,804; Monroe Auto Equipment Co., Monroe, MI

A certification was issued covering all workers separated on or after December 22, 1988.

TA–W–023,805; Monroe Auto Equipment Co., Paragould, AR

A certification was issued covering all workers separated on or after December 22, 1988.

TA–W–23,806; Monroe Auto Equipment Co., Cozad, NB

A certification was issued covering all workers separated on or after December 22, 1988.

TA–W–23,807; Monroe Auto Equipment Co., Hartwell, GA

A certification was issued covering all workers separated on or after December 22, 1988.

I hereby certify that the aforementioned determinations were issued during the month of April 1990. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: April 26, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–10315 Filed 5–2–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23, 665 and 23, 893]

End Devices, Inc., and Walker Brothers Drilling Co., Inc.; Dismissal of Applications for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance for Workers at the End Devices, Incorporated, Midland, Texas and Walker Brothers Drilling Company, Inc., Konawa, Oklahoma. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determinations. Therefore dismissal of the applications were issued.

TA–W–23, 665; End Devices, Incorporated, Midland, Texas (April 23, 1990)

TA–W–23, 893; Walker Brothers Drilling Company, Inc., Konawa, Oklahoma (April 23, 1990)

Signed at Washington, DC this 26th day of April 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–10318 Filed 5–2–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23,629]

Reed & Barton Corp., Silversmiths Division; Revised Determination on Reconsideration

On March 1, 1990, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Reed & Barton Corporation, Silversmiths Division, Taunton, Massachusetts. The affirmed notice was published in the **Federal Register** on March 13, 1990 (55 FR 9376).

Investigation findings on reconsideration show that flatware and holloware customers accounting for a substantial portion of Reed & Barton 1989 sales decline increased their import purchases of flatware and holloware in 1989 compared to 1988. Other findings on reconsideration show decreased production worker employment at Taunton, Massachusetts. Reed & Barton's sales of flatware and holloware decreased in 1989 compared to 1988.

U.S. imports of flatware and holloware increased absolutely and relative to domestic shipments in 1988 compared to 1987.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with flatware and holloware produced at Reed & Barton Corporation Silversmiths Division, Taunton, Massachusetts, contributed importantly to the decline in sales or production and to the total or partial separation of workers at Reed & Barton Corporation, Silversmiths Division, Taunton, Massachusetts. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Reed & Barton Corporation, Silversmiths Division, Taunton, Massachusetts, who became totally or partially separated from employment on or after November 8, 1988, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of April 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90–10316 Filed 5–2–90; 8:45 am]

BILLING CODE 4510–30–M

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, title III, Public Law 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Monday, May 21, 1990, at 2 p.m. in the Department of Labor Auditorium to be followed by a meeting at 3 p.m. in room S–2217 of the Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC.

Written comments are welcome and may be submitted by addressing them to: Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

The item on the agenda is Transition Assistance Programs.

The public is invited.

Signed at Washington, DC, this 27th day of April, 1990.

Thomas E. Collins,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 90–10317 Filed 5–2–90; 8:45 am]

BILLING CODE 4510–79–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) the following information collection requirements for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission:* Reinstatement.

2. *The title of the information Collection:* 10 CFR part 20, Standards for Protection Against Radiation.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* All NRC Licensees.

6. An estimate of the number of responses: 18,971.

7. An estimate of the total number of hours needed annually to complete the requirements or request: 115,114.

8. An indication of whether section 3504(h), Public Law 96–511 applies: N/A.

9. *Abstract:* 10 CFR part 20 establishes standards for protection against radiation hazards for all NRC Licensees. The information collection requirements in 10 CFR part 20 are designed to ensure that the total radiation dose to an individual does not exceed the standards for radiation protection.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L. Street, NW. (Lower Level), Washington DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Paperwork Reduction Project (3150–0014), Office of Managaement and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance officer is Brenda Jo. Shelton (301) 492–8132.

Dated at Bethesda, Maryland, this 27th day of April 1990.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 90–10334 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket No. 50–113]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Proposed Renewal of Facility License No. R–52; University of Arizona

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility License No. R–52 for the University of Arizona TRIGA Mark I research reactor located on the University of Arizona (licensee) campus in Tucson, Arizona.

Environmental Assessment

This Environmental Assessment is written in connection with the proposed renewal for 20 years of the facility license of the University of Arizona TRIGA Mark I research reactor (UATR) at Tucson, Arizona, in response to a timely application from the licensee dated October 17, 1988, as supplemented on July 17, 1989, September 15, 1989 and January 30, 1990. The proposed action would authorize continued operation of the reactor with an increase in authorized power level from 100 to 110 kilowatts (thermal). The facility has been in operation since Facility License No. R–52 was issued in 1958. Currently there are no plans to change any of the structures or operating characteristics associated with the reactor during the renewal period requested by the licensee. The increase in the operating power level from the existing 100 kW(t) to 110 kW(t) was requested by the licensee to permit testing of the reactor or scram settings without exceeding its licensed power level. The licensee intends to normally operate the reactor at or below 100 kw(t). The increase in power level will not require any additional equipment.

Need for Proposed Action

The license for the facility was due to expire in December 1988. The proposed action is required to authorize continued operation so that the facility can continue to be used in the licensee's mission of research.

Alternatives to the Proposed Action

An alternative to the proposed action that was considered was not renewing the license. This alternative would have led to cessation of operations, with a resulting change in status and a likely small impact on the environment. The other alternative was to renew the license without authorizing the increase in power level. This alternative would have led to a nearly identical impact on the environmental as the proposed action.

Environmental Impact

The UATR operates in an existing shielded pool of water inside the existing Engineering Building, so this licensing action would lead to no change in the physical environment.

Based on the review of the specific facility operating characteristics that are considered for potential impact on the environment, as set forth in the staff's Safety Evaluation Report (SER)[1] for this

[1] NUREG–1390, "Safety Evaluation Report Related to the Renewal of the Operating License for

Continued

action, it is concluded that renewal of this facility license at an increased power level will have an insignificant environmental impact. Although judged insignificant, operating features with the greatest potential environmental impact are summarized below. Argon–41, a product from neutron irradiation of air during operation, is the principal airborne radioactive effluent from the UATR during routine operations. Conservative calculations by the staff, based on the total amount of Ar–41 released from the reactor during a year, predict a maximum potential annual whole body dose of less than 1 millirem in unrestricted areas.

The staff has considered hypothetical credible accidents at the UATR and has concluded that there is reasonable assurance that such accidents will not release a significant quantity of fission products from the fuel cladding and, therefore, will not cause significant radiological hazard to the environment or the public.

This conclusion is based on the following:

(a) The excess reactivity available under the technical specifications is insufficient to support a reactor transient generating enough energy to cause overheating of the fuel or loss of integrity of the cladding.

(b) At a thermal power level of 110 kilowatts, the inventory of fission products in the fuel cannot generate sufficient radioactive decay heat to cause fuel damage even in the hypothetical event of instantaneous total loss of coolant, and

(c) The hypothetical loss of integrity of the cladding of the maximum irradiated fuel rod will not lead to radiation exposures in the unrestricted environment that exceed guideline values of 10 CFR Part 20.

In addition to the analyses in the SER summarized above, the environmental impacts associated with operation of research reactors has been generically evaluated by the staff and is discussed in the attached generic evaluation. This evaluation concludes that there will be no significant environmental impact associated with the operation of research reactors licensed to operate at power levels up to and including 2 MW(t) and that an Environmental Impact Statement is not required for the issuance of construction permits or operating licenses for such facilities. We have determined that this generic evaluation is applicable to operation of the UATR and that there are no special or unique features that would preclude reliance on the generic evaluation.

Alternative Use of Resources

This action does not involve the use of any resources beyond those normally allocated for such activities.

Agencies and Persons Consulted

The staff has obtained the technical assistance of the Idaho National Engineering Laboratory in performing the safety evaluation of continued operation of the UATR facility.

Finding of No Significant Impact

Based upon foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for this proposed action.

For further details with respect to this action, see the licensee's request for a license amendment dated October 17, 1988, as supplemented on July 17, 1989, September 15, 1989 and January 30, 1990. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland this 26th day of April 1990.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10335 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Application and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly Notice: Correction.

On page 10532, in the issue of Wednesday, March 21, 1990, under the entry for Duke Power Company, Docket Nos. 50–369 and 50–370, correct "40 27 10-month" to read "40 — 10-month" in the following locations:

1. In the paragraph beginning "Description of amendment request", the second and fourth sentences.

2. In the paragraph beginning "Basis for proposed no significant hazards consideration determination", the second, fourth and fifth sentences.

3. In the second column, fourth paragraph, second sentence.

Dated at Rockville, Maryland, this 30th day of April 1990.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 90–10336 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–440]

The Cleveland Electric Illuminating Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant Unit No. 1, located in Lake County, Ohio.

The proposed amendment revises and modifies a previous application for license amendment dated December 19, 1989, which was noticed in the Federal Register on February 7, 1990 (55 FR 4282). This revision to the previous submittal replaces the description of the Core Operating Limits Report (COLR) which is to be added as Technical Specification (TS) 6.9.1.9, and modifies the description of fuel assemblies contained in TS 5.3.1 to indicate that fuel assemblies shall be limited to those designs approved by the NRC staff for use in boiling water reactors (BWRs).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's

the TRIGA Training and Research Reactor at the University of Arizona."

regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The proposed changes would modify the description of the COLR to include the cycle-specific parameters which will be contained in the COLR using a revised format from the licensees' previous submittal. No substantive changes have been included in the change. The change to the description of fuel assemblies clarifies that only fuel assembly designs approved by the NRC staff for use in BWRs shall be used rather than designs using NRC-approved methodologies as stated in the previous submittal. The staff views these changes to the previous submittal as administrative in nature to clarify proposed TS changes previously submitted. The staff has reviewed their previous proposed no significant hazards consideration finding and has determined that it is still valid for the proposed revision to the licensees' previous submittal. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 4, 1990, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely improving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is

that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325–6000 (in Missouri 1 (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 30, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 26th day of April 1990.

For the Nuclear Regulatory Commission.

Anthony T. Gody, Jr.,

Acting Project Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10337 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

System Energy Resources, Inc., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. NPF–29 issued to System Energy Resources Inc., et al. (the licensee) which revised the Technical Specifications for operation of the Grand Gulf Nuclear Station, Unit 1 located in Claiborne County, Mississippi. The amendment was effective as of the date of issuance.

The amendment revised the Technical Specifications by increasing the surveillance test intervals and the allowable out-of-service times for the reactor protection system.

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 August 1, 1988 (53 FR 28927). 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 (54 FR 11092) 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 June 30, 1988 as supplemented by letter, dated February 19, 1990, (2) Amendment No. 67 to License No. NPF–29 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 Hinds Junior College, McLendon Library, Raymond, Mississippi 39154. 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 24th day of April 1990.

For the Nuclear Regulatory Commission.

Lester L. Kintner,

Senior Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–10338 Filed 5–2–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Wednesday, May 23, 1990, at 9:30 a.m.
Wednesday, June 13, 1990 at 10:00 a.m.

These meetings will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its

business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: April 25, 1990.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 90–10307 Filed 5–2–90; 8:45 am]

BILLING CODE 1325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Certain Industry Advisory Committees; Determination of Closing of Meetings

The Industry Advisory Committees for Trade Policy Matters (including the Industry Policy Advisory Committee, the Committee of Chairmen of Industry Advisory Committees, the Industry Sector Advisory Committees, and the Industry Functional Advisory Committees) (the Advisory Committees) have been established to advise the United States Trade Representative and the Secretary of Commerce, in accordance with subsection 135(a) of the Trade Act of 1974, as amended (the Act), on trade matters referred to in section 102 of the Act; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the administration of the trade policy of the United States.

I, therefore, determine that meetings of the Advisory Committees will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions and with matters listed in section 552b(c) of title 5 of the United States Code. Therefore, meetings of the Advisory Committees will be closed to the public for the two-year term, March 8, 1990 to March 8, 1992, unless otherwise determined by the United States Trade Representative or her designee.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 90–10293 Filed 5–2–90; 8:45 am]

BILLING CODE 3190–01–M

Identification of Trade Liberalization Priorities Pursuant to Section 310 of the Trade Act of 1974, as Amended

AGENCY: Office of the United States Trade Representative.

