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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 726]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from July 15 through July 21, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

DATES: Regulation 726 (7 CFR part 910) is effective for the period from July 15 through July 21, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The production area is divided into three districts which span California and Arizona. The largest proportion of lemon production is located in District 2, Southern California, which represented 57 percent of total production in 1988–89. District 3 is the desert area of California and Arizona and represented 31 percent of 1988–89 production. District 1 in Central California represented 12 percent. The Committee's estimate of 1989–90 production is 39,324 cars (one car equals 1,000 cartons at 38 pounds net weight each), as compared with 41,759 cars during the 1988–89 season.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. The Committee estimates that about 42 percent of the 1989–90 crop of 39,324 cars will be utilized in fresh domestic channels (16,500 cars), compared with the 1988–89 total of 16,500 cars, about 41 percent of the total production of 41,759 cars in 1988–89. Fresh exports are projected at 22 percent of the total 1989–90 crop utilization compared with 19 percent in 1988–89. Processed and other uses would account for the residual 36 percent compared with 39 percent of the 1988–89 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for lemons tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the Department

which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on July 10, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand unanimously recommended that 400,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1989–90 marketing policy. This recommended amount is 40,000 cartons above the estimated projections in the shipping schedule.

During the week ending on July 7, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 372,000 cartons compared with 369,000 cartons shipped during the week ending on July 8, 1989. Export shipments totaled 141,000 cartons compared with 150,000 cartons shipped during the week ending on July 8, 1989. Processing and other uses accounted for 246,000 cartons compared with 133,000 cartons shipped during the week ending on July 8, 1989.

Fresh domestic shipments to date this season total 15,537,000 cartons compared with 15,340,000 cartons shipped by this time last season. Export shipments total 7,247,000 cartons compared with 7,707,000 cartons shipped by this time last season. Processing and other use shipments total 11,976,000 cartons compared with 15,269,999 cartons shipped by this time last season.

For the week ending on June 30, 1990, regulated shipments of lemons to the fresh domestic market were 372,000 cartons on an adjusted allotment of 382,000 cartons which resulted in net undershipments of 10,000 cartons. Regulated shipments for the current week (July 8 through July 14, 1990) are estimated at 410,000 cartons on an adjusted allotment of 415,000 cartons. Thus, undershipments of 5,000 cartons could be carried over into the week ending on July 21, 1990.

The average f.o.b. shipping point price for the week ending on July 7, 1990, was $14.19 per carton based on a reported sales volume of 373,000 cartons compared with last week's average of $14.16 per carton on a reported sales volume of 423,000 cartons. The season average f.o.b. shipping point price to date is $13.51 per carton. The average f.o.b. shipping point price for the week ending on July 8, 1989, was $15.02 per carton; the season average f.o.b. shipping point price at this time last season was $12.19 per carton.

The National Agricultural Statistics Service indicates a 1989–90 California-Arizona lemon crop of about 38,800,000 cartons, three percent less than the 1988–89 utilized production total of 40,000,000 cartons. However, 1989–90 fresh domestic use may total 16,500,000 cartons, about equal to that in 1988–89, as indicated in the Committee's schedule of weekly shipments.

The Department's Market News Service reported that, as of July 10, demand for first-grade fruit ranging in size from 75 to 140 is good and the market is "steady" for all grades and sizes of lemons. At the meeting, most Committee members characterized demand as very good on all sizes and grades of lemons. Several Committee members commented on the continued high level of second grade and small-sized lemons in storage and the need to move that fruit in an orderly fashion. Committee members discussed different levels of volume regulation as well as open movement. The Committee unanimously recommended volume regulation for the period from July 15 through July 21, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1989–90 season average fresh on-tree price is estimated at $8.64, 115 percent of the projected season average fresh on-tree parity equivalent price of $7.50 per carton. The 1988–89 season average fresh equivalent on-tree price for California-Arizona lemons was $7.27 per carton, 105 percent of the 1988–89 parity equivalent price.

Limiting the quantity of lemons that may be shipped during the period from July 15 through July 21, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until July 10, 1990, and this action needs to be effective for the regulatory week which begins on July 15, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note.—This section will not appear in the Code of Federal Regulations.

2. Section 910.726 is added to read as follows:

§ 910.726 Lemon Regulation 726.

The quantity of lemons grown in California and Arizona which may be handled during the period from July 15

through July 21, 1990, is established at 400,000 cartons.

Dated: July 11, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-16554 Filed 7-13-90; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 89-175]

RIN 0579-AA20

Animal Welfare; Guinea Pigs, Hamsters, and Rabbits

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for the humane handling, care, treatment, and transportation of guinea pigs, hamsters, and rabbits by revising the space requirements for primary enclosures and reinstating requirements concerning the temperature and ventilation in cargo spaces in primary conveyances. These actions are necessary to ensure the humane handling of these animals in transport, to update the regulations, and, in accordance with the 1985 amendments to the Animal Welfare Act (7 U.S.C. 2131 *et seq.*), to make the regulations more consistent with other Federal regulations and guidelines concerning the handling, care, treatment, and transportation of these animals.

EFFECTIVE DATE: This rule shall become effective August 15, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. Morley Cook, REAC, APHIS, USDA, Room 206, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6491.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare regulations (the regulations) are contained in title 9 of the Code of Federal Regulations, chapter 1, subchapter A, parts 1, 2, and 3. Part 1 provides definitions of the terms used in parts 2 and 3. Part 2 sets forth the administrative and institutional responsibilities of regulated persons under the Animal Welfare Act (7 U.S.C. 2131 *et seq.*) (the Act). Part 3 provides specifications for the humane handling, care, treatment, and transportation, by regulated entities, of animals covered by the Act.

Proposals to amend parts 1 and 2 of the regulations were published in the Federal Register on March 31, 1987 (52 FR 10292-10298 Docket. No. 84-027, and 52 FR 10298-10322, Docket No. 84-010, respectively). We solicited comments for a 60-day comment period, ending June 1, 1987. The comment period was twice extended, ending on August 27, 1987. We received 7,857 comments, many of which stated that it was difficult to comment upon the proposals to amend parts 1 and 2 independently of our proposal to amend the standards in part 3. In response to comments, we published revised proposals on parts 1 and 2, along with a proposed rule to amend Part 3, on March 15, 1989 (54 FR 10822-10835, Docket No. 88-013; 54 FR 10835-10897, Docket No. 88-014; and 54 FR 10897-10954, Docket No. 87-004, respectively).

We solicited comments on the interrelationship of parts 1 and 2 with part 3 for a 60-day period, ending May 15, 1989. Five thousand five hundred eighty-two comments, received or postmarked by that date, were considered in preparing final rules for parts 1 and 2. (Any that also pertained to part 3, subparts B or C, were also considered in preparing this final rule.) These final rules were published in the Federal Register on August 31, 1989 (54 FR 36112-36123, Docket No. 89-130, and 54 FR 36123-36163, Docket No. 89-131, respectively). We solicited comments on the proposal to amend part 3 for a 120-day period, ending July 13, 1989. Approximately 10,800 comments were received in time to be considered.

This final rule amends the regulations in subparts B and C of part 3, which contain standards for the humane handling, care, treatment, and transportation of guinea pigs and hamsters, and rabbits, respectively. Rulemaking pertaining to subparts A and D of part 3, which contain standards for the humane handling, care, treatment, and transportation of cats and dogs, and primates, respectively, is being undertaken separately.

Subparts B and C are amended in this final rule to revise the space requirements for primary enclosures; to reinstate requirements concerning the temperature and ventilation in cargo spaces in primary conveyances used to transport guinea pigs, hamsters, or rabbits; and to provide that any person who is subject to these regulations is responsible for complying with their requirements. These actions are necessary to ensure the humane handling of guinea pigs, hamsters, and rabbits in transport; to update the regulations; and, in accordance with the 1985 amendments to the Act, to make the regulations more consistent with other Federal regulations and guidelines concerning the handling, care, treatment, and transportation of these animals.