ACTION: Notice is hereby given that the United States Trade Representative (USTR) has submitted the report published herein to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the United States House of Representatives, identifying trade liberalization priorities pursuant to section 310 of the Trade Act of 1974, as amended (19 U.S.C. 2420).

DATES: The report was submitted on April 27, 1990.

FOR FURTHER INFORMATION CONTACT: Richard Steinberg, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–7305.

SUPPLEMENTARY INFORMATION: The text of the USTR report is as follows.

Identification of Trade Liberalization Priorities Pursuant to Section 310 of the Trade Act of 1974, as Amended, April 27, 1990

This report is submitted pursuant to section 310 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2420), commonly referred to as "Super 301." Under section 310 the United States Trade Representative (USTR) is identifying trade liberalization priorities, including priority practices and a priority country that will be a focus of negotiations in 1990 to broaden access for U.S. exports to foreign markets.

Top Priority

The successful completion of the Uruguay Round of multilateral trade negotiations is the Administration's top trade liberalization priority, in accordance with section 310 of the Trade Act. Reforming the global trading system is crucial to the future prosperity of the United States and other trading nations. With the conclusion of the Uruguay round less than seven months away, the Administration has determined that attaining ambitious results in these negotiations—meaning a significant reduction of trade barriers world-wide and the development of clear and enforceable rules of international trade—is the most effective way to significantly increase U.S. exports, to safeguard America's economic future, and to ensure the viability of the international trading system into the next century.

In this final year of the Uruguay Round, a more ambitious, far-reaching reform of the global trading system is the Administration's highest trade liberalization priority, and the most effective means of expanding U.S. exports.

An Ongoing Process

Trade liberalization is an ongoing process that requires negotiations in a variety of fora, and use of a variety of tools. As part of the "Super 301" process, the Office of the U.S. Trade Representative prepared the National Trade Estimate (NTE) Report, which contains an inventory of trade barriers affecting goods, services, investment and intellectual property protection in 35 countries and two regional trading blocs. Many of the barries described in the NTE report have been—and continue to be—addressed constructively through multilateral and bilateral negotiations.

An Important Market: Japan

The Administration recognizes that the smooth operation and continued growth of the world trading system require that the world's second largest industrial economy, Japan, operate on a basis that is open and truly competitive. Thus, the opening to the Japanese market remains a key trade priority of the Administration.

In the past year the Administration has used the leverage afforded by section 301 and other provisions of the 1988 Omnibus Trade Act to advance its market opening efforts in Japan. Specifically:

• *Super 301 Results.* The Administration has successfully concluded agreements in all three important areas identified as 1989 Super 301 priorities:

—*Supercomputer Understanding* On March 22, 1990, the United States and Japan concluded an ad referendum agreement on supercomputers, under which Japan agreed to seek adequate funding for supercomputer purchases, use practical benchmarks to select among machines, and provide an

effective procedure for handling complaints.

—*Satellite Understanding.* On April 3, 1990, Japan agreed to a new policy that opens government procurement of all satellites except for genuine R&D satellites. Its commitments will work to create new opportunities for U.S commercial satellite producers.

—*Forest Products Agreement.* Just this week, Japan agreed to improve market access for U.S. exports of wood products exports to Japan. This will provide major benefits to U.S. exporters by addressing the following areas of concern: tariff misclassification, product certification, product standards, building codes, and tariffs.

• *Amorphous metals.* The Administration has obtained a commitment from the Government of Japan to expedite talks on market access in Japan for amorphous metals, a paradigm of high technology market access in Japan, which was the subject of a section 301 petition filed by an American firm. Rather than initiate a one-year section 301 investigation, the Administration used the leverage of section 301 to obtain Japan's commitment to seek solutions to this issue within 150 days, with the understanding that an industry-filed 301 petition will be accepted if solutions are not reached.

• *Sound recordings.* Just this week Japan has committed to improve the protection of foreign sound recordings by protecting foreign sound recordings produced after 1968, by providing "national treatment" for rentals, and by extending the term of protection for sound recordings to 50 years.

• *Telecommunications.* On March 30, 1990, Japan committed to liberalize the network channelling terminating equipment (NCTE) and international value-added network service (IVAN) portions of its telecommunications market. Negotiations will occur over the next four months on the implementation of these commitments.

In October 1989, Japan agreed to renew the NTT agreement, which provides for open and transparent procurement procedures for Japan's recently privatized major telecommunications company. The new agreement took effect January 1, 1990, and remains in effect for three years.

In June 1989, in response to a U.S. determination under section 1377 of the Trade Act that the Japanese restrictions were in violation of a bilateral telecom agreement, Japan agreed to open its third party radio and cellular telephone markets to foreign firms.

• *Steel.* In October 1989, the United States and Japan concluded a bilateral "consensus" agreement committing Japan to eliminating subsidies and other trade distorting practices for steel.

• *Food Additive Labelling.* In response to U.S. concerns, Japan's Ministry of Health and Welfare in November 1989 modified regulations for food additive labelling, so that synthetic and natural additives are treated in an equivalent manner. Previous regulations had worked to discriminate against U.S. suppliers.

• *Construction.* In November 1989, USTR determined that certain Japanese policies and practices for procuring construction and related services were unreasonable under section 301. Japan committed to taking steps to discourage collusive bidding, increase available information to foreign bidders, and allow Japanese companies to form joint ventures with foreign firms. In addition, Japan committed to negotiate all unresolved matters regarding construction market access within the context of the May 1990 review of the Major Projects Arrangement.

• *Medical/Pharmaceutical Devices.* In response to U.S. concerns, Japan assured the Administration in February 1990 that it will not impose price controls on implantable medical devices without first consulting with the United States.

• *Auto Parts.* Through the MITI and Department of Commerce-led MOSS process, in addition to ongoing government-to-government discussions, the United States and Japan will hold semiannual conferences to promote growth of strong business and sales relationships between U.S. auto parts suppliers and Japanese auto manufacturers. In addition to high-level government representatives, Japanese and U.S. industry representatives will be invited to participate. Issues of interest include increased contact between U.S. auto parts manufacturers and Japanese auto manufacturers during the new model design phase, greater access of U.S. manufacturers to the Japanese distribution system, and follow-up on other issues of concern.

An initiative was launched in July 1989 to address the causes of the slow adjustment of the U.S. and Japanese trade imbalances:

• *Structural Impediments Initiative (SII).* In the SII Interim Report released on April 5, 1990, Japan committed to specific steps to eliminate structural barriers to imports, including: strengthened enforcement of its Anti-monopoly Act, including stiffer penalties for violators; shortened approval times under the Large Retail Stores Law, increased spending on public infrastructure, and improved Japanese patent examination, among others. The final SII report, which will elaborate on and expand these and other commitments, is due in July 1990.

As President Bush has stated, the Administration has made substantial progress to date in our negotiations with Japan, but we must continue our efforts to achieve concrete results. The Administration will work intensively in the coming months to eliminate remaining trade frictions with Japan. Key areas of focus will include:

• Ensuring solid accomplishments and commitements in the SII Final Report, including a vehicle for follow-up;

• Implementing the agreements reached in last year's Super 301 cases on satellites, supercomputers and forest products;

• Successfully concluding the telecommunications negotiations by July 28, 1990;

• Resolving the amorphous metals issue by September 15, 1990;

• Ensuring progress in the May 1990 review of the construction agreement;

• Expanding market opportunities for foreign semiconductor suppliers in Japan pursuant to the U.S.-Japan Semiconductor Agreement; and

• Making progress on the auto parts issue through the MOSS process.

Through appropriate use of section 301 leverage, the Administration has and will continue to achieve substantial reductions in trade barriers. The flexibility to select the right tools at the right time is essential for effective implementation of our trade policy. The President has directed the USTR to continue her vigorous market-opening initiatives, using the full range of tools at her disposal—including both acceptance of industry-filed section 301 petitions, and self-initiation of investigations where appropriate. The President has also directed the USTR to expand her semiannual report to the Congress on section 301 to review both the status of existing 301 investigations and related initiatives in important markets such as Japan.

Other Important Markets

In addition to progress made with Japan, the Administration has brought to a successful conclusion six other section 301 investigations initiated in response to petitions filed by U.S. industry. Significant trade liberalization commitments have resulted from this effective use of section 301 leverage in the following areas:

• *Argentine patent protection for pharmaceuticals:* We satisfactorily

concluded an investigation last September when Argentina agreed to modify its pharmaceutical product registration procedures, and to address constructively the issue of patent protection for pharmaceutical products.

• *Canadian export restrictions on unprocessed fish:* We successfully challenged Canada's export restrictions under the dispute settlement mechanism of the U.S.-Canada Free-Trade Agreement, and as a result reached agreement with Canada under which U.S. fish processing firms will now be able to buy Canadian fish to process.

• *EC export restrictions on copper scrap:* We reached a satisfactory resolution of a dispute with the European Community (EC) brought under the General Agreement on Tariffs and Trade (GATT), in which the EC agreed to eliminate its export restrictions on copper scrap and waste, thereby benefitting American copper and brass fabricators.

• *EC subsidies on oilseeds:* We obtained a favorable ruling from a GATT dispute settlement panel concerning the EC subsidies regime for oilseeds. In January the EC accepted the panel's report and committed to take measures by the 1991 marketing year to comply with the panel findings.

• *Korean import restrictions on beef:* We also obtained a GATT panel report that found Korea's import restrictions on beef violate the GATT. As a result, we reached agreement with the Government of Korea on steps it will take to comply with the panel findings. In a related matter, Korea also agreed to remove its import restrictions on a number of other products.

• *Discriminatory government procurement in Norway:* A dispute settlement proceeding initiated by the United States under the GATT Procurement Code involving procurement of electronic toll collection equipment by the Government of Norway was resolved successfully through cooperative negotiations this week. Norway has taken actions that offset the effect of this procurement on the U.S. bidder, and has agreed to take steps to ensure that future procurements are carried out in accordance with Code procedures.

The fact that almost all of these section 301 cases were successfully resolved through GATT consultations or dispute settlement proceedings underscores the importance of having an effective multilateral dispute settlement mechanism to address all matters affecting international trade. In that regard, the United States is actively seeking to strengthen the GATT dispute settlement process in the Uruguay Round.

An Ambitious Agenda

Through a successful completion of the Uruguay Round negotiations the Administration seeks to open world markets and significantly expand and strengthen the multilateral trading system. Over 100 nations are engaged in the negotiations, which are the most far-reaching and ambitious round of international trade talks ever held.

A successful conclusion to the Uruguay Round negotiations has become even more critical in light of recent events in Eastern Europe and Latin America. A stronger, more open global trading system will bolster efforts by countries in those regions to reform and open their economies, and ensure the secure integration of those regions into a dynamic world economy.

The Administration's top trade liberalization objectives in the Uruguay Round are:

• The fundamental reform of world agricultural trade, including the phase-out of export subsidies, reduction of barriers to market access, and the phase-out of domestic support programs which distort agricultural production;

• Extension of international rules of fair play to trade in services, which accounted for $105 billion in U.S. exports in 1989;

• Development of international rules and standards protecting intellectual property rights, upon which our high-tech, publishing and entertainment industries depend;

• Development of international rules on trade-related investment measures to avoid trade-restrictive and distorting effects;

• The reduction of tariff and non-tariff barriers to trade in goods, aiming toward the achievement of zero tariffs in certain key sectors;

• Effective limitation of all trade-distorting subsidies;

• Ensuring that the developing nations, which account for a growing proportion of world trade, accept more responsibility under the multilateral trading system and adhere more closely to the rules of international trade.

Obtaining stronger, more effective rules in the Uruguay Round should deal with specific trade barriers, including: the European Community's variable levies on imports of agricultural products and agricultural export subsidies; Japan's import prohibition on rice; and discriminatory government procurement of telecommunications equipment and heavy electrical equipment in the European Community, to mention just a few.

The United States will continue to pursue negotiations in the Uruguay Round aimed at eliminating these trade-distorting practices and their effects on U.S. exports. Should insufficient progress be made in the Uruguay Round toward the goal of open markets and increased trade, there will be even greater pressure for unilateral action on all sides.