Public Comments

A relatively small number of the 10,800 comments we received on our proposal to amend part 3 of the regulations concerned subparts B and C, the standards for the humane handling, care, treatment, and transportation of guinea pigs and hamsters, and rabbits. We have considered all of these comments in preparing this final rule. Comments containing suggestions or objections to these amendments are discussed below. In addition to these comments, 156 comments supported the proposed amendments.

Primary Enclosures: Objections To Increased Space

A number of commenters objected, in general, to our proposed increases in floor space and interior cage height for guinea pigs, hamsters, and rabbits.

One hundred and ninety-eight members of the research or scientific community, 5 dealers, and 1 member of the general public said that the increase in height of primary enclosures for guinea pigs is of questionable value. Two hundred and twelve members of the research or scientific community, 9 dealers, and 3 members of the general public said the interior cage height for guinea pigs should remain unchanged.

One hundred and seventy-three members of the research or scientific community, 4 dealers, and 4 members of the general public said there is no scientific justification for increasing the height of primary enclosures for hamsters. One hundred and twelve researchers and 2 dealers said the interior cage height for hamsters should remain unchanged. In addition, 136 members of the research or scientific community maintained that increasing the required minimum floor space for hamsters would not benefit the hamsters' welfare.

Three hundred and five members of the research or scientific community, 2 dealers, and 3 members of the general public said that there is no scientific justification for increasing the height of primary enclosures for rabbits. Twenty members of the research or scientific community, 2 dealers, and 13 members of the general public said space requirements in primary enclosures for rabbits should remain unchanged.

As we noted in the proposed rule (54 FR 10911, March 15, 1989), the space requirements adopted in this rule reflect

our consultations with other Federal agencies.

The Animal Welfare Act directs the Secretary of Agriculture to—

> consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 2143 of this title and in carrying out the purposes of this chapter.
>
> (7 U.S.C. 2145(a))

In preparing these rules, we consulted with the Department of the Interior, U.S. Fish and Wildlife Service (USFWS), which regulates transportation of wild birds and animals into the United States. The Act also directs the Secretary of Agriculture to "consult with the Secretary of Health and Human Services prior to issuance of regulations" (7 U.S.C. 2145(a)). The Department of Health and Human Services, through the Public Health Service, The National Institutes of Health (NIH), currently issues guidelines on the care and use of animals studied in biomedical research. The guidelines cover dogs and cats, guinea pigs and hamsters, rabbits, and nonhuman primates. These NIH guidelines are in a document entitled "Guide for the Care and Use of Laboratory Animals" (NIH Guide or Guidelines). The NIH Guide is widely accepted by scientific institutions as a primary reference on animal care and use. While the Animal Welfare Act and regulations address a broader range of activities and facilities than the NIH Guide, Congress' intent in requiring consultation with the Department of Health and Human Services is to ensure that, whenever possible, the regulations and the NIH Guidelines are consistent:

> The Conferees expect the Secretary of Agriculture to have full responsibility for enforcement of the Animal Welfare Act. However, the Conferees also recognize that a portion of the nation's research facilities fall under regulation from more than one agency. While the legislative mandate of each agency is different, and they may regulate different aspects of animal care, it is hoped that the agencies continue an open communications to avoid conflicting regulations wherever possible or practice. [*sic*]
>
> (See Conference Report, *Congressional Record* of December 17, 1985, at page H12422.)

We have consulted extensively with NIH representatives concerning standards for the humane care, handling, treatment, and transportation of dogs and cats, guinea pigs and hamsters, rabbits, and nonhuman primates. We have reviewed our existing regulations and the NIH Guidelines. In addition, we have considered comments raised by member agencies of the Interagency Research Animal Committee, which is comprised of Federal agencies that conduct research using animals. We have also consulted with experts and professional organizations and have sought their recommendations on appropriate standards to accomplish our goal. We considered all of this information in proposing the revised space requirements for primary enclosures for guinea pigs, hamsters, and rabbits. These space requirements are substantially identical to the current NIH Guidelines. Based on all of the information available to us, we have determined that these space requirements are appropriate and adequate.

However, there may be circumstances under which alternative space requirements may be acceptable. Therefore, under §§ 3.28(c)(3) and 3.53(c)(3) of this final rule, innovative primary enclosures that do not precisely meet the space requirements of this final rule, but that do provide rabbits, guinea pigs, or hamsters with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by the Institutional Animal Care and Use Committee, and by dealers and exhibitors when approved by the Administrator. It should be noted that "Administrator," as used in these regulations, is defined as "the Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, *or any other official of the Animal and Plant Health Inspection Service to whom authority has been delegated to act in his stead* [emphasis added]."

Most commenters opposing the proposed changes also said that the cost of complying with the increase in cage sizes would be prohibitive. Several commenters requested that we continue to allow use of existing cages that meet the current space requirements. We agree that there could be substantial costs involved in replacing cages to satisfy the new space requirements. To ease the financial burden of complying with the new space requirements, the amendments to §§ 3.28(c) and 3.53(c) that increase the minimum space in primary enclosures shall not apply to primary enclosures acquired before the effective date of this final rule. Primary enclosures acquired before that date and meeting the current space requirements may continue to be used until such time as they need to be replaced because of wear. While we belive that the new space requirements have certain advantages, our review of the rulemaking record and other available information leads us to the conclusion that a comparison of the advantages of increased cage sizes with the costs of compliance strongly suggests that it is appropriate to phase in the new cage size requirements.

Primary Enclosures; Other Comments

Four members of the research or scientific community said that a nursing dwarf hamster and her litter should be allowed to be housed with the father of the litter because male hamsters of this species engage in beneficial paternal behavior. The current regulations do not permit housing of a dwarf hamster and her litter with the father of the litter, or with any other hamsters. We did not propose any change to this provision. Our rationale is twofold: (1) In the absence of other hamsters that could disturb the nursing female and her litter, the incidence of cannibalism is substantially reduced or eliminated; and (2) fighting between male and female adults, which occurs because the female is generally only receptive to the male during the short period of estrus, is prevented.

Three members of the research or scientific community and 4 members of the general public said there should be no reduction in floor space for nursing guinea pigs and their litters. The proposed reduction in floor space for nursing guinea pigs and their litters was based on information supplied by the National Association for Biomedical Research (NABR), which, in May 1987, petitioned us to delete our requirement for additional space for breeder guinea pigs. The two studies cited by NABR in support of its petition were summarized in the proposed rule to amend Part 3. The results of these studies continue to provide a basis for changing our regulations concerning space requirements for breeder guinea pigs, including nursing guinea pigs with litters.

Three members of the general public said that the current limitations on the number of hamsters per primary enclosure should be maintained; and 21 members of the research or scientific community and 1 member of the general public said that we should specify the number of hamsters allowed per primary enclosure based on the weight of the animals. Our proposed rule made no change to § 3.36(d), which provides that not more than 50 live hamsters shall be transported in the same primary enclosure. This provision, coupled with

the requirements concerning cage size, is sufficient to ensure that hamsters have adequate space in primary enclosures used to transport them. We do not believe that specifying a set number of hamsters per primary enclosure, based on the weight of the animals, would serve any useful purpose.

Three members of the general public maintained that we should follow the Guidelines of the Royal Society and Universities Federation for Animal Welfare with respect to floor space for rabbits. These Guidelines recommend more floor space per rabbit than our proposal. Also, 6 members of the research or scientific community, 8 dealers, and 1,821 members of the general public said that rabbit cages need to be large enough to allow normal postural adjustment, including full extension of front and back legs. We have determined that the proposed space requirements for rabbits will provide sufficient room for rabbits to make normal postural adjustments. This includes full extension of front and back legs while lying down.

Temperature Requirements

Two members of the transportation industry objected to the proposed requirements concerning temperature and ventilation in cargo spaces on primary conveyances used to transport guinea pigs, hamsters, or rabbits. The commenters asserted that compliance with these requirements would be impossible because most aircraft in use today do not have mechanical ventilation or cooling systems in cargo compartments. We have made no changes to the proposed rule based on this comment. While many aircraft may not have mechanical ventilation or cooling systems in cargo compartments, data provided to the Federal Aviation Administration by airline manufacturers shows the ambient temperature range in most airline holds to range between 45 and 75 °F (7.2 and 23.9 °C).[1] Auxiliary ventilation would not be required unless the temperature reached 75 °F or higher.

Two members of the general public stated that certificates of acclimation to temperatures lower than 45 °F should not be issued for rabbits. We have made no changes to the proposed rule based on this comment. Except when a certificate of acclimation accompanies live rabbits, the cargo space containing the animals must be at temperatures no lower than 45 °F. While temperatures under 45 °F would not be suitable for most rabbits, some rabbits are acclimated to cooler temperatures and could be transported in these temperatures without distress. Certificates of acclimation must be issued by veterinarians accredited by the U.S. Department of Agriculture, who certify by that document that the animal is acclimated to temperatures lower than 45 °F.

One member of the research or scientific community said that hamsters can tolerate much colder temperatures than 45 °F, which is normally the minimum temperature permitted in cargo holds in which hamsters are transported. Some hamsters probably can tolerate temperatures below 45 °F. The regulations allow for this by providing that hamsters accompanied by a certificate of acclimation may be transported in cargo holds where the ambient temperature is below 45 °F.

Executive Order 12291 and Regulatory Flexibility Act

The animal welfare regulations are contained in title 9 of the Code of Federal Regulations, chapter 1, subchapter A, parts 1, 2, and 3. Part 1 provides definitions of the terms used in parts 2 and 3. Part 2 describes the administrative and institutional responsibilities of regulated entities. Part 3 contains requirements for the humane handling, care, treatment, and transportation of animals covered by the Animal Welfare Act.

This final rule amends the regulations in part 3, subparts B and C, which contain standards for the humane handling, care, treatment, and transportation of guinea pigs and hamsters, and rabbits, respectively. The amendments revise the space requirements for primary enclosures and reinstate temperature and ventilation requirements for cargo spaces in primary conveyances used to transport guinea pigs, hamsters, and rabbits.

The amendments to part 3, subparts B and C, were proposed in a document published in the **Federal Register** on March 15, 1989 (54 FR 10897–10954, Docket No. 87–004). This document also contained proposed amendments to part 3, subparts A and D, which contain standards for the humane handling, care, treatment, and transportation of cats and dogs, and nonhuman primates, respectively.

The Department has elected to finalize the amendments to subparts B and C separately. This decision is based on (1) the relatively small number of comments received on these amendments, as compared with the comments received on the proposed amendments to subparts A and D; and (2) the selection of an implementation plan that minimizes the economic impact of these amendments on regulated entities. As announced in a **Federal Register** notice published on April 2, 1990 (55 FR 12202–12203, Docket No. 90–007), the Department intends to publish a reproposal for subparts A and D. Parts 1 and 2 of the animal welfare regulations were amended by a final rule published in the **Federal Register** on August 31, 1989 (54 FR 36112–36163, Docket No. 89–130).

The Department is issuing this final rule for subparts B and C in conformance with Executive Order 12291, the Regulatory Flexibility Act, and Departmental Regulation 1512–1, which require analyses of the economic impact of regulations. Preliminary regulatory impact and regulatory flexibility analyses indicated that all of the proposed amendments to the animal welfare regulations (Parts 1, 2 and 3) taken together would constitute a "major rule" and would have a significant economic impact on a substantial number of small regulated entities.

With respect to the amendments to part 3, subparts B and C, however, the Department is promulgating the regulations in a manner that will minimize, if not eliminate, the economic impact on regulated entities. Specifically, the provisions in revised §§ 3.28 and 3.53 that increase the minimum space required for primary enclosures will not apply to primary enclosures acquired before the effective date of this final rule. Primary enclosures acquired before that date and meeting the current space requirements may continue to be used. Available information indicates that polycarbonate cages normally last from 3 to 6 years, and stainless steel cages over 25 years. Information from industry also indicates that most animal cage manufacturers have adopted size standards for guinea pig, hamster, and rabbit cages that are consistent with the new minimum size requirements in this final rule. Therefore, replacement cages meeting the new space requirements of this final rule will be readily available from commercial sources.

In addition, this final rule will allow use of alternative space arrangements under certain conditions. That is, innovative primary enclosures that do not precisely meet the space requirements of this final rule, but that do provide rabbits, guinea pigs, or hamsters with a sufficient volume of space and opportunity to express species-typical behavior, may be used at research facilities when approved by the

[1] For additional information, contact Dr. Morley Cook, REAC, APHIS, USDA, Room 206, 6505 Belcrest Road, Hyattsville, MD 20782.

Institutional Animal Care and Use Committee, and by dealers and exhibitors when approved by the Administrator.

These alternatives were developed in response to comments that said the cost of complying with the increase in cages sizes would be prohibitive. The Department believes that the adoption of these alternatives in part 3, subparts B and C, of the animal welfare regulations will minimize any costs to regulated entities which may result from these rules.

The Department does not anticipate any additional compliance costs to be incurred by small intermediate handlers or carriers because of amended temperature and ventilation requirements for cargo spaces in primary conveyances used to transport guinea pigs, hamsters, or rabbits.

The above discussion summarizes the Department's regulatory impact and flexibility analysis concerning the amendments to part 3, subparts B and C. The complete analysis is available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC., between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

In addition, the Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), we have submitted the information collection provisions included in this final rule to the Office of Management and Budget (OMB) for approval. Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please submit a duplicate copy of your comments to the Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

List of Subjects in 9 CFR Part 3

Animal welfare, Humane animal handling, Pets, Transportation.

Accordingly, we are amending 9 CFR part 3, subparts B and C, as follows:

PART 3—STANDARDS

1. The authority citation for part 3 is revised to read as follows, and the authority citations following all the sections are removed.

Authority: 7 U.S.C. 2131–2156; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 3.28, the heading for paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 3.28 Primary enclosures.

* * * * *

(b) *Space requirements for primary enclosures acquired before August 15, 1990.*

* * * * *

(c) *Space requirements for primary enclosures acquired on or after August 15, 1990*—(1) *Guinea pigs.* (i) Primary enclosures shall be constructed and maintained so as to provide sufficient space for each guinea pig contained therein to make normal postural adjustments with adequte freedom of movement.

(ii) The interior height of any primary enclosure used to confine guinea pigs shall be at least 7 inches (17.78 cm).

(iii) Each guinea pig shall be provided a minimum amount of floor space in any primary enclosure as follows:

Weight or stage of maturity	Minimum floor space	
	in²	cm²
Weaning to 350 grams	60	387.12
>350 grams	101	651.65
Nursing females with their litters	101	651.65

(2) *Hamsters.* (i) Primary enclosures shall be constructed and maintained so as to provide sufficient space for each hamster contained therein to make normal postural adjustments with adequate freedom of movement.

(ii) The interior height of any primary enclosure used to confine hamsters shall be at least 6 inches (15.24 cm).

(iii) Except as provided in paragraph (c)(2)(iv) of this section, each hamster shall be provided a minimum amount of floor space in any primary enclosure as follows:

Weight		Minimum floor space per hamster	
g	ozs	in²	cm²
<60	<2.1	10	64.52
60 to 80	2.1–2.8	13	83.88
80 to 100	2.8–3.5	16	103.23
>100	>3.5	19	122.59

(iv) A nursing female hamster, together with her litter, shall be housed in a primary enclosure that contains no other hamsters and that provides at least 121 square inches of floor space: Provided, however, That in the case of nursing female dwarf hamsters such floor space shall be at least 25 square inches.

(3) Innovative primary enclosures that do not precisely meet the space requirements of paragraph (c)(1) or (c)(2) of this section, but that do provide guinea pigs or hamsters with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by the Institutional Animal Care and Use Committee, and by dealers and exhibitors when approved by the Administrator.

3. In § 3.36, the introductory text is revised to read as follows:

§ 3.36 Primary enclosures used to transport live guinea pigs and hamsters.

No person subject to the Animal Welfare regulations shall offer for transportation, or transport, in commerce any live guinea pig or hamster in a primary enclosure that does not conform to the following requirements:

* * * * *

4. In § 3.37, a new paragraph (g) is added to read as follows:

§ 3.37 Primary conveyances (motor vehicle, rail, air, and marine).