A Challenge

The United States has made the successful conclusion of the Uruguay Round by December of this year its number one trade priority. We call upon our major trading partners to match this commitment and to attach a similar priority to the successful outcome of the negotiations.

A comprehensive package of trade liberalization if achieved in the Uruguay Round will benefit all participants in the international trading system. However, in the event that it is not possible to achieve such a package on a multilateral basis, the United States will make effective use of the full range of tools provided under the 1988 Omnibus Trade Act to achieve its trade liberalization objectives.

Renewed Priorities

In the 1989 Super 301 process, the Administration identified three priority countries: Japan, Brazil, and India. It also identified six priority practices from those countries as being emblematic of U.S. objectives in the Uruguay Round. Investigations under section 302 of the Trade Act were initiated on all six practices on June 16, 1989. During the past month we have reached satisfactory solutions on all three of the Japanese practices, and we are confident that recent reforms in Brazil will resolve our concerns about its import licensing regime.

The priority practices in India—trade-related investment measures, and insurance market barriers—remain unresolved. Therefore, India is identified again this year as a priority country and these two practices are identified again as priority practices under section 310 of the Trade Act. The deadline for completing the section 302 investigations begun last year on these practices (described below) is June 16, 1990:

India—Trade-Related Investment Measures: trade-restricting measures imposed by the Government of India upon foreign investors. Government approval is required for all new or expanded foreign investment in India. Approval is conditioned upon a number of criteria, including limits on foreign

equity participation. Where approval is granted, the Indian Government often requires investors to use locally-produced goods in the items they produce in India, rather than allowing them to import the best quality and most cost-effective products. Some investors are also required to meet export targets. These and other requirements affect foreign investors, and result in significant trade distortions.

India—Insurance Market Practices: barriers maintained by the Government of India with respect to sales of insurance in India by foreign insurance companies. Private insurance companies are not permitted to sell insurance in India. The state-owned General Insurance Company of India and its four subsidiaries have a monopoly on sales of general insurance, and the state-owned Life Insurance Corporation of India has a monopoly on the sale of life insurance in India.

As was noted in the National Trade Estimate Report (submitted to the Congress on March 31, 1990), it is extremely difficult to estimate how much U.S. exports would increase if a non-tariff barrier to trade were removed. Estimating the trade impact of such barriers requires detailed information on price differences between countries and relevant supply and demand conditions, which is not readily available. Also, with respect to investment barriers, there are no accepted techniques for estimating the impact of such barriers on U.S. investment flows.

Authority: Section 310(a)(1)(D) of the Trade Act of 1974, as amended, 19 U.S.C. 2420(a)(1)(D).

Joshua B. Bolten,

General Counsel.

[FR Doc. 90-10313 Filed 5-2-90; 8:45 am]

BILLING CODE 3190-01-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:* Employer's Deemed Service Month Questionnaire.

(2) *Form(s) submitted:* GL-99.

(3) *OMB Number:* 3220-0156.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* Annually.

(7) *Respondents:* Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 450.

(9) *Total annual responses:* 9,500.

(10) *Average time per response:* .05 hours.

(11) *Total annual reporting hours:* 475.

(12) *Collection description:* Under section 3(i) of the Railroad Retirement Act (RRA), the Board may deem months of service in cases where an employee does not actually work in every month of the year. The collection obtains needed service and compensation information from railroad employers for determining if an employee may be credited with additional deemed months of railroad service.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4692). 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. 90-10276 Filed 5-2-90; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 27, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

ENSR Corporation
Common Stock, $.01 Par Value (File No. 7-5885)
Eastern Airlines
$3.24 Cum. Pfd. Stock, Common Stock, $1 Par Value (File No. 7-5886)
Eastern Airlines
$3.12 Cum. Junior Pfd. Stock, Common Stock, $1 Par Value (File No. 7-5887)
ICN Biomedicals, Inc.
Common Stock, $.01 Par Value (File No. 7-5888)
Jakarta Growth Fund, Inc.
Common Stock, $.10 Par Value (File No. 7-5889)
Malartic Hygrade Gold Mines (Canada) Ltd.
Common Stock, No Par Value (File No. 7-5890
RMI Titantum, Co.
Common Stock, $.01 Par Value (File No. 7-5891)
Sanifill, Inc.
Common Stock, $.01 Par Value (File No. 7-5892)
Texas Air Corp.
12% Cumulative Junior Preferred Stock, Common Stock, $10 Par Value (File No. 7-5893)
US Bioscience, Inc.
Common Stock, $.005 Par Value (File No. 7-5894)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based on all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-10251 Filed 5-2-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

April 27, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section

12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12F-1 thereunder for unlisted trading privileges in the following securities:

Air & Water Technologies Corporation
Class A Common Stock, $0.001 Par Value (File No. 7–5871)
Alexander's Incorporated
Common Stock, $1 Par Value (File No. 7–5872)
Elan Corporation PLC
American Depository Shares (File No. 7–5873)
Jacobs Engineering Group, Inc.
Common Stock, $1 Par Value (File No. 7–5874)
Lincoln N.C. Realty Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–5875)
Myers (L.E.) Company Group
Common Stock, $1 Par Value (File No. 7–5876)
St. Joe Paper Company
Common Stock, No Par Value (File No. 7–5877)
Stevens Graphics Corporation
Class A Stock, $0.10 Par Value (File No. 7–5878)
Alliance New Europe Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–5879)
Emerging Germany Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–5880)
G.T. Greater Europe Fund
Shares of Beneficial Interest, Common Stock, $.01 Par Value (File No. 7–5881)
Geneva Steel
Class A Common Stock, No Par Value (File No. 7–5882)
Irish Investment Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–5883)
Jakarta Growth Fund, Inc.
Common Stock, $.10 Par Value (File No. 7–5884)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 18, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–10252 Filed 5–2–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2414; Amdt. #2]

Alabama; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the amendment to the President's declaration, dated April 7, 1990, to include Chambers and Choctaw Counties as a result of damages caused by severe storms, tornadoes, and flooding beginning March 15.

In addition, applications for economic injury loans from small businesses located in the contiguous Sumter County, and the Counties of Clarke and Lauderdale in the State of Mississippi may be filed until the specified date at the previously mentioned location. Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 21, 1990, and for economic injury until the close of business on December 21, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 16, 1990.

Bernard Kulic,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90–10259 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2414; Amdt. #1]

Alabama; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the amendment to the President's declaration, dated March 30, 1990, to include Baldwin, Clay, Macon, Russell, and Tallapoosa Counties as a result of damages caused by severe storms, tornadoes, and flooding beginning March 15.

In addition, applications for economic injury loans from small businesses located in the contiguous Lee County, and the Counties of Chattahoochee, Harris, and Muscogee in the State of Georgia may be filed until the specified date at the previously mentioned location. Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 21, 1990, and for economic injury until the close of business on December 21, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 11, 1990.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90–10260 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2417]

California; Declaration of Disaster Loan Area

Butte County and the contiguous Counties of Colusa, Glenn, Plumas, Sutter, Tehama, and Yuba in the State of California constitute a disaster area as a result of damages from a severe winter storm which occurred February 16–19, 1990. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 11, 1990, and for economic injury until the close of business on January 14, 1991, at the address listed below: Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damages is 241711 and for economic injury the number is 705700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 12, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 90–10261 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2415]

Florida; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 3, 1990, and amendments on April 11 and April 13, I find that the Counties of Bay, Calhoun, Escambia, Gadsden, Gulf, Holmes, Liberty, Okaloosa, Santa Rosa, Walton and Washington are a disaster area as a result of damages caused by severe storms and flooding beginning on March 16, 1990. Applications for loans for physical damage may be filed until the close of business on June 4, 1990, and for loans for economic injury until the close of business on January 3, 1991, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th floor, Atlanta, GA 30308

or other locally announced locations. In addition, applications for economic injury loans from small business located in the contiguous counties of Franklin, Jackson, Leon, and Wakulla in the State of Florida; Baldwin, Covington, Escambia, and Geneva Counties in the State of Alabama; and Decatur, Grady, and Seminole Counties in the State of Georgia may be filed until the specified date at the above location.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Business with credit available elsewhere	8.000
Business and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage for the State of Florida is 241506, and for economic injury the number is 704700. The economic injury number for the State of Alabama is 704200 and for Georgia the number is 702300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 11, 1990.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90–10262 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2411; Amdt. #1]

Tennessee; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with the amendments to the President's declaration of February 28 and March 14, 1990, to include Marion County as a result of damages caused by severe storms and flooding which occurred from February 15 to February 20, 1990 (an amendment of the incident period).

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Franklin and Grundy in the State of Tennessee, and Jackson County in the State of Georgia, may be filed until the specified date at the previously mentioned location. Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 28, 1990, and for economic injury until the close of business on November 27, 1990.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 11, 1990.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 90–10263 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #7029; Amdt. #1]

Declaration of Disaster Loan Area; Texas

Galveston County and the contiguous Counties of Brazoria, Chambers, and Harris in the State of Texas constitute an Economic Injury Disaster Loan Area as a result of damage from the freeze which occurred December 21 through December 24, 1990. All other information remains the same; i.e., the termination date for filing applications for eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere is the close of business on December 10, 1990 at the address listed below: Disaster Area 3 Office, Small Business Administration, 4400 Amon Carter Blvd., suite 102, Ft. Worth, TX 76155, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 26, 1990.

Kay Bulow,

Acting Administrator.

[FR Doc. 90–10264 Filed 5–2–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 90–19]

Commercial Space Transportation Advisory Committee; Charter Renewal

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 1), a notice is hereby given of the approval of the renewal of the Commercial Space Transportation Advisory Committee charter. This Charter is effective May 1, 1990, and terminates two years after this date unless prior to that time the Charter is extended in accordance with the FACA and other applicable requirements.

The COMSTAC, acting as an advisory committee, provides information, advice, and recommendations to the Secretary of Transportation on matters relating to all aspects of the commercialization of expendable launch vehicles.

Dated: April 27, 1990.

Stephanie Lee-Miller,

Director, Office of Commercial Space Transportation.

Charter of the Commercial Space Transportation Advisory Committee

I. *Purpose:* This Charter establishes the Commercial Space Transportation Advisory Committee (COMSTAC), and provides for its operation in accordance with the provisions of the Federal Advisory Committee Act (the FACA) (Pub. L. 92–463; 86 Stat. 770), DOT Order 1120.3A, as amended (including additional references cited therein), and the requirements prescribed in title 49, Code of Federal Regulations, part 95.

II. *Scope:* The COMSTAC, acting as an advisory committee, provides information, advice, and recommendations to the Secretary of Transportation on matters relating to all aspects of the commercialization of expendable launch vehicles. The COMSTAC does not exercise

program management or regulatory development responsibilities, and makes no decisions directly affecting the programs on which it provides advice. The COMSTAC provides a forum for the development, consideration, and communication of information from a knowledgeable, independent perspective.

III. *Objectives and Duties:* Consistent with the scope of its activities described in Paragraph II, the COMSTAC is authorized to:

A. Undertake such information gathering activities as necessary to define issues for consideration by the Committee, develop positions on those issues, and communicate the Committee's position thereon to the Secretary of Transportation.

B. Evaluate economic, technological, and institutional developments relating to commercial space transportation and communicate to the Secretary recommendations on promising new ideas and approaches for Federal policies and programs.

C. Serve as a forum for the discussion of problems involving the relationship between industry activities and government requirements. Seek, where possible, to resolve such problems without resort to formal Departmental intervention.

IV. *Sponsor:* The Office of Commercial Space Transportation shall be the COMSTAC sponsor and shall furnish support services for the operation of the Committee. The Secretary shall designate a member of the Office staff to be Executive Director of the COMSTAC.

V. *Membership:* The COMSTAC shall be composed of up to 25 members, each of whom shall be appointed by the Secretary, after Departmental consultations with appropriate government agencies, industry and business organizations, the scientific community, and public interest groups.

VI. *Appointments:* Each member shall be appointed by the Secretary for a two-year term, with each member eligible to be reappointed. Terms shall be staggered with approximately one-half expiring each year. In the initial appointment of members, the Secretary shall specify which members shall serve one- and two-year terms. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Members shall continue to serve until their replacement has been appointed. The terms of all members expire upon termination of the COMSTAC Charter. A Chairperson and a Vice-Chairperson shall be appointed from among the membership by the Secretary.

Members may be represented at Committee meetings and activities by alternates representing the same interest as the member; alternates shall have the full rights and duties of membership. Appointment of an alternate shall be made by the member in writing, with the approval of the Committee Sponsor, at any time prior to the meeting or activity for which the appointment is made. Unless otherwise specified by the member, the appointment is valid for only one meeting or activity, including any continuation of that meeting or activity.

VII. *Meetings:* The COMSTAC shall meet at least once each calendar year, and upon the call of the chairperson, subject to the approval of the Executive Director. In the formative years of this commercial sector, it is anticipated that meetings will be convened with a greater frequency. In accordance with the FACA, no such meeting shall be held in the absence of the Executive Director or a Department employee alternate designated by the Executive Director. An agenda for each meeting must be approved in advance by the Executive Director, or designated alternate, who may cancel or adjourn any meeting when he or she determines that to do so is in the public interest. The following procedures shall govern the conduct of all COMSTAC meetings:

A. All COMSTAC meetings shall be open to the general public, except as provided under FACA.

B. Notice of each COMSTAC meeting shall be published in the **Federal Register** at least 15 days prior to the date of the meeting. The notice shall include the agenda.

C. The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson shall preside at each meeting.

D. Detailed minutes of each meeting shall be kept and certified by the Executive Director. The minutes shall contain:

1. A record of participants at the meeting;

2. A complete and accurate description of all matters discussed and conclusions reached; and

3. Copies of all reports received, issued, or approved by the COMSTAC.

E. The minutes, as certified by the Executive Director, shall be available for public inspection and copying in the office of the sponsor. Public availability of minutes or other documents received or generated by the COMSTAC are subject to applicable limitations and exceptions prescribed in the Freedom of Information Act (5 U.S.C. 552(b)).

VIII. *Travel and Expenses:* Committee members who are not officers or employees of the Federal Government are, while attending meetings or otherwise engaged in the business of the Committee, authorized travel and subsistence or per diem allowances (as appropriate) in accordance with Government regulations. All travel by individual members when engaged in official Committee business shall be approved in advance by the Chair and the Sponsor or the Sponsor's representative.

IX. *Estimated Cost and Support:* The estimated annual direct operating cost of the COMSTAC is $24,000, which includes travel and subsistence costs of members, printing, and miscellaneous related costs.

X. *Public Interest:* As a component of the President's National Space Policy which encourages U.S. private investment and involvement in civil space activities, the formation and operation of the COMSTAC is determined to be in the public interest.

XI. *Report to the Secretary:* Within 90 days following the last meeting of each calendar year, the Executive Director shall submit to the Secretary an annual report describing the COMSTAC's membership, activities, and accomplishments for the past calendar year. In addition, the Executive Director shall provide the Secretary with any interim reports upon request during the calendar year.

XII. *Effective Date:* This Charter is effective May 1, 1990, and terminates two years after this date unless prior to that time the Charter is extended in accordance with the FACA and other applicable requirements.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90-10249 Filed 5-02-90; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement: Towns of Epping, Brentwood, Exeter, Stratham, and Hampton, NH

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the Towns of Epping, Brentwood, Exeter, Stratham, and Hampton, Rockingham County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: James E. Gergler, P.E., Area Engineer, Federal Highway Administration, 55 Pleasant Street, Concord, New Hampshire, 03301, telephone (603) 225-1609, or William R. Hauser, Supervisor, Environmental Services Section, P.O. Box 483, New Hampshire Department of Transportation, J.O. Morton Building, Concord, NH 03302-0483, telephone (603) 271-3226.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the New Hampshire Department of Transportation (New Hampshire DOT) will prepare an environmental impact statement (EIS) on a proposed improvement to New Hampshire Route 101. The improvement will begin at a point in Epping 1½ miles east of New Hampshire Route 102 in Raymond and continue easterly 16 miles to just beyond the interchange with Interstate Route 95 in Hampton. Approximately 13 miles of this existing route consists of a two lane roadway within an existing four lane right of way. The goal of this proposal is to complete a four lane, limited (fully controlled) access highway from Interstate Route 93 in Manchester, New Hampshire, to Interstate Route 95 in Hampton, New Hampshire. This proposal will relieve traffic congestion on existing Route 101 which is currently two lanes and enhance the safety of the existing highway.

Alternatives under consideration include (1) taking no action; (2) upgrading existing New Hampshire

Route 101; (3) using alternate travel modes (mass transit); (4) employing transportation system management (TSM's); (5) constructing on new location; and (6) combinations of these alternatives. The completed proposal will be a limited (fully controlled) access facility about 16 miles in length. Various design concepts of grades, alignments, and design standards will be studied.

Letters describing the proposed action and soliciting comments/input will be sent to appropriate federal, state and local agencies, and to private organizations and citizens. A series of public informational meetings will be held in the project area between September 1990 and December 1991. A public hearing will be held following distribution of the Draft Environmental Impact Statement (DEIS). Public notice will be given of the time and place of all meetings and the hearing. The DEIS will be available for public and agency review and comment. A formal scoping meeting is planned to be held on June 5, 1990, which will include all public and private agencies believed to have an interest in the study area and the potential social, economic and environmental factors affected by the proposed action. Agencies to be invited to be cooperating agencies are the Environmental Protection Agency, the U.S. Army Corps of Engineers and the New Hampshire Wetlands Board.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the New Hampshire DOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Issued on: April 18, 1990.

Vincent F. Schimmoller,

Division Administrator, Concord, New Hampshire.

[FR Doc. 90-10290 Filed 5-2-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 26, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0060.
Form Number: CF 1300.
Type of Review: Extension.
Title: Master's Oath of Vessel in Foreign Trade.
Description: Customs Form 1300 is used by the master of a vessel to attest to the truthfulness of all other forms associated with the manifest. The form also serves to record information on tonnage tax to prevent overpayment of that tax.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 12,000.
Estimated Burden Hours Per Response/Recordkeeping: 5 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 21,991.
Clearance Officer: Dennis Dore (202) 535-9267, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-10258 Filed 5-2-90; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

[Supp. to Dept. Cir.—Public Debt Series—No. 11-90]

Treasury Notes, Series Y-1992

Washington, April 26, 1990.

The Secretary announced on April 25, 1990, that the interest rate on the notes designated Series Y-1992, described in Department Circular—Public Debt Series—No. 11-90 dated April 19, 1990, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-10283 Filed 5-2-90; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 86
Thursday, May 3, 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 DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, April 30, 1990, the Corporation's Board of Directors determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Mr. Jonathan Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of First Citizens Bank, Franklin, Tennessee, for the Corporation's consent to purchase the assets of and to assume the liability to pay deposits made in The First Bank of Maury County, Columbia, Tennessee, and for consent to establish the two offices of The First Bank of Maury County as branches of First Citizens Bank.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: April 30, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-10394 Filed 5-1-90; 11:23 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 8, 1990, 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This Meeting will Be Open to the Public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Revised Final Rules Regarding Debt Settlements (11 CFR Part 116)
Administrative Matters

DATE AND TIME: Tuesday, May 8, 1990, to Convene After the Open Meeting.

PLACE: 999 E Sreet NW., Washington, D.C.

STATUS: This meeting will be closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 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.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 90-10452 Filed 5-1-90; 3:39 pm]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., May 8, 1990.

PLACE: Hearing Room One, 1100 L Street N.W., Washington, D.C. 20573-0001.

STATUS: OPEN.

MATTER TO BE CONSIDERED: 1. Petition No. P3-89—Maximum Container Weights and Petition No. P4-89—Elimination of "Per Container" Rates—Consideration of Comments.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 90-10397 Filed 5-1-90; 11:49 am]

BILLING CODE 6730-01-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 30, 1990, at 11:10 a.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider (1) matters relating to the resolution of thrift institutions; (2) matters regarding the Corporation's supervisory activities; and (3) matters regarding the Corporation's internal administration activities.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director C.C. Hope, Jr., (Appointive), and Jonathan Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr., (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (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: May 1, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-10393 Filed 5-1-90; 11:23 am]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 55, No. 86
Thursday, May 3, 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.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-3

[FPMR Amdt. A-47]

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

Correction

In rule document 89-22201 beginning on page 38673 in the issue of Wednesday, September 20, 1989, make the following correction:

§ 101-3.4901-1166A(I-A) [Corrected]

On page 38675, in the second column, in amendatory instruction 11, in the first line, "101-3.4901-1166A(I)" should read "101-3.4901-1166A(I-A)"

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-10-4212-13; AZA-24408]

Realty Action; Exchange of Public Lands, Maricopa County, Arizona

Correction

In notice document 90-8489 beginning on page 13852, in the issue of Thursday, April 12, 1990, make the following corrections:

1. On page 13852, in the third column, under **Gila and Salt River Meridian, Arizona,** in the second line, "W½SE½" should read "W½SE¼".

2. On the same page, in the same column, under the same heading, in the third line, "Comprising 60" should read "Comprising 160".

3. On the same page, in the same column, in the last line "relinquish" was misspelled.

4. On page 13853, in the first column, in the 13th line, "NW¼," should read "NW¼.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940-00-5410-10-ZBJF, CACA 24528]

Conveyance of Mineral Interests in California

Correction

In notice document 90-7243 appearing on page 12059 in the issue of Friday, March 30, 1990, make the following correction:

On page 12059, in the third column, under **Mount Diablo Meridian,** in the fifth line, insert "1" after "Lots,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-00-4214-10; SDM 76798]

Partial Termination of Proposed Withdrawal and Termination of Segregation; South Dakota

Correction

In notice document 90-8742 appearing on page 14141, in the issue of Monday, April 16, 1990, make the following correction:

On page 14141, in the second column, in the 23rd line, "SE½NE¼,", should read "S½NE¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. 25784; PR 90-9]

Petition of Steven J. Wolff, et al.

Correction

In proposed rule document 90-9323 beginning on page 15240, in the issue of Monday, April 23, 1990, make the following corrections:

On page 15241, in the second column, under **Summary-Petition for Rulemaking,** in the third line, "Fountain" should read "Fourteen".

On page 15242, in the first column, in the fourth from last paragraph (designated (4)), in the last line, "any" should read "may".

BILLING CODE 1505-01-D

federal register

Thursday
May 3, 1990

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 15
Indemnification of Publishers of Aeronautical Charts and Maps; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 15

[Docket No. 25673; Amdt. No. 15-2]

Indemnification of Publishers of Aeronautical Charts and Maps

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This final rule establishes procedures to indemnify a publisher of aeronautical charts or maps if the publisher is liable for tort damages as a result of defective or deficient flight procedures or airways promulgated by the FAA and accurately depicted by the publisher on a chart or map.

EFFECTIVE DATE: June 4, 1990.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel, Litigation Division, AGC-400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267-3361.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1985, Congress amended the Federal Aviation Act of 1958 (FAAct) by adding section 1118, 49 U.S.C. 1519, entitled "Aeronautical Charts and Maps." This section provides for the execution of indemnification agreements between the United States and publishers of aeronautical charts or maps. Specifically, indemnification may be available to the publisher if the publisher is liable on a claim for damages arising out of the depiction on a chart or map of any defective or deficient flight procedure or airway, if this procedure or airway was promulgated by the Federal Aviation Administration (FAA) and was accurately depicted on the chart or map. The United States will not agree to indemnification for a claim which does not arise out of a defect or deficiency in the procedure or airway.

Indemnification is available only if the defect in the chart or map is the result of information provided by the FAA which is not obviously defective or deficient so that the error should have been detected by the publisher. In addition, the flight procedure or airway in question must have been depicted as designed by the Government. A "defective or deficient" flight procedure or airway includes any defect in the design, as well as the FAA's inclusion or omission of any feature, which makes the flight procedure or airway inherently hazardous. The determination that a flight procedure or airway is "defective or deficient" can be made only by the FAA, or by a court of competent jurisdiction.

On August 8, 1988, the FAA issued a Notice of Proposed Rulemaking (NPRM) (53 FR 31608; August 18, 1988) entitled "Indemnification of Publishers of Aeronautical Charts and Maps." The NPRM proposed regulations for public comment. The FAA received 8 written comments on the proposals contained in the NPRM.