* * * * *

(g) The animal cargo space of primary conveyances used to transport guinea pigs or hamsters shall be mechanically sound and provide fresh air by means of windows, doors, vents, or air conditioning so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as fans, blowers, or air conditioners, shall be used in any cargo space containing live guinea pigs or hamsters when the ambient temperature in the animal cargo space is 75 °F (23.9 °C) or higher. The ambient temperature within the animal cargo space shall not exceed 85 °F (29.5 °C) or fall below 45 °F (7.2 °C), except that the ambient temperature in the cargo space may be below 45 °F (7.2 °C) for hamsters if the hamsters are accompanied by a certificate of

acclimation to lower temperatures, as provided in § 3.35(c) of this part.

5. In § 3.40, the first two sentences are revised to read as follows:

§ 3.40 Terminal facilities.

No person subject to the Animal Welfare regulations shall commingle shipments of live guinea pigs or hamsters with inanimate cargo. All animal holding areas of a terminal facility where shipments of live guinea pigs or hamsters are maintained shall be cleaned and sanitized as prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. * * *

6. In § 3.41, the introductory text in paragraph (a) is revised to read as follows:

§ 3.41 Handling.

(a) Any person who is subject to the Animal Welfare regulations and who moves live guinea pigs or hamsters from an animal holding area of a terminal facility to a primary conveyance or vice versa shall do so as quickly and efficiently as possible. Any person subject to the Animal Welfare Act and holding any live guinea pig or hamster in an animal holding area of a terminal facility or transporting any live guinea pig or hamster to or from a terminal facility shall provide the following: * * *

* * * * *

7. In § 3.53, the heading for paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 3.53 Primary enclosures.

* * * * *

(b) *Space requirements for primary enclosures acquired before August 15, 1990.*

* * * * *

(c) *Space requirements for primary enclosures acquired on or after August 15, 1990.*

(1) Primary enclosures shall be constructed and maintained so as to provide sufficient space for the animal to make normal postural adjustments with adequate freedom of movement.

(2) Each rabbit housed in a primary enclosure shall be provided a minimum amount of floor space, exclusive of the space taken up by food and water receptacles, in accordance with the following table:

	Individual weights		Minimum floor space		Minimum interior height	
	kg	lbs	m^2	ft^2	cm	in
Individual rabbits (weaned)	<2	<4.4	0.14	1.5	35.56	14
	2–4	4.4–8.8	0.28	3.0	35.56	14
	4–5.4	8.8–11.9	0.37	4.0	35.56	14
	>5.4	>11.9	0.46	5.0	35.56	14

	Weight of nursing female		Minimum floor space/ female & litter		Minimum interior height	
	kg	lbs	m^2	ft^2	cm	in
Females with litters	<2	<4.4	0.37	4.0	35.56	14
	2–4	4.4–8.8	0.46	5.0	35.56	14
	4–5.4	8.8–11.9	0.56	6.0	35.56	14
	>5.4	>11.9	0.70	7.5	35.56	14

(3) Innovative primary enclosures that do not precisely meet the space requirements of paragraph (c)(2) of this section, but that do provide rabbits with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by the Institutional Animal Care and Use Committee, and by dealers and exhibitors when approved by the Administrator.

8. In § 3.61, the introductory text is revised to read as follows:

§ 3.61 Primary enclosures used to transport live rabbits.

No person subject to the Animal Welfare regulations shall offer for transportation or transport in commerce any live rabbit in a primary enclosure that does not conform to the following requirements:

* * * * *

9. In § 3.62, a new paragraph (g) is added to read as follows:

§ 3.62 Primary conveyances (motor vehicle, rail, air, and marine).

* * * * *

(g) The animal cargo space of primary conveyances used to transport rabbits shall be mechanically sound and provide fresh air by means of windows, doors, vents, or air conditioning so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as fans, blowers, or air conditioners, shall be used in any cargo space containing live rabbits when the ambient temperature in the animal cargo space is 75 °F (23.9 °C) or higher. The ambient temperature within the animal cargo space shall not exceed 85 °F (29.5 °C) or fall below 45 °F (7.2 °C), except that the ambient temperature in the cargo space may be below 45 °F (7.2 °C) if the rabbits are accompanied by a certificate of acclimation to lower temperatures, as provided in § 3.60(c) of this part.

10. In § 3.65 the first two sentences are revised to read as follows:

§ 3.65 Terminal facilities.

No person subject to the Animal Welfare regulations shall commingle shipments of live rabbits with inanimate cargo. All animal holding areas of a terminal facility where shipments of rabbits are maintained shall be cleaned and sanitized as prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. * * *

11. In § 3.66, the introductory text in paragraph (a) is revised to read as follows:

§ 3.66 Handling.

(a) Any person who is subject to the Animal Welfare regulations and who moves live rabbits from an animal holding area of a terminal facility to a primary conveyance or vice versa shall do so as quickly and efficiently as possible. Any person subject to the Animal Welfare regulations and holding any live rabbit in an animal holding area of a terminal facility or transporting any

live rabbit to or from a terminal facility shall provide the following:

* * * * *

Done in Washington, DC, this 11th day of July 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-16489 Filed 7-13-90; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Extension of effectiveness of interim rule.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 prohibits an insured depository institution which does not meet applicable minimum capital requirements from accepting funds obtained through any deposit broker. The FDIC may waive the prohibition upon a finding that the acceptance of funds from a deposit broker does not constitute an unsafe or unsound practice with respect to the applicant. The FDIC adopted an interim rule on December 5, 1989, which set forth waiver-application procedures and outlined the circumstances under which a waiver may be granted, implemented a transition period, and clarified terms. The interim rule also requested the comments of interested parties. The interim rule was to remain in effect until June 12, 1990, unless rescinded, amended, modified, or replaced by the FDIC. In a document published June 7, 1990 in the Federal Register, the effectiveness of the interim rule was extended until August 11, 1990. 55 FR 23186 (June 7, 1990). However, the FDIC believes that it requires more time to consider the issues before adopting a final rule. For this reason, this amendment extends the period during which the interim rule remains in effect to November 9, 1990, unless rescinded, amended, modified, or replaced by the FDIC prior to that time.

DATES: This amendment is effective on July 16, 1990. The interim rule published at 54 FR 51012 (Dec. 12, 1989) will remain in effect until November 9, 1990, unless sooner rescinded, amended, modified, or replaced by the FDIC.

FOR FURTHER INFORMATION CONTACT: William G. Hrindac, Examination Specialist, Division of Supervision, (202) 898-6892, or Adrienne George, Attorney, Legal Division, (202) 898-3859, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in § 337.6(d) of the interim rule has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 3064-0099. The information will be collected from undercapitalized insured depository institutions applying for a waiver from the prohibition on the acceptance or renewal of brokered deposits contained in section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f).

The estimated annual reporting burden for the collection of information in this interim rule is summarized as follows:

Number of Respondents	370
Number of Responses Per Respondent	1
Total Annual Responses	370
Hours Per Response	6
Total Annual Burden Hours	2,220

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Assistant Executive Secretary (Administration), Room F-400, Federal Deposit Insurance Corporation, Washington, DC 20429, and to the Office of Management and Budget, Paperwork Reduction Project (3064-0099), Washington, DC 20503.

Regulatory Flexibility Act

The FDIC's Board of Directors hereby certifies that the interim rule will not have a significant economic impact on a substantial number of small entities because it largely tracks and clarifies strictures previously established by statute and affords a means by which undercapitalized insured depository institutions may avoid the application of those strictures by applying to the FDIC for a waiver. Moreover, it is anticipated that relatively few small entities will be impacted by the regulation since most insured depository institutions are adequately capitalized or, if undercapitalized, do not utilize brokered deposits. Finally, an entire grouping of undercapitalized institutions, namely, those in FDIC or Resolution Trust Corporation ("RTC") receivership or conservatorship, have effectively been excluded from the application of the regulation. Consequently, the provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable.