Editorial Changes

Numerous editorial changes have been made to the proposed rules for purposes of clarification, formatting, and removal of redundancies. They include the renumbering and rearrangement of proposed sections and the placement of related provisions in the same section. For example, all exclusionary provisions have been grouped under § 15.103 and all notice requirements applicable to publishers have been placed under § 15.107. The provisions relating to settlements (§ 15.109), litigation (§ 15.111), indemnification agreements (§ 15.113), and payment (§ 15.115) have been reorganized and, where appropriate, redrafted for clarity. The FAA believes that these editorial changes, in addition to those discussed below, remove the ambiguities and redundancies cited by several commenters.

Discussion of Comments

One major theme presented by nearly all of the commenters is that the proposed regulations are too restrictive and, as such, could deny indemnification to publishers whom Congress intended to be indemnified. These commenters contend that the following aspects of the proposed procedures, among others, would frustrate the Congressional intent if implemented as proposed:

1. FAA determinations as to whether defects are "obvious;"

2. Stringent notice requirements;

3. Determinations by the FAA that the publisher did, or did not, negotiate a settlement in "good faith" or conduct a "good faith" defense;

4. Delays in executing indemnification agreements and in obtaining necessary funds; and

5. No indemnification proposed for certain costs, such as attorney fees and interest.

These comments, and others, will be discussed in greater depth below under the appropriate subject headings.

Applicability

Electronic Medium Aeronautical Data Bases

Noting that the Notice of Proposed Rulemaking (NPRM) refers only to charts and maps, one commenter requests that the proposed applicability section be expanded to include "electronic medium" aeronautical data bases. These bases store aeronautical data on diskettes, tapes, and other electronic storage devices. The data that is stored can be identical to that contained on paper charts and maps. This commenter requests that the final rule be expanded to permit indemnification of persons designing, manufacturing, and/or marketing electronic medium aeronautical data bases and/or products capable of utilizing them. This commenter believes that these companies should not be held liable when provided erroneous data by an agency of the United States Government.

The amendment which added a new section 1118 to the FAAct provides for agreements pursuant to which the United States will indemnify publishers of aeronautical charts or maps under appropriate circumstances. Section 1118 provides, in pertinent part, that "the United States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway * * *." Therefore, by the explicit terms of the statute, indemnification is limited to the publishers referenced in the new section, namely, those publishing aeronautical charts and maps.

After further reviewing section 1118 and its legislative history, the FAA cannot find any evidence as to whether Congress intended to indemnify persons that publish other than printed charts and maps. Without any clear indication of Congressional intent, the FAA turns to the Random House Dictionary of the English Language, Second Edition, Unabridged (1987) which defines the verb "to publish" as follows: "to issue (printed or otherwise reproduced textual or graphic material, computer software, etc.) for sale or distribution to the public." This definition is broad enough to encompass not only publishers of printed charts and maps, but also publishers of "electronic medium" data bases that store aeronautical data, if that data is of a type which is transmitted to, and visually displayed as a chart or map in, the cockpit of an

aircraft. The applicability section of this final rule has been expanded to cover this type of publisher of data bases.

Accurate Depiction

Another commenter believes that the phrase "for claims arising out of the publisher's accurate depiction on such chart of any defective or deficient FAA flight procedure or airway" needs to be clarified. According to this commenter, the words "accurate depiction" could be construed to require the use of the identical charting specifications and chart layouts used by the FAA. Such an interpretation of the statute would be incorrect, according to this commenter, for publishers are not required to use the FAA's chart specifications and designs. The only requirement is to produce a chart that gives the pilot an accurate pictorial presentation of the procedure described by the FAA.

To be eligible for indemnification, a publisher must, among other things, "accurately depict" or display, as applicable, the flight procedure or airway provided to it by the FAA. The FAA believes that the requirement to "accurately depict" or display FAA flight procedures and airways is unambiguous and that it cannot reasonably be interpreted to limit indemnification only to publishers who use the identical charting specifications and chart layout used by the FAA. Accordingly, the proposed language has been incorporated into this final rule and expanded to require the accurate display of flight procedures and airways by publishers of aeronautical data bases.

Exclusions

Under the proposed rules, a publisher could not be indemnified if the underlying cause of action against it arose prior to December 19, 1985 (the date of enactment of section 1118), or if the publisher is a state agency or public entity.

Underlying Cause

One commenter observes that section 1118 provides for indemnification without regard to the timing of the underlying cause which gives rise to a claim against the publisher. This commenter interprets "underlying cause," as used in proposed § 15.11, to mean the publication of defective information that leads to a claim against the publisher. As this commenter reads the statute, if the claim was filed against the publisher after December 18, 1985, irrespective of when the defective information was published, indemnification would be available.

Another commenter objects to the exclusion of claims where the underlying cause arose prior to December 19, 1985, stating that the statute does not restrict indemnification in this manner. This commenter interprets "underlying cause" to be the accident or aircraft crash that gave rise to the claim. This commenter believes that indemnification should be provided in cases wherein a judgment was rendered on or after December 19, 1985. Still another commenter comes to this same conclusion contending that the legislative history supports this position.

In the absence of specific statutory language to the contrary, Congressional statutes apply prospectively rather than retroactively. Since section 1118 does not provide for indemnification retroactively, the FAA concludes that it requires indemnification in appropriate cases based on some act or occurrence that takes place on or after December 19, 1985, the date of its enactment.

Neither the statute nor its legislative history provides any guidance concerning the act or occurrence that would trigger the right to indemnification. In the absence of a statement of Congressional intent, the FAA believes that the right to indemnification should attach at the moment (on or after December 19, 1985) when the potential need for it first arises. This would not be when an accident or incident occurs, for these events, without more, could not justify a request for indemnification. The potential need for it would first arise when a publisher first receives a demand for the payment of damages, or a civil complaint alleging that the publisher is liable for damages, arising out of its publication of a defective or deficient flight procedure or airway. Therefore, this final rule specifies that indemnification is available only if the demand or complaint is first received by the publisher on or after December 19, 1985. A request for indemnification will be considered in such case even if the underlying cause arose prior to enactment of the statute, so long as the demand or complaint for indemnification is made or filed on or after the date of enactment.

Persons Excluded

One commenter mistakenly states that "private entities" are excluded under the proposed exclusionary section (§ 15.11(b)) while "private publishers" are included under the proposed applicability section. Such an inconsistency could give rise to confusion in the view of this commenter.

Private entities would not be excluded under the proposed exclusionary provision; however, it was proposed to exclude *public* entities under proposed § 15.11(b). Thus, the apparent inconsistency noted by the commenter does not exist.

Exclusion of State Agencies and Public Entities

This same commenter also objects to the exclusion of state agencies and public entities under § 15.11(b).

The FAA agrees with this commenter that the FAAct contemplates coverage of state agencies and public entities. Section 1118 provides for the indemnification of "persons" and that term, under section 101 of the FAAct, includes "bodies politic." The FAA believes that this term is broad enough to include state agencies and public entities. Accordingly, the exclusionary language as proposed in § 15.11, as it relates to those agencies and entities, has been deleted.

Notification Requirements

This proposed section provides, among other things, that the publisher must notify the Chief Counsel of the FAA of its first receipt of a complaint in which it appears that indemnification may be appropriate. Under the proposed section, the notice must be received by the Chief Counsel within 30 days of the publisher's receipt of the complaint.

Correction

Paragraph (a) of proposed § 15.13 makes reference to the time limits set forth in that section. That paragraph erroneously referred to "the time limits described in paragraph (a) or (b) of § 15.13." In fact, the time limits are set forth in paragraphs (b) and (c) rather than in paragraphs (a) and (b). This error is corrected in the final rule.

Use of the Word "Appropriate"

Commenting on the provision requiring notice when indemnification "may be appropriate," one commenter states, in essence, that use of the word "appropriate" implies that the FAA may be granting itself authority to reject a proper request for indemnification.

In response to this comment, the FAA has revised proposed § 15.13(a) by deleting the word "appropriate" and substituting therefor the word "required." Thus, this final rule provides that the publisher must give notice to the FAA in those cases in which it appears that indemnification under section 1118 "may be required."

Time Limits

Several commenters state that the publisher generally will not know

whether a flight procedure is defective within 30 days of receipt of a complaint. The suggestions for revising this notice requirement are varied. One commenter suggests that notice be given within 60 days of service of the complaint if the complaint, on its face, reasonably indicates that indemnification may be required. If not, the publisher should have 60 days from the date it reasonably determines that indemnification is required. In any event, according to this commenter, notice should be given within six months of receipt of the complaint. This commenter also states that, if notice were given as proposed in the NPRM, the case would not have developed sufficiently to permit the FAA to determine whether indemnification is required.

While acknowledging that a claim for indemnification must be made within a reasonable time, another commenter states that 30 days is not sufficient time to determine whether such a claim can be made. According to this commenter, 60 days is adequate time to notify the FAA of an action or occurrence, if the publisher is aware of the action or occurrence and reasonably believes that it *may* lead to a claim for indemnification.

The FAA agrees that 30 days from receipt of a complaint may not be sufficient time to notify the FAA that indemnification may be required. Accordingly, this final rule provides that such notice must be given within 60 days after receipt of a complaint.

The FAA, however, does not agree that any longer period of time should be allowed to permit the publisher to "reasonably determine" if indemnification may be required, or that the notice requirement should not apply unless the publisher "reasonably believes" that an action or occurrence may lead to a claim for indemnification. Such language could lead to lengthy delays in notifying the FAA. These delays would deprive the Government of an opportunity to evaluate the case or participate in it when appropriate. A lengthy delay in giving notice to the FAA also could delay settlement in cases in which a prompt settlement is appropriate. This would thereby unjustifiably increase the litigation costs of all parties. Moreover, the FAA believes that 60 days is sufficient time for reviewing the pleadings, consulting with counsel, and ascertaining whether indemnification may be required. This prompt notice to the FAA will afford the Government a reasonable opportunity to protect its legitimate interests.

Conduct of the Action

This proposed section would require, among other things, that:

(1) The publisher agree to cooperate in the defense of the action with the United States when the United States is impleaded as a third-party defendant;

(2) The publisher provide any additional information requested by the United States;

(3) The FAA notify the publisher within 60 days of receipt of the publisher's initial notice, or within 60 days of receipt of additional information, whichever is later, if it determines that the publisher's claim does not require indemnification; and

(4) The publisher provide a copy of any adverse decision to the FAA not more than 3 days after it is rendered.

Cooperation Between FAA and the Publisher

One commenter suggests that proposed § 15.14 should be redrafted to promote cooperation between the FAA and the publisher, since a failure to cooperate would be equally detrimental to both. This commenter suggests that the FAA and the publisher should agree on tactics and conduct (including discovery), legal ethics, arguments, any determination to remove to Federal court, and settlement discussions. In the opinion of this commenter, such agreements would minimize costs.

The FAA agrees that cooperation between the FAA and the publisher is essential to the conduct of a proper defense and to the achievement of a proper settlement where appropriate. Proposed § 15.14 was drafted with this cooperation in mind. However, while the FAA contemplates and supports a high degree of cooperation between the publisher and the Government, the Government must not compromise its right to make determinations on an independent basis in the public interest. For this reason, the proposal that the Government and the publisher agree on tactics and the conduct of the litigation has not been adopted.

Request for Additional Information

Several commenters object to what they perceive to be the possibility of an unlimited request for information. One of the commenters suggests that there be reasonable restrictions on the scope and subject of requests, such as limiting the requests to information reasonably necessary to enable the FAA to determine whether the elements for indemnification are present or whether the amount of a proposed settlement is reasonable.

The FAA does not intend to delay the indemnification of publishers in proper cases through the imposition of burdensome requests for information. The FAA intends to request only such additional information deemed necessary for the conduct of a proper defense. Moreover, the FAA believes that it would not be appropriate to place prior restrictions on the scope or subject of the information it may need to request, for it is impossible to determine in advance of an action what information may be deemed essential for the preparation of a proper defense. Accordingly, the provisions regarding requests for additional information have been adopted as proposed.

Denial of Requests for Indemnification

With regard to the FAA's denial of requests for indemnification, one commenter states that denials should be based only on the inability of the publisher to demonstrate one or more of the three statutory criteria. Further, this commenter states that the factual basis for each denial should be clearly described.