Reason for Adoption Without Prior Notice and Comment

Full notice and comment were provided for the interim rule. Because the sole substantive amendment being made to the interim rule is to extend the period during which the interim rule remains in effect to November 9, 1990, the FDIC Board of Directors has determined that the notice and public participation that are ordinarily required by the Administrative Procedure Act (5 U.S.C. 553) before a regulation may take effect would, in this case, be superfluous and that good cause exists for waiving the customary 30-day delayed effective date.

Background

Section 224 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") added a new section 29 to the Federal Deposit Insurance ("FDI") Act. Section 29 of the FDI Act prohibits a "troubled" institution from accepting funds obtained, directly or indirectly, by or through any deposit broker for deposit into one or more deposit accounts. The term "deposit broker" means "(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and (B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan." FDI Act 29(f)(1). In addition, the term "deposit broker" includes "any insured depository institution, and any employee of any insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions having the same type of charter in such depository institution's normal market area." FDI Act 29(f)(3). A "troubled" institution means any insured depository institution which does not

meet applicable minimum capital requirements. FDI Act section 29(g).

On December 5, 1989, the FDIC Board of Directors adopted on interim rule and request for comments. 54 FR 51012 (Dec. 12, 1989). For the most part, the interim rule tracked the statute. It did, however, provide guidance in the following areas. First, it provided that the determination of whether an insured depository institution is "troubled," or undercapitalized, shall be made without regard to whether the institution has been granted any forbearance or other relief from any statutory, regulatory, or other capital requirements by any federal or state regulator. Second, the term "significantly higher" was defined to mean 50 basis points. Thus, the term "deposit broker" includes any insured depository institution, and any employee of any insured depository institution, which solicits deposits by offering rates of interest which are more than 50 basis points higher than the prevailing rate of interest offered by other insured depository institutions having the same type of charter in such depository institution's normal market area. Third, the interim rule set forth waiver-application procedures and outlined the circumstances under which a waiver may be granted. Fourth, the interim rule implemented a 60-day transition period expiring February 5, 1990. Fifth, insured depository institutions for which the FDIC or the RTC was appointed conservator or receiver were excluded from the prohibitions set forth in section 29 of the FDI Act and the interim rule.

The interim rule provided that it would remain in effect until June 12, 1990, unless sooner terminated, amended, modified, or replaced by the FDIC. In a document published June 7, 1990 in the **Federal Register**, the effectiveness of the interim rule was extended until August 11, 1990. 55 FR 23186 (June 7, 1990). The FDIC believes, however, that it requires more time to consider the issues before adopting a final rule. For this reason, this amendment extends the period during which the interim rule remains in effect to November 9, 1990, unless rescinded, amended, modified, or replaced by the FDIC prior to that time.

List of Subjects in 12 CFR Part 337

Banks, banking, Savings and loan associations, savings associations.

For the reasons set forth in the preamble, the FDIC hereby amends part 337 of title 12, Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818(a), 1816(b), 1819, 1828(j)(2), 1821(f), 1831f.

2. Section 337.6(g) is revised to read as follows:

§ 337.6 Brokered deposits in undercapitalized depository institutions.

* * * * *

(g) *Sunset.* This § 337.6 shall remain in effect until November 9, 1990, unless sooner terminated, amended, modified, or replaced by the FDIC.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of July, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-16494 Filed 7-13-90; 8:45 am]

BILLING CODE 6714-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 613, 614, and 619

RIN 3052-AA94

Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Coordination; General Provisions; Definitions

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting errors that appeared in the final rule that amended the regulation setting forth lending authorities and lending requirements for Farm Credit banks and associations, reconciling, where necessary the authorities of institutions created under the restructuring provisions of the Agricultural Credit Act of 1987.

The final rule appeared in the Federal Register on June 19, 1990 (55 FR 24861).

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Credit Specialist, Financial Analysis and Standards Division, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4498,

or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD 883-4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the Federal Register, five errors were inadvertently made.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

Subpart D—Eligibility To Borrow From Banks for Cooperatives and Agricultural Credit Banks

1. On page 24879, first column, four lines from the bottom, in § 613.3110(b)(2)(i), the word "for" was incorrectly included. Paragraph (b)(2)(i) of § 613.3110 is corrected to read as follows:

§ 613.3110 Domestic lending.

* * * * *

(b) * * *

(2)(i) Requirements for a higher percentage of voting control by farmers, ranchers, producers or harvesters of aquatic products, or eligible cooperatives than required by paragraph (b)(1) of this section may be established by resolution of the bank's board of directors with respect to any type of cooperative. Such higher voting control percentage requirements shall be applied uniformly and consistently to any type of cooperative so designated in the bank board resolution.

* * * * *

2. On page 24879, third column, thirteen lines from the top, in § 613.3120(b), the words "with respect" were omitted. Paragraph (b) of § 613.3120 is corrected to read as follows:

§ 613.3120 International lending.

* * * * *

(b) A party with respect to a transaction with a voting stockholder of the bank for the import or export of agricultural commodities, farm supplies, or aquatic products through purchases, sales, or exchanges, that substantially benefits the stockholder; or

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

Subpart E—Loan Terms and Conditions

3. On page 24885, first column, eleven lines from the bottom, in the introductory text of § 614.4231(a)(2), the letter "r" was dropped from the word "purchase." Paragraph (a)(2) introductory text of § 614.4231 is corrected to read as follows:

§ 614.4231 Certain seasonal commodity loans to cooperatives

(a) * * *

(2) *Hedge* means an enforceable contract with a reliable third party to deliver at a designated point of delivery, at a designated time or within a designated period of time, commodities of specified quality and quantity at a specified price. Seller options will not generally invalidate the hedge unless they are of such a nature as to invalidate the entire contract. If options are provided to the purchaser under the contract, the hedge value of the contract shall be determined on the basis of the most pessimistic combination of options. The Commodity Credit Corporation's (CCC) general offer to purchase may be accepted as a valid hedge if loan advance, expiration and maturity dates conform with CCC established availability; if maturity dates and loan agreement restrictions insure compliance with CCC quality and crop year standards; and if the following conditions exist:

* * * * *

4. On page 24885, third column, nineteen lines from the bottom, in § 614.4233(b), the words "countries. Exceptions may be made where a prospective borrower has had a" were omitted. Paragraph (b) of § 614.4233 is corrected to read as follows:

§ 614.4233 International loans.

* * * * *

(b) The borrower's obligations shall be guaranteed or insured against default under such policies as are available in the United States and other countries. Exceptions may be made where a prospective borrower has had a longstanding successful business relationship with an eligible cooperative borrower or an eligible cooperative which is not a borrower if the prospective borrower has a high credit rating as determined by the bank.

* * * * *

PART 619—DEFINITIONS

5. On page 24888, third column, five lines from the bottom, in § 619.9060, the word "for" was incorrectly included. Section 619.9060 is corrected to read as follows:

§ 619.9060 Bank for cooperatives.

Bank operating under title III of the Act, including the National Bank for Cooperatives, individual and regional banks for cooperatives and agricultural credit banks.

Dated: July 10, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 90–16505 Filed 7–13–90; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ANE–33; Amendment 39–6474]

Airworthiness Directives; Pratt & Whitney (PW) JT9D–7R4D1, –7R4E1, and –7R4H1 Series Turbofan Engines Installed on Airbus Industries A300/A310 Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires adjustments and modifications to the engine vane and bleed control (EVBC) and the fuel control unit (FCU), initial and repetitive inspections of the 3.0 bleed valve linkages, and restoration of the leading edge of the fan blades. The AD is needed to prevent possible dual engine overtemperature and loss of power resulting from a reduction in surge margin caused by engine deterioration and mistrim of the 3.0 bleed system.

EFFECTIVE DATE: July 16, 1990.

The incorporation by reference of Pratt & Whitney document JT9D–7R4–72–336 was approved by the Director of the Federal Register at 55 FR 27200 (July 2, 1990); the incorporation by reference of Pratt & Whitney Engine Manual PW85058 is approved by the Director of the Federal Register as of July 16, 1990.

ADDRESSES: The applicable documents may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined at the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Diane Cook, ANE–142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7082.

SUPPLEMENTARY INFORMATION: The FAA has determined that a dual engine overtemperature and loss of power event occurred on a JT9D–7R4/Boeing 767 aircraft. The event resulted from a reduction of surge margin caused by engine deterioration and mistrim of the 3.0 bleed system. Although this event occurred on a different installation, the reduction of surge margin due to engine deterioration and mistrim of the 3.0 bleed system is likely to exist or develop on JT9D–7R4D1, –7R4E1, and –7R4H1 series turbofan engines installed on Airbus Industries A300/A310 aircraft. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires adjustments and modifications to the EVBC and FCU, initial and repetitive inspections of the 3.0 bleed valve linkages, and restoration of the leading edge of fan blades on PW JT9D–7R4D1, –7R4E1, and –7R4H1 series turbofan engines.

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

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It had been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Regulatory Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D–7R4D1, –7R4E1, and –7R4H1 series turbofan engines installed on Airbus Industries A300/A310 aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent engine overtemperature and loss of power or engine inflight shutdown, accomplish the following:

(a) Within the next 30 calendar days or 150 flight cycles, whichever occurs first after the effective date of this AD, accomplish the following:

(1) Adjust the deceleration schedule of the fuel control unit (FCU), and reidentify the FCU, in accordance with the applicable instructions of Appendix 1 of this AD. If cycling bleeds occur as a result of the decel schedule uptrim, downtrim the decel schedule in accordance with the applicable instructions of Appendix 2 to this AD.

(2) Modify the 3.0 bleed valve cylinder, Part Number (P/N) 806885 or P/N 774300, in accordance with the instructions of Appendix 3 or Appendix 4 of this AD, as applicable.

(3) Inspect 3.0 bleed valve linkages for wear in accordance with the instructions of Appendix 5 to this AD, and accomplish the following:

(i) Remove engines with worn 3.0 valve linkage prior to accumulating 5 cycles in service (CIS) since last inspection and replace with a serviceable engine.

(ii) Reinspect linkages found serviceable in accordance with the inspection requirement of paragraph (a)(3) above, at intervals not to exceed 3,000 hours since last inspection.

(b) Within the next 60 calendar days or 300 flight cycles, whichever occurs first after the effective date of this AD, accomplish the following:

Adjust the engine vane and bleed control (EVBC), Hamilton Standard, P/N 77655–3, to the 1.27 engine pressure ratio (EPR) bleed trim and P/N 776555–5 to the 1.32 EPR bleed trim, in accordance with the instructions of Appendix 6, Appendix 7, or Appendix 8 to this AD, as applicable. Engines which have had no 3.0 bleed or valve schedule adjustments since last trimmed in the test cell (P/N 776555–3 EVBC trimmed to 1.27 EPR or P/N 776555–5 EVBC trimmed to 1.32 EPR) are exempt from this requirement.

(c) Incorporate the following modifications to upgrade the EVBC to Hamilton Standard P/N 776555–5, within one year from the effective date of this AD, by accomplishing the following:

(1) Incorporate the fluid drain between sensor servo piston chevron seals, in accordance with the instructions of Appendix 9 to this AD.

(2) Incorporate the pilot valve spring, P/N 801040–1, in accordance with the instructions of Appendix 10 to this AD.

(3) Incorporate the decel bleed reset piston spring, P/N 801073–1, in accordance with the instructions of Appendix 11 to this AD.

(4) Incorporate the 3.0 bleed cam, P/N 765357–11, and recelebrate the control, in accordance with the instructions of Appendix 12 to this AD.

(5) Incorporate the actuator valve, P/N 800997–1, in accordance with the instructions of Appendix 13 to this AD; or remove actuator valve, P/N 728149–3, and replace with a new or serviceable actuator valve, P/N 728149–3. Replacement actuator valve, P/N 728149–3, must be removed from service at or prior to accumulating 10,000 hours since new.

(6) Adjust EVBC to 1.32 EPR bleed trim, in accordance with paragraph (b)(1) above.

(d) Modify FCU, Hamilton Standard P/N 782960–1, and P/N 782960–2, within one year from the effective date of this AD by accomplishing the following:

(1) Incorporate the decel cam, P/N 774538–15, in accordance with the instructions of Appendix 14 of this AD.

(2) Revise the test procedure for the decel bleed override, in accordance with the instructions of Appendix 15 of this AD.

(e) Install 3.0 bleed dampers, in accordance with PW Service Bulletin (SB) JT9D–7R4–72–336, Revision 5, dated June 23, 1988, at the next shop visit. Installation of 3.0 bleed dampers terminates the reinspection requirements of paragraph (a)(3)(ii) above.

Note: For the purpose of this AD, the definition of "shop visit" is any time the engine or module is in a maintenance shop capable of complying with the PW SB instructions, regardless of the planned maintenance action or the reason for engine removal.

(f) Restore the leading edge of the first stage compressor blades in accordance with PW Engine Manual, P/N 785058, Chapter/Section 72–31–02, Repair-19, Pages 901 through 916, dated June 15, 1990, at the next fan module overhaul, after the effective date of this AD and thereafter at every fan module overhaul.

Note: For the purpose of this AD, the definition of "fan module overhaul" is anytime the fan module is disassembled, inspected, and repaired, in accordance with PW Engine Manual.

(g) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(h) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

First stage compressor blade restoration and 3.0 bleed damper installation shall be done in accordance with the following PW documents:

Document No.	Page No.	Issue/revision	Date
Engine Manual PW785058	901, 908, 909, 910, 911, 912, 913, 914, 915, 916		June 15, 1990.
	902, 903, 904, 905, 906, 907		Mar. 15, 1989.
JT9D–7R4–72–336	1, 3, 4, 8, 9	5	June 23, 1988.
	10, 11 thru 20	4	Aug. 28, 1987.
	2	3	June 8, 1987.
	5, 6, 7	Original	Mar. 2, 1987.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC 20591.

Issued in Burlington, Massachusetts, on June 12, 1990.

Arthur J. Pidgeon,

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

Appendix 1:

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Hamilton Standard Service Bulletin JFC 68–10 No. 10.

(3) Special Instruction No. 90F–88, Modification Of The Main Fuel Control To Uptrim The Deceleration Schedule, dated September 7, 1988.

Accomplishment Instructions

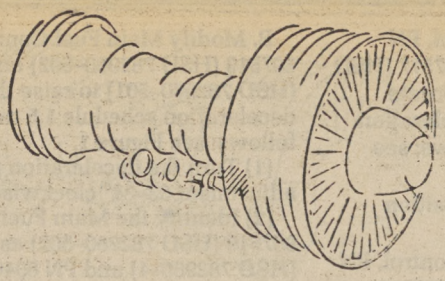
Note: This procedure is only to be used under the cognizance of a Pratt & Whitney or a Hamilton Standard Field Representative.