The FAA does not agree that indemnification is required in all cases in which the statutory criteria are met. If, for example, the publisher does not conduct a good faith defense, or if the publisher fails to respond to reasonable requests for additional information, thereby undermining the United States' efforts to prepare a proper defense, indemnification may not be required. This restriction is consistent with the legislative history of section 1118 which states that the Government may impose additional provisions to protect its legitimate financial and litigation interests. Therefore, the FAA has not adopted the proposal which would have permitted a denial of indemnification only in those cases in which the publisher could not demonstrate one or more of the statutory criteria. However, the FAA agrees that the basis for a denial should be clearly stated, and proposed § 15.14(c) has been revised accordingly.

Determinations by the FAA

This commenter also states that the FAA should determine whether indemnification is required within 60 days after receiving the publisher's notice and should notify the publisher of its determination within that period of time.

The FAA does not agree that it should be bound to determine the appropriateness of indemnification within 60 days after receiving the publisher's notice. Clearly, there will be

occasions when the FAA cannot determine whether indemnification is required under the statute until a final adverse judgment is rendered or a good faith settlement is reached. These events cannot be expected to occur always within 60 days of the notice given by the publisher. Further, in many cases, it may be entirely inappropriate for the Government to agree to indemnification and to enter into settlement agreements prior to final judgment or settlement of a case. Moreover, the statute does not address the timing of indemnification agreements. In the absence of such language, the FAA believes that the statute should be interpreted to require that such agreements be entered into within a reasonable time after it is determined that indemnification is required. For the above reasons, the FAA has not adopted the proposal to require a determination of the appropriateness of indemnification within 60 days after notice.

Notice of Adverse Decisions

On further review and consideration, the FAA concludes that 3 days may not be sufficient time for the publisher to give the FAA notice of adverse decisions, especially in cases where the decision is rendered the day before a 3-day holiday. Accordingly, this final rule provides 5 business days for notice of adverse decisions.

Settlements

This section sets forth the proposed procedures for approving proposed settlements.

Time for Approval of Settlement

Several commenters object to the provision in paragraph (a) which affords the FAA 60 days to decide whether it will approve a proposed settlement. These commenters stress the need to move expeditiously on proposed settlements, especially in the final days before a trial. One of these commenters states that the 60-day approval period would, in effect, preclude the approval of settlements within 60 days of trial, the time when many settlements are consummated. Other commenters state that the proposed approval period would unduly delay settlements thereby increasing the costs of all parties. All commenters recommend a much shorter review and approval period, especially during the hours before trial.

While 60 days may appear to be an excessive period of time for review and approval of proposed settlements by the Government, coordination within the Government reasonably can be expected to take up to 60 days in some cases. Proposed settlements must be reviewed by various levels within the FAA and the Department of Justice before a decision is reached. The proposed rule provides for a maximum of 60 days for the FAA to consider the proposed settlement. For the above reasons, the 60-day review period has been adopted as proposed. Efforts will be made to reach a decision in less than 60 days, if possible. Additionally, any approval period, whether 60 days, 30 days, or shorter, could conflict with a trial schedule. When such conflicts occur, the parties can advise the court that a settlement has been reached subject to Government approval and can file a motion to continue the trial date to permit the Government to evaluate the settlement. Since all the litigants can be expected to support or join in the motion, it is reasonable to expect that the court would grant it.

Approval and Disapproval of Settlements

One commenter questions whether the Chief Counsel has been delegated authority to approve or reject proposed settlements. This commenter states that such approvals or rejections should be made by the FAA Administrator.

The FAA agrees that the decision whether to approve or disapprove a proposed settlement should be made by the FAA Administrator. However, in some cases, approval of a settlement by the United States Department of Justice may be required. The proposal has been revised accordingly.

In addition, a new provision has been added requiring the publisher to release the United States from further liability once a settlement is reached. This provision will prevent a publisher from executing a comprehensive settlement, then improperly requesting additional compensation from the United States.

Explanation for Rejection of Settlements

Two commenters observe that the Chief Counsel would be required under the proposal to notify the publisher if he determines that indemnification is inappropriate. One commenter states that, in fairness, the FAA should provide an explanation as to why a proposed settlement is not approved by the Government. The other commenter contends that this notice provision should be moved to another section because it does not belong in a section which addresses settlements.

The FAA agrees that the notice provided by the FAA to the publisher should at least briefly set forth why the Government has not approved the proposed settlement. This final rule, as adopted, provides for such an explanation.

On the other hand, the FAA does not agree that the notice provisions regarding approval or disapproval should be set forth in another section of the final rule. Since notice to the publisher will contain the Government's approval or rejection of the proposed settlement, and the reasons for any rejection, the FAA believes that these notice provisions belong in the section relating to settlement. Therefore, this suggestion has not been adopted.

Obvious Defects

One commenter objects to having the Chief Counsel determine that a depiction is inaccurate or contains an obvious defect. The commenter suggests that such findings will be challenged on appeal and, if overturned, could result in additional expense to the Government. This commenter also states that decisions such as these should be made by the Administrator absent a specific delegation to the Chief Counsel.

As part of the process of evaluating requests for indemnification, the FAA must determine if a depiction is inaccurate or contains an obvious defect, since such determinations are required by section 1118 before indemnification can be approved. Since these determinations involve legal issues, participation of the Chief Counsel necessarily will be required even though the decision to approve or disapprove requests for indemnification will be made by the Administrator.

The Term "Obviously Defective"

Two commenters express concern that the term "obviously defective" is unclear and could be misconstrued. They state that the term could be interpreted in such a way as to impose on the publisher a duty to verify the accuracy of information provided by the FAA. One commenter even suggests that, under the proposed rule, the publisher could be held liable to the FAA for failure to verify. One of these commenters recommends that the final rule be clarified by at least providing clear examples of "obvious defects." The other commenter suggests that the proposed rule be revised to clarify that "obvious defects" are those which are obvious "on their face" and in the context of other information provided, but not obvious based upon physical testing or inspection.

The proposed rules do not of themselves impose a duty on the publisher to verify the accuracy of information provided by the FAA. Nor do the rules themselves impose any liability on a publisher for failure to verify the accuracy of information

supplied. The publisher need only depict the flight procedure or airway as represented by the FAA.

The FAA agrees with the comment which states that "obvious defects" are those which are obvious "on their face" and in the context of other information provided. This final rule uses the term "obviously defective;" however, the rule should not be interpreted as imposing a requirement upon a publisher to verify the accuracy of information provided by the FAA through physical testing, inspection, or any other means.

"Good Faith" Determinations

Several commenters object to the provisions that would permit the FAA to reject a request for indemnification upon a finding by the Chief Counsel that the publisher has not conducted a "good faith defense" or that a proposed settlement appears not to have been negotiated in "good faith." One commenter views these standards as being too subjective. It states that the FAA should specify the acts or inactions of the publisher that constitute a lack of good faith. Other commenters state that the FAA is not in a position fairly to judge the adequacy of a defense or settlement. According to these commenters, these determinations should be made by a court or administrative law judge.

"Good faith" is defined, in pertinent part, in *Black's Law Dictionary*, (4th ed.), as follows: "an honest intention to abstain from taking any unconscientious advantage of another." This is what is meant by "good faith" in the proposed rules. The FAA believes that it is reasonable to hold a publisher to such a standard. The failure of a publisher to conduct a good faith defense or to negotiate a settlement in good faith could result in an improper shifting of liability from the publisher to the Government. This, in turn, could result in the unjustified expenditure of public funds to indemnify a publisher who was responsible for the error and the resulting accident or occurrence.

Consistent with the legislative history of section 1118, the term "good faith" was introduced into the proposed rules as a safeguard to protect the Government's legitimate financial and litigation interests. If the "good faith" requirements should be used instead as a means improperly to avoid indemnification, the publisher's recourse is to seek judicial review of the FAA's denial of indemnification. Moreover, to refer "good faith" issues initially to a court or administrative law judge, as suggested by one commenter, could lead to additional litigation costs and the lengthy administrative delays that many commenters clearly wish to avoid. For these reasons, the final rule does not permit indemnification if a publisher does not negotiate a settlement in good faith or does not conduct a good faith defense.

Adverse Judgments

This section sets forth the proposed procedure for processing requests for indemnification after an adverse judgment is entered against a publisher. It proposed that the publisher notify the FAA of its claim for indemnification within 5 days after a judgment is rendered against the publisher or within 30 days after denial of an appeal. It also proposed that the Chief Counsel notify the publisher if its claim for indemnification does not meet the requirements of section 1118. Finally, the Administrator would determine whether the publisher had conducted a "good faith" defense.

Redundancy

One commenter suggests that, beyond the first sentence, this section is redundant and should be deleted.

Like this commenter, another commenter states that the proposed section seems to impose redundant notice requirements since, under proposed § 15.13, the publisher must notify the FAA that indemnification may be appropriate long before a judgment is rendered. This commenter states that the section affords the Chief Counsel another opportunity to evaluate the claim to determine if it meets the requirements of section 1118 of the Act.

The notice requirements set forth in proposed § 15.16 are not redundant. The initial notice given under § 15.13 is to permit the Government to participate from the beginning in actions brought against the publisher, or to prepare for other measures which it considers appropriate to protect the public interest. The post-judgment notice requirements set forth under § 15.16 are intended to ensure that the FAA has prompt notice of adverse judgments so that it can expeditiously evaluate the publisher's claim for indemnification to determine if it must be paid by the Government.

The FAA necessarily must evaluate the claim after judgment to determine whether it must indemnify the publisher. Although an initial evaluation is done after the § 15.13 notice is received by the FAA, a number of intervening events could occur after the initial evaluation to alter the FAA's initial assessment of the claim. For example, it may not be clear initially as to whether indemnification is required, and the final court judgment may decide the question. Or, it may appear initially that indemnification may be required, but subsequent events, such as a failure to conduct a good faith defense, may alter the preliminary decision to indemnify. Accordingly, this provision has been adopted as proposed.

Ambiguity

Another commenter states that the proposed section is confusing in that the last sentence refers to a determination made by the Administrator without specifying what that determination is. Also with regard to the last sentence, still another commenter states that the phrase "a claim for indemnification with respect to the judgment" is ambiguous.

The FAA agrees that the last sentence of proposed § 15.16 is confusing in certain respects and requires revision. First, the intent of the proposed section is to reject requests for indemnification if, after a judgment is entered, it is determined that the publisher does not meet the requirements of section 1118 or did not conduct a good faith defense. Both of these decisions ultimately will be made by the FAA Administrator, and the proposed section has been revised accordingly.

In addition, the FAA agrees that the proposal requiring one to "notify the Chief Counsel of its claim for indemnification with respect to the judgment" is unclear. The notice provided must specify that: (1) There was an adverse judgment against the publisher; and (2) the publisher has a claim for indemnification arising out of that adverse judgment. The proposed section has been revised accordingly.

Payment

This proposed section specifies the source from which funds would be obtained for indemnification, what costs would and would not be indemnified, and what subrogation would be available.

Delays in Making Payment

Several commenters object to the payment scheme set forth under proposed § 15.17(a). They express concern that the publisher may have to pay the adverse judgment while awaiting approval of a special appropriation from Congress. They consider this provision inappropriate or in conflict with section 1118. One of these commenters states that payment of the claim should be made out of agency funds as soon as the judgment is final or the obligation to pay damages is certain.

The FAA agrees that funds should be obtained by a means other than a

special appropriation from Congress. Accordingly, the FAA will follow the procedures mandated for obtaining the necessary indemnification proceeds from the Judgment Fund. This fund, which is administered by the General Accounting Office, contains funds for the payment of obligations owed by the United States. By adopting this approach, which will require the approval of the Department of Justice (DOJ), the Government should be able to pay valid claims within a reasonable time after a judgment is final or the obligation to pay the claim is otherwise certain. Proposed § 15.17 has been revised to incorporate this approach for the payment of appropriate claims.