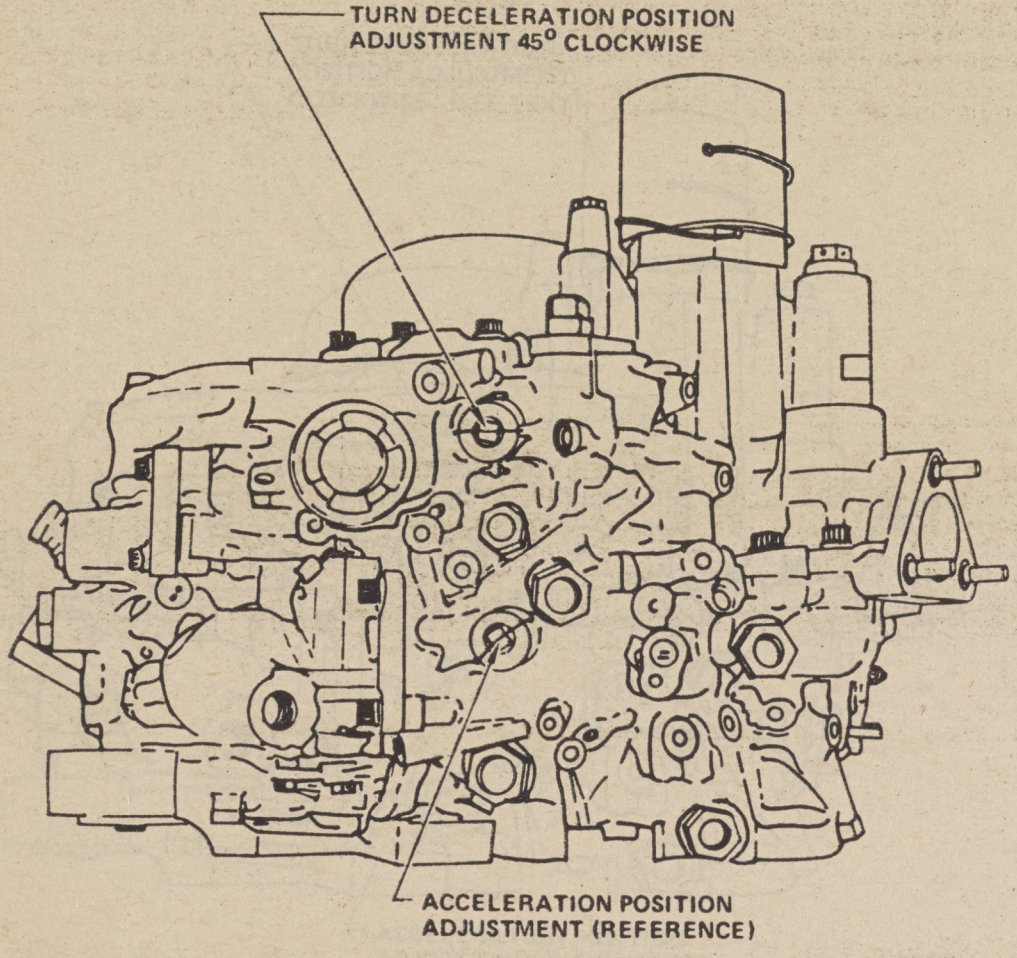
A. Modify Main Fuel Control, PN 792002 (HSD 782960–1) which do not incorporate Reference (2) or (3) to raise the deceleration schedule 2 ratio units as follows; see Figure 1.

(1) Turn the deceleration position adjustment 45° clockwise.

(2) Reidentify the Main Fuel Control, PN 792002 (HSD 782960–1) as PN 807695 (HSD 782960–3).

BILLING CODE 4910–13–M





LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 1

BILLING CODE 4910-13-C

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Special Instruction No. 9F–89, Modification Of The Main Fuel Control To Uptrim The Deceleration Schedule, dated March 1, 1987.

Accomplishment Instructions

Note: This procedure is only to be used under the cognizance of a Pratt & Whitney or a Hamilton Standard Field Representative.

A. Modify Main Fuel Control, PN 795539 (HSD 782960–2) and 807517 (HSD 782960–6) which do not incorporate Reference (2) to raise the deceleration schedule 3 ratio units as follows; see Figure 1.

(1) Turn the deceleration position adjustment 66–67° clockwise.

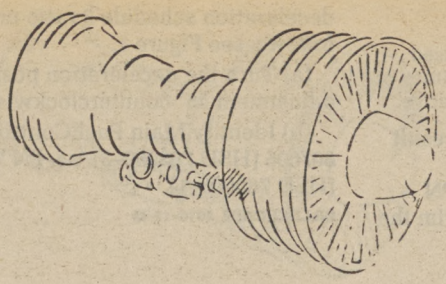
(2) Identify the Main Fuel Control, PN 795539 (HSD 782960–2) as PN 807696 (HSD 782960–4) and PN 807517 (HSD 782960–6) as PN 807830 (HSD 782960–8).

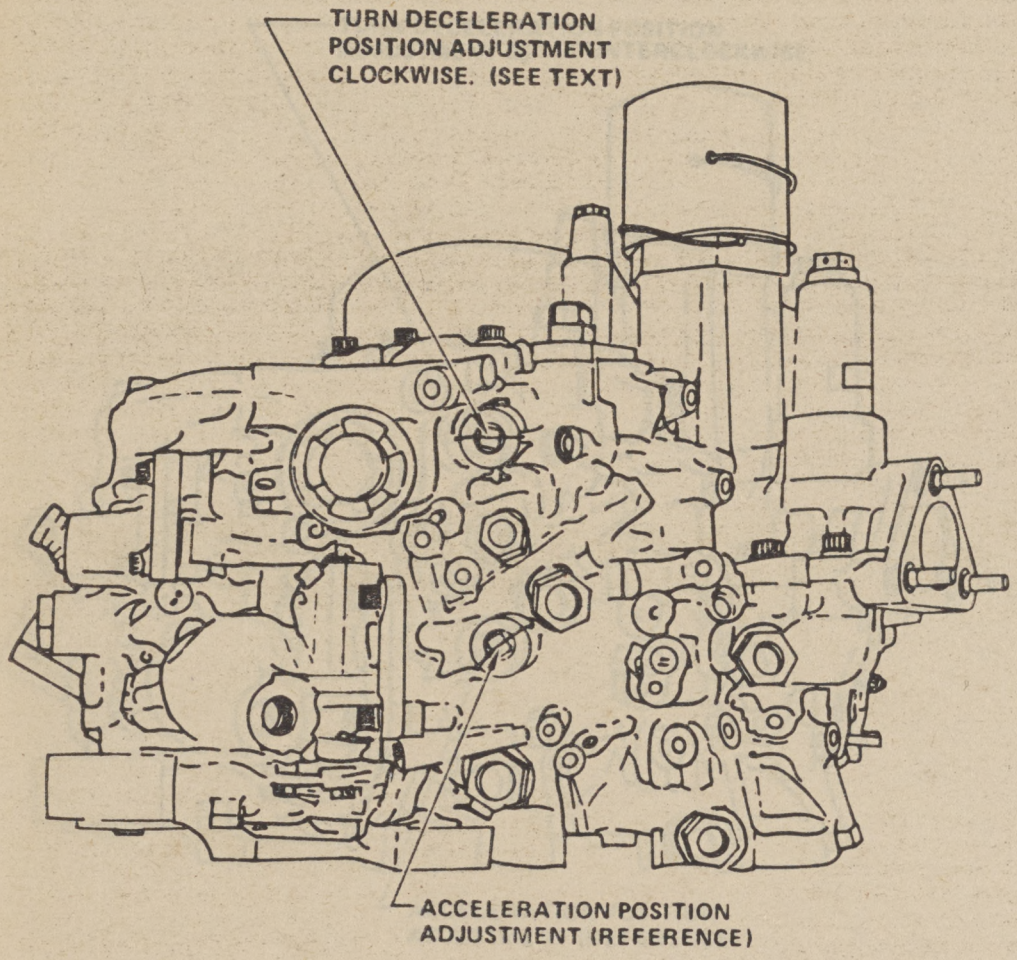
B. Modify Main Fuel Control PN 807519 (HSD 782960–502) and 804674 (HSD 782960–501) to raise the deceleration schedule 1.5 ratio units as follows: see Figure 1.

(1) Turn the deceleration position adjustment 33–34° clockwise.

(2) Identify the Main Fuel Control, PN 807519 (HSD 782960–502) as PN 807969 (HSD 782960–4) and PN 804674 (HSD 782960–501) as PN 807697 (HSD 782960–504).

BILLING CODE 4910–13–M





LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 1

BILLING CODE 4910-13-C

Appendix 2

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Special Instruction No. 59F–89, dated July 10, 1989.

Accomplishment Instructions

Note: This procedure is only to be used under the cognizance of a Pratt & Whitney or a Hamilton Standard Field Representative.