Delays in Executing Indemnification Agreements

Several commenters take issue with the provision in proposed § 15.17(a) which addresses the execution of indemnification agreements. One commenter interprets the section to mean that the agreement to indemnify would be executed only after an adverse judgment is rendered (or settlement approved). According to this commenter, the intent of section 1118 is to require execution of the agreement when the three statutory requirements are met, not only after the publisher has litigated the matter. Another commenter states that the agreement should be executed promptly after it is determined that the three criteria are met. Still another commenter states that the FAA must negotiate an agreement before an action against the publisher is initiated if the FAA's negligence has been demonstrated.

Proposed § 15.17(a) would not require delaying the execution of an indemnification agreement until a settlement is reached or a judgment rendered. On the contrary, it proposes that the FAA prepare and execute an indemnification agreement once the Chief Counsel determines that the requirements of section 1118 have been met. However, since the agreement will require payment of the publisher's claim out of the Judgment Fund, DOJ approval will be required prior to its execution by the FAA and the publisher. This final rule provides that DOJ approval is required and that the Administrator makes the determinations regarding indemnification.

Costs and Fees Not Indemnified

Several commenters object to some or all of the items excluded from indemnification under the proposal. One commenter states that special and punitive damages, attorney fees, and incidental expenses should be covered. Another commenter states that Congress intended publishers to be indemnified for all reasonable costs, attorney fees, incidental expenses, and interest. Two other commenters state that, based on their reading of section 1118, there is no basis for excluding the costs proposed to be excluded under paragraph (b). One of these commenters contends that the exclusion of these costs is unreasonable in view of the obligations that the FAA proposes to impose on the publisher. Another commenter questions what type of attorney fees the FAA proposes to exclude.

With reference to the exclusions from coverage set forth under proposed § 15.17(b), under the Federal Tort Claims Act (FTCA) the United States is not liable for punitive or exemplary damages. In any event, the likelihood of such damages being sought or awarded in these cases is extremely remote, since any error that would give rise to Government liability would likely be innocent rather than intentional. Moreover, the FTCA also prohibits the assessment of civil and criminal fines and other litigation sanctions against the United States.

Ordinarily, the Government does not pay costs and fees associated with litigation against third parties. However, a limited exception to this policy is justified when a publisher, at the request of or with the concurrence of the Government, conducts a good faith defense against a claim or pursues an appeal in good faith. In instances such as these, where the Government has determined that an appeal is justified, it will pay the reasonable costs and fees incurred by the publisher, including the publisher's reasonable attorney fees and prejudgment interest but it will not pay attorney fees in excess of those allowed by law under the Equal Access to Justice Act (5 U.S.C. 335). The Government will not pay these costs if the publisher pursues an appeal without the Government's request or concurrence. To pay appeal costs, regardless of the merits of a case, would encourage frivolous appeals and unjustifiably increase the costs reimbursed by the Government.

Correction

Proposed § 15.17(b) provides that the FAA may direct the publisher to appeal from an adverse decision. Since the Government is without authority to direct the publisher to pursue litigation in any form, it is inappropriate to suggest that a defense or appeal can be initiated "at the direction of * * * "the FAA." Therefore, this phrase has been revised to provide that the FAA may request that the publisher appeal from an adverse decision. However, if the publisher refuses to appeal, the FAA may deny the request for indemnification.

Subrogation

One commenter questions the meaning of the last sentence of proposed § 15.17(b). The sentence provides, in pertinent part, that "[n]o payment shall be recommended unless the indemnification agreement provides that the Government shall be subrogated to all claims * * * of the publisher." This commenter appears to view subrogation as a ploy to avoid indemnification in proper circumstances.

It is entirely appropriate and essential for the Government to be subrogated to all claims of the publisher and that the publisher be required to agree to this. Once the Government agrees to indemnify, it must succeed to the publisher's rights in order to pursue reimbursement of costs in appropriate circumstances. To provide otherwise would permit the publisher to obtain a double recovery. Accordingly, payment will not be "made" (proposed § 15.17(b) used the term "recommended") unless the Government is subrogated to all the publisher's claims.

Failure to Follow Required Procedures

One commenter states that the new rules should contain language providing that publishers who fail to follow the procedures set forth in the rules will not be indemnified while those which do follow the prescribed procedures must be indemnified.

The intent of the new rules is to require indemnification in those cases in which the publisher meets all the requirements set forth in the statute and complies with the procedures in this final rule. In some instances, however, the FAA may elect to provide indemnification even though one or more procedures in this rule have not been followed, especially if the failure to comply is deemed insignificant and has not undermined the Government's interest. For this reason, the FAA considers it inappropriate to adopt this comment.

Indemnification Under Other Laws

One commenter expresses the concern that the new rules may be interpreted to mean that the publisher may not obtain indemnification under other applicable laws in instances wherein it cannot make a case for indemnification under section 1118.

This final rule reasonably cannot be interpreted to preclude a publisher from

pursuing any other available legal remedies where indemnification under section 1118 is not required.

Economic Summary

Executive Order 12291 dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" proposals except those responding to emergency situations or other narrowly defined exigencies. A "major" proposal is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition or is highly controversial.

Analysis of Benefits and Costs

The FAA has estimated the benefits and costs associated with this rule. The rule implements section 1118 of the Federal Aviation Act. That section requires the United States government to indemnify a publisher of aeronautical charts or maps when the publisher incurs liability as a result of publishing a chart or map accurately depicting a defective or deficient FAA flight procedure or airway.

Each section of this rule implements the statutory mandate of section 1118. The rule also gives effect to the stated intent of Congress in that it sets forth requirements which will protect the Government's legitimate financial and litigation interests. The rule merely provides an orderly procedure for the payment of costs for which the Government would be liable in any event. The financial impact of section 1118 is a transfer of funds under appropriate conditions. For these reasons, this rule implementing the statute will not result in any additional cost to society. On the other hand, by requiring that the Government be promptly notified of its potential liability, and by requiring that the Government be promptly provided with all information needed to assess its potential liability, this rule should promote prompt and just settlements. It will thereby help to avoid costly and burdensome litigation and delays. It will in this way be beneficial to society.

For these reasons, this final rule is not considered major under E.O. 12291. Moreover, because the impact is limited merely to insignificant administrative costs, the impact is so minimal that it does not warrant a full regulatory evaluation.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small carriers."

For the reasons stated above in the cost/benefit analysis, this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities.

Since there is no cost associated with this rule, the FAA has determined that it will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

This rule will have no impact on trade opportunities for U.S. firms doing business overseas or on foreign firms doing business in the United States.

Federalism Implications

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

Conclusion

Since this rule merely provides an orderly procedure for the prompt payment of damages for which the Government otherwise would be liable, thereby helping to avoid costly litigation and delays, its impact will only be a minimal, positive one. Therefore, the FAA has determined that this amendment is not major under Executive Order 12291 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since the impact of this rule involves only minor administrative costs, it is certified that under the criteria of the Regulatory Flexibility Act this amendment will not have a significant economic impact, positive or negative, on a substantial number of entities. Because of the absence of any costs attendant with this rule, the FAA has determined that the expected impact of these regulations is so minimal that they do not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 15

Aeronautical charts, administrative claims, indemnification procedures, aircraft accident investigation information.

The Amendment

Accordingly, the FAA adopts a new subpart B to part 15 of the Federal Aviation Regulations (14 CFR part 15) as follows:

PART 15—ADMINISTRATIVE TORT CLAIMS UNDER FEDERAL TORT CLAIMS ACT

1. The authority citation for part 15 is revised to read as follows:

Authority: 49 U.S.C. 1354; 49 U.S.C. APP 1519; 5 U.S.C. 301; 28 U.S.C. 2672, 2675; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, Jan. 12, 1983).

2. 14 CFR 15.1 through 15.9 are designated as subpart A—General Procedures.

3. A new subpart B is added to read as follows:

Sec.

15.101 Applicability.
15.103 Exclusions.
15.105 Filing of requests for indemnification.
15.107 Notification requirements.
15.109 Settlements.
15.111 Conduct of litigation.
15.113 Indemnification agreements.
15.115 Payment.

Subpart B—Indemnification Under Section 1118 of the Federal Aviation Act of 1958.

§ 15.101 Applicability.

This subpart prescribes procedural requirements for the indemnification of a publisher of aeronautical charts or maps under section 1118 of the Federal Aviation Act of 1958, as amended, when the publisher incurs liability as a result of publishing—

(a) A chart or map accurately depicting a defective or deficient flight procedure or airway that was promulgated by the FAA; or

(b) Aeronautical data that—

(1) Is visually displayed in the cockpit of an aircraft; and

(2) When visually displayed, accurately depicts a defective or deficient flight procedure or airway promulgated by the FAA.

§ 15.103 Exclusions.

A publisher that requests indemnification under this part will not be indemnified if—

(a) The complaint filed against the publisher, or demand for payment

against the publisher, first occurred before December 19, 1985;

(b) The publisher does not negotiate a good faith settlement;

(c) The publisher does not conduct a good faith defense;

(d) The defective or deficient flight procedure or airway—

(1) Was not promulgated by the FAA;

(2) Was not accurately depicted on the publisher's chart or map;

(3) Was not accurately displayed on a visual display in the cockpit, or

(4) Was obviously defective or deficient;

(e) The publisher does not give notice as required by § 15.107 of this part and that failure is prejudicial to the Government; or

(f) The publisher does not appeal a lower court's decision pursuant to a request by the Administrator under § 15.111(d)(2) of this part.

§ 15.105 Filing of requests for indemnification.

A request for indemnification under this part—

(a) May be filed by—

(1) A publisher described in § 15.101 of this part; or

(2) The publisher's duly authorized agent or legal representative;

(b) Shall be filed with the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; and

(c) Shall state the basis for the publisher's assertion that indemnification under this part is required.

§ 15.107 Notification requirements.

A request for indemnification will not be considered by the FAA unless the following conditions are met:

(a) The publisher must notify the Chief Counsel of the FAA, within the time limits prescribed in paragraph (b) or (c) of this section, of the publisher's first receipt of a demand for payment, or service of a complaint in any proceeding, federal or state, in which it appears that indemnification under this part may be required.

(b) For each complaint filed, or demand for payment made, on or after December 19, 1985, and before June 4, 1990, the notice required by paragraph (a) of this section must be received by the FAA on or before July 2, 1990.

(c) For each complaint filed, or demand for payment made, on or after June 4, 1990, the notice required by paragraph (a) of this section must be received by the FAA within 60 days after the day the publisher first receives the demand for payment or service of the complaint.

(d) Within 5 days after the day a judgment is rendered against the publisher in any proceeding, or within 30 days of the denial of an appeal, whichever is later, the publisher must notify the FAA Chief Counsel that—

(1) There is an adverse judgment against the publisher; and

(2) The publisher has a claim for indemnification against the FAA arising out of that judgment.

§ 15.109 Settlements.

(a) A publisher may not settle a claim with another party, for which the publisher has sought, or intends to seek, indemnification under this part, unless—

(1) The publisher submits a copy of the proposed settlement, and a statement justifying the settlement, to the Chief Counsel of the FAA; and

(2) The Administrator and where necessary, the appropriate official of the Department of Justice, approves the proposed settlement.

(3) The publisher submits a signed release that clearly releases the United States from any further liability to the publisher and the claimant.

(b) If the Administrator does not approve the proposed settlement, the Administrator will—

(1) So notify the publisher by registered mail within 60 days of receipt of the proposed settlement; and

(2) Explain why the request for indemnification was not approved.

(c) If the Administrator approves the proposed settlement, the Administrator will so notify the publisher by registered mail within 60 days after the FAA's receipt of the proposed settlement.

(d) If the Administrator does not have sufficient information to approve or disapprove the proposed settlement, the Administrator will request, within 60 days after receipt of the proposed settlement, the additional information needed to make a determination.

§ 15.111 Conduct of litigation.

(a) If a lawsuit is filed against the publisher and the publisher has sought, or intends to seek, indemnification under this part, the publisher shall—

(1) Give notice as required by § 15.107 of this part;

(2) If requested by the United States—

(i) Implead the United States as a third-party defendant in the action; and

(ii) Arrange for the removal of the action to Federal Court;

(3) Promptly provide any additional information requested by the United States; and

(4) Cooperate with the United States in the defense of the lawsuit.

(b) If the lawsuit filed against the publisher results in a proposed settlement, the publisher shall submit that proposed settlement to the FAA for approval in accordance with § 15.109 of this part.

(c) If the lawsuit filed against the publisher results in a judgment against the publisher and the publisher has sought, or intends to seek, indemnification under this part as a result of the adverse judgment, the publisher shall—

(1) Give notice to the FAA as required by § 15.107(d) of this part;

(2) Submit a copy of the trial court's decision to the FAA Chief Counsel not more than 5 business days after the adverse judgment is rendered; and

(3) If an appeal is taken from the adverse judgment, submit a copy of the appellate decision to the FAA Chief Counsel not more than 30 days after that decision is rendered.

(d) Within 60 days after receipt of the trial court's decision, the Administrator by registered mail will—

(1) Notify the publisher that indemnification is required under this part;

(2) Request that the publisher appeal the trial court's adverse decision; or

(3) Notify the publisher that it is not entitled to indemnification under this part and briefly state the basis for the denial.

§ 15.113 Indemnification agreements.

(a) Upon a finding of the Administrator that indemnification is required under this part, and after obtaining the concurrence of the United States Department of Justice, the FAA will promptly enter into an indemnification agreement providing for the payment of the costs specified in paragraph (c) of this section.

(b) The indemnification agreement will be signed by the Chief Counsel and the publisher.

(c) The FAA will indemnify the publisher for—

(1) Compensatory damages awarded by the court against the publisher;

(2) Reasonable costs and fees, including reasonable attorney fees at a rate not to exceed that permitted under the Equal Access to Justice Act (5 U.S.C. 504), and any postjudgment interest, if the publisher conducts a good faith defense, or pursues a good faith appeal, at the request, or with the concurrence, of the FAA.

(d) Except as otherwise provided in this section, the FAA will not indemnify the publisher for—

(1) Punitive or exemplary damages;

(2) Civil or criminal fines or any other litigation sanctions;
(3) Postjudgment interest;
(4) Costs;
(5) Attorney fees; or
(6) Other incidental expenses.

(e) The indemnification agreement must provide that the Government will be subrogated to all claims or rights of the publisher, including third-party claims, cross-claims, and counterclaims.

§ 15.115 Payment.

After execution of the indemnification agreement, the FAA will submit the agreement to the United States Department of Justice and request payment, in accordance with the agreement, from the Judgment Fund.

James D. Busey,

Administrator.

Issued in Washington, DC, on April 26, 1990.

[FR Doc. 90-10181 Filed 5-2-90; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
May 3, 1990

Part III

The President

Proclamation 6125—Law Day, U.S.A., 1990

Part III

The President

Federal Register
Vol. 55, No. 86
Thursday, May 3, 1990

Presidential Documents

Title 3—

The President

Proclamation 6125 of May 1, 1990

Law Day, U.S.A., 1990

By the President of the United States of America

A Proclamation

For more than 30 years, our Nation has proudly observed May 1 as Law Day, U.S.A. On this day we pause to give thanks for America's guarantee of liberty, opportunity, and justice for all. We also rededicate ourselves to upholding that great promise. In so doing, we honor all those who have labored—and often sacrificed—to win and protect our freedom and to preserve individual rights and the rule of law throughout the United States.

Our Nation's Founding Fathers knew that the rule of law and, indeed, the strength of our Nation itself are advanced through the protection of individual rights. The most fundamental of these rights are eloquently affirmed in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." In 1789, members of the first Congress demonstrated their determination to defend these rights when they passed and submitted to the States for ratification the first ten amendments to the Constitution. These amendments are known as the Bill of Rights. No more noble, concise, and just statement of the proper relationship of citizens to their government has ever before or since been enacted into law.

This is a time of great change in our Nation and our world. As we begin the new decade, fledgling democracies in other countries mirror our ideals of liberty and justice for all. The blessings of liberty have never been more apparent to the world, and, perhaps, never more appreciated by each and every one of us.

This year's Law Day theme, "Generations of Justice," underscores the principles and ideals for which so many Americans fought and died. It illuminates the tenacious commitment of our people to preserve a free, open, and just society in a rapidly changing and complex world. The "Generations of Justice" theme also underscores our obligation to guarantee justice and equal protection under the law for all Americans, regardless of age, sex, race, or creed.

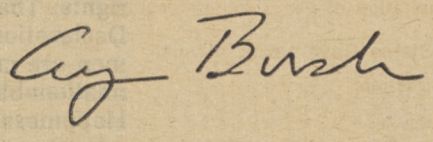
As we reflect on the theme of "Generations of Justice," we are especially mindful of our obligation to provide legal protection to the most vulnerable among us: Americans at both ends of the spectrum of human life. The preborn child at risk of becoming addicted to drugs or infected with HIV as a result of his mother's substance abuse; the severely disabled or premature infant who requires specialized treatment; the senior citizen threatened by exploitation or experiencing difficulties in obtaining housing and medical care—each of these Americans is an heir to the rights enumerated in our Nation's founding documents. Each of these Americans needs and deserves protection under law, as well as in practice.

As the guardians of our Nation's most cherished liberties, the members of the legal profession have a special obligation to reach out to those in need. Whether mentoring a young man or woman searching for direction, befriending a lonely senior citizen, or caring for the homeless and the hungry, members of the legal profession have always been there to help.

If we are to preserve this Nation's freedom, and the peace and security we so enjoy, we must faithfully uphold the principles enshrined in our Constitution and Declaration of Independence. Thus, on this Law Day, let us renew our determination to defend the God-given rights of all Americans. Let us strive to ensure that "Generations of Justice" always remains a shining hallmark of our Nation's judicial system.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim Tuesday, May 1, 1990, as Law Day, U.S.A. I urge all Americans to observe this day by reflecting upon the timeless ideals enshrined in our Declaration of Independence and Constitution and the importance of the rule of law in protecting the rights of every individual. I call upon the legal profession, schools, libraries, government agencies, the media, clergy, and businesses, as well as civic and voluntary service organizations, to promote the observance of this day through appropriate programs, ceremonies, and activities. I also call upon all public officials to display the flag of the United States on all government buildings on this day.

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



[FR 90–10551
Filed 5–2–90; 12:15 pm]
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Reader Aids

Federal Register

Vol. 55, No. 86

Thursday, May 3, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18073-18302.....1
18303-18584.....2
18585-18716.....3

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6030 (See Proc. 6123).....18075
6122.....18073
6123.....18075
6124.....18585
6125.....18715

Executive Orders:
12675 (Amended by EO 12712).....18077
12712.....18077

Administrative Orders:
Memorandums:
Apr. 26, 1990.....18298

Presidential Determinations:
No. 90-17 of Apr. 25, 1990.....18587
No. 90-18 of Apr. 25, 1990.....18589

7 CFR

2.....18097
3.....18591
13.....18591
400.....18097
927.....18097
1012.....18098
1139.....18303

Proposed Rules:
301.....18342
1762.....18606
1941.....18607
1943.....18607
1945.....18607

9 CFR

71.....18099
82.....18099

Proposed Rules:
94.....18342
114.....18345

10 CFR

590.....18227

Proposed Rules:
50.....18608

12 CFR

207.....18591
220.....18591
221.....18591
224.....18591

Proposed Rules:
563g.....18610
741.....18613

13 CFR

302.....18593
309.....18594

Proposed Rules:
120.....18614
124.....18615

14 CFR

15.....18704
23.....18570
39.....18304, 18305
71.....18100

Proposed Rules:
Ch. I.....18702
21.....18346
29.....18346
39.....18349, 18350
71.....18122, 18123
75.....18351

15 CFR

Proposed Rules:
290.....18124

17 CFR

200.....18306
230.....18306

18 CFR

271.....18100

19 CFR

Proposed Rules:
122.....18352
133.....18353

21 CFR

177.....18595, 18596
178.....18597
179.....18227, 18538
444.....18597
510.....18330
558.....18330, 18598

Proposed Rules:
450.....18617

22 CFR

Proposed Rules:
212.....18620

24 CFR

49.....18490
203.....18490
207.....18490
213.....18490
221.....18490
234.....18490
237.....18490
510.....18490
570.....18490

25 CFR

Proposed Rules:
61.....18128

26 CFR

Proposed Rules:
1..... 18626, 18639

28 CFR

Proposed Rules:
0..... 18130

30 CFR

Proposed Rules:
250..... 18639

32 CFR

847..... 18600

33 CFR

100..... 18600
151..... 18578

37 CFR

1..... 18230

Proposed Rules:
301..... 18131
306..... 18131

38 CFR

3..... 18601
21..... 18603

Proposed Rules:
21..... 18641, 18642

40 CFR

52.....18106–18110, 18604
61..... 18330
261..... 18496
271..... 18496
272..... 18112
280..... 18566
302..... 18496

Proposed Rules:
52..... 18131
82..... 18256
261.....18132, 18507, 18643

41 CFR

101–3..... 18702
271..... 18507
302..... 18507

42 CFR

405..... 18331

43 CFR

3100..... 18604

Public Land Orders:
1697 (Revoked)..... 18335
6777..... 18335

44 CFR

64..... 18113, 18336
65..... 18115, 18116
67..... 18117

Proposed Rules:
67..... 18138

46 CFR

25..... 18578

Proposed Rules:
58..... 18142
160..... 18142

47 CFR

15..... 18339

Proposed Rules:
21..... 18354
43..... 18354
73..... 18355
74..... 18354
78..... 18354
94..... 18354

48 CFR

1501..... 18340

Proposed Rules:
9..... 18296

49 CFR

Proposed Rules:
27..... 18644
171..... 18438
172..... 18438
173..... 18438
174..... 18546
175..... 18546
177..... 18546
396..... 18355

50 CFR

650..... 18604
658..... 18120
672..... 18605

Proposed Rules:
17..... 18357

LIST OF PUBLIC LAWS

Last List April 27, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S. 1096/Pub. L. 101–277

To provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73–A of the Indian Claims Commission. (Apr. 30, 1990; 104 Stat. 143; 4 pages) Price: $1.00

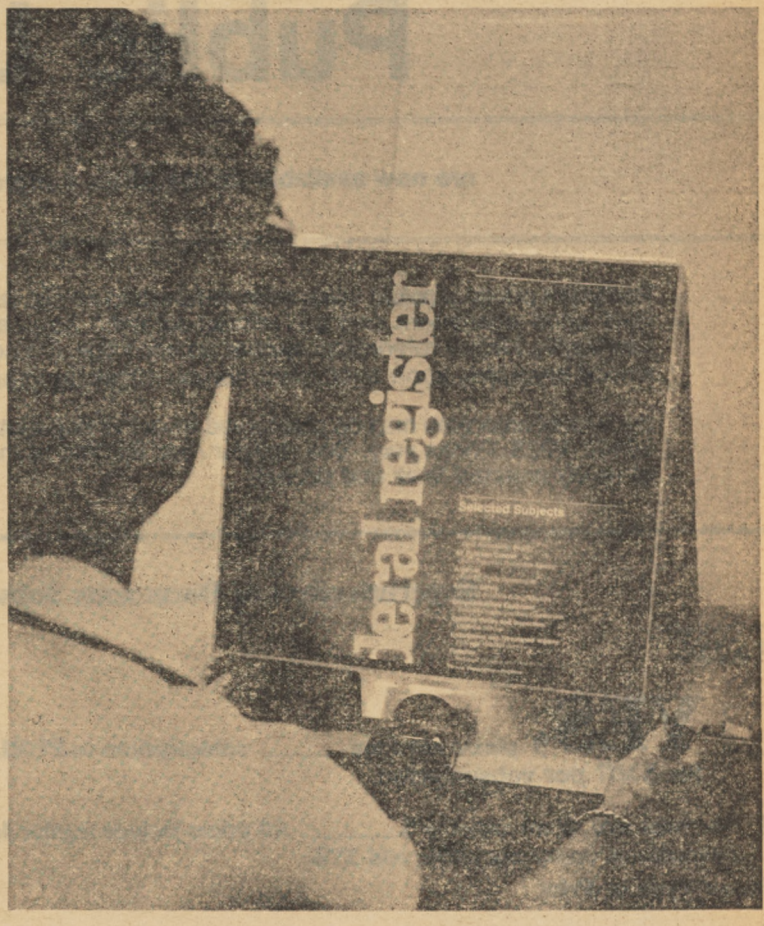
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