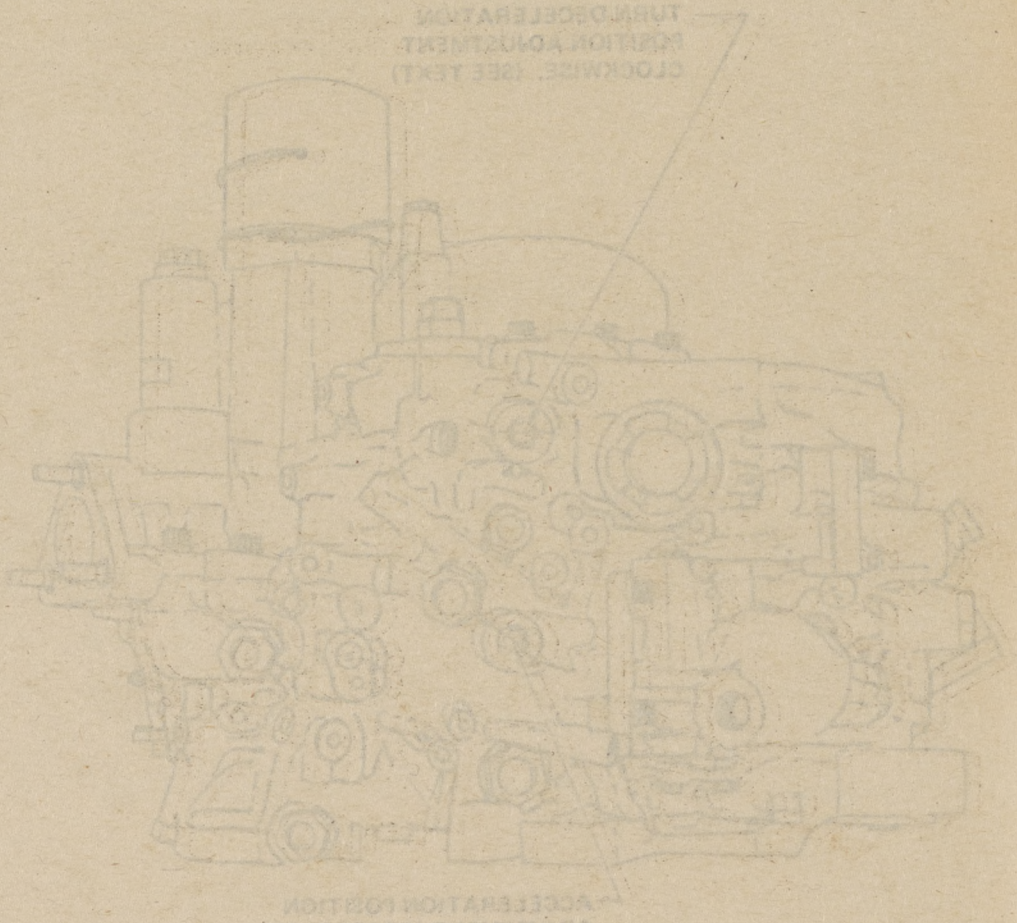
A. If cycling bleeds occur as a result of incorporation of Reference (2);

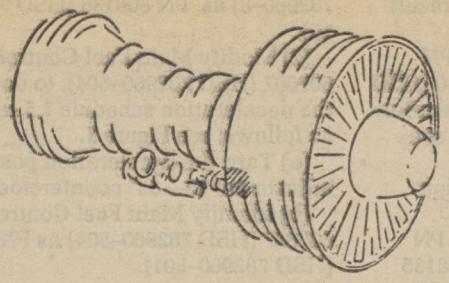
(1) Modify Main Fuel Control, PN 807695 (HSD 782960–3), to downtrim the deceleration schedule 2 ratio units as follows; see Figure 1.

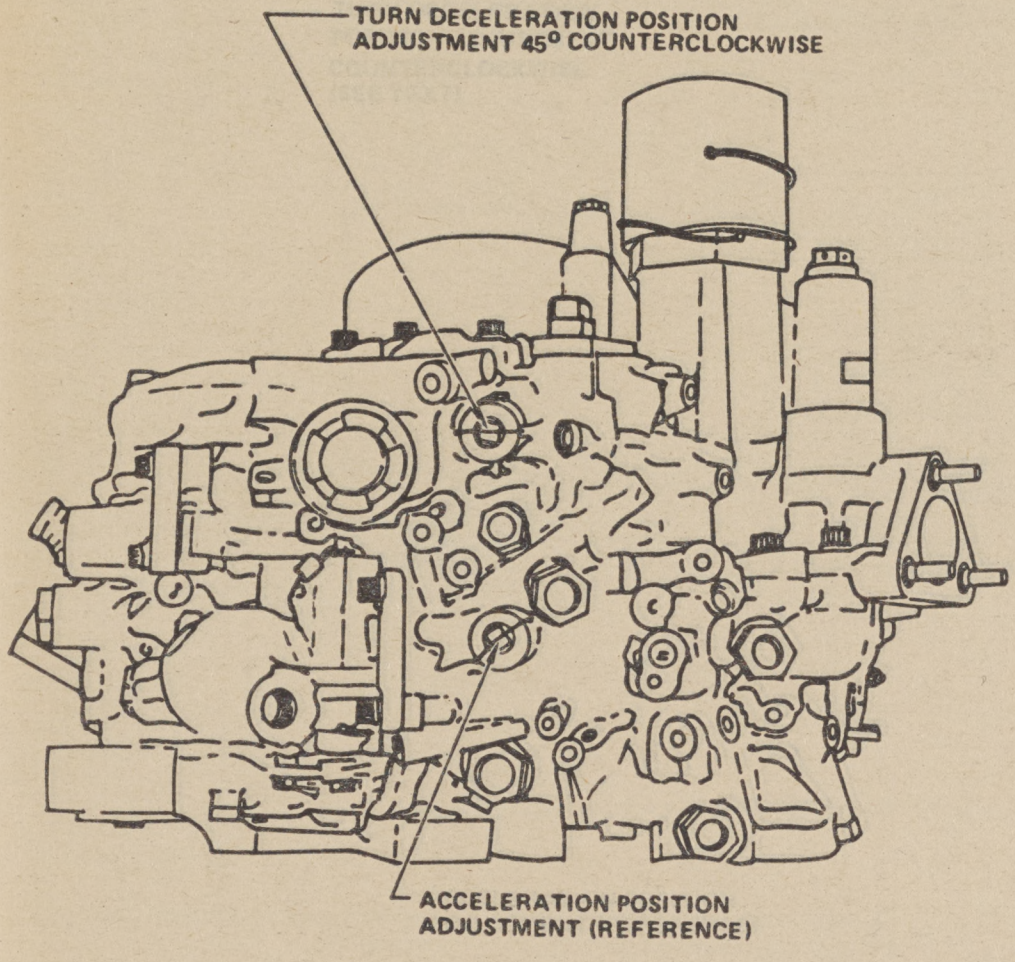
(a) Turn the deceleration position adjustment 45° counterclockwise.

(b) Identify Main Fuel Control, PN 807695 (HSD 782960–3), as, PN 792002 (HSD 782960–1).

BILLING CODE 4910–13–M







LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 1

BILLING CODE 4910-13-C

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Special Instruction No. 61F–89, dated July 10, 1989.

Accomplishment Instructions

Note: This procedure is only to be used under the cognizance of a Pratt & Whitney or a Hamilton Standard Field Representative.

A. If cycling bleeds occur as a result of incorporation of Reference (2);

(1) Modify Main Fuel Control, PN 807696 (HSD 782960–4) and 807830 (HSD 782960–8), to downtrim the deceleration schedule 2 ratio units as follows; see Figure 1.

(a) Turn the deceleration position adjustment 45° counterclockwise.

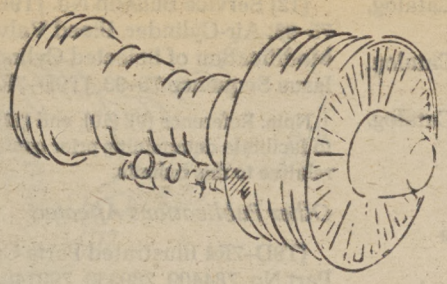
(b) Identify Main Fuel Control, PN 807696 (HSD 782960–4), as, PN 808135 (HSD 782960–9) and PN 807830 (HSD 782960–8) as, PN 808136 (HSD 782960–10).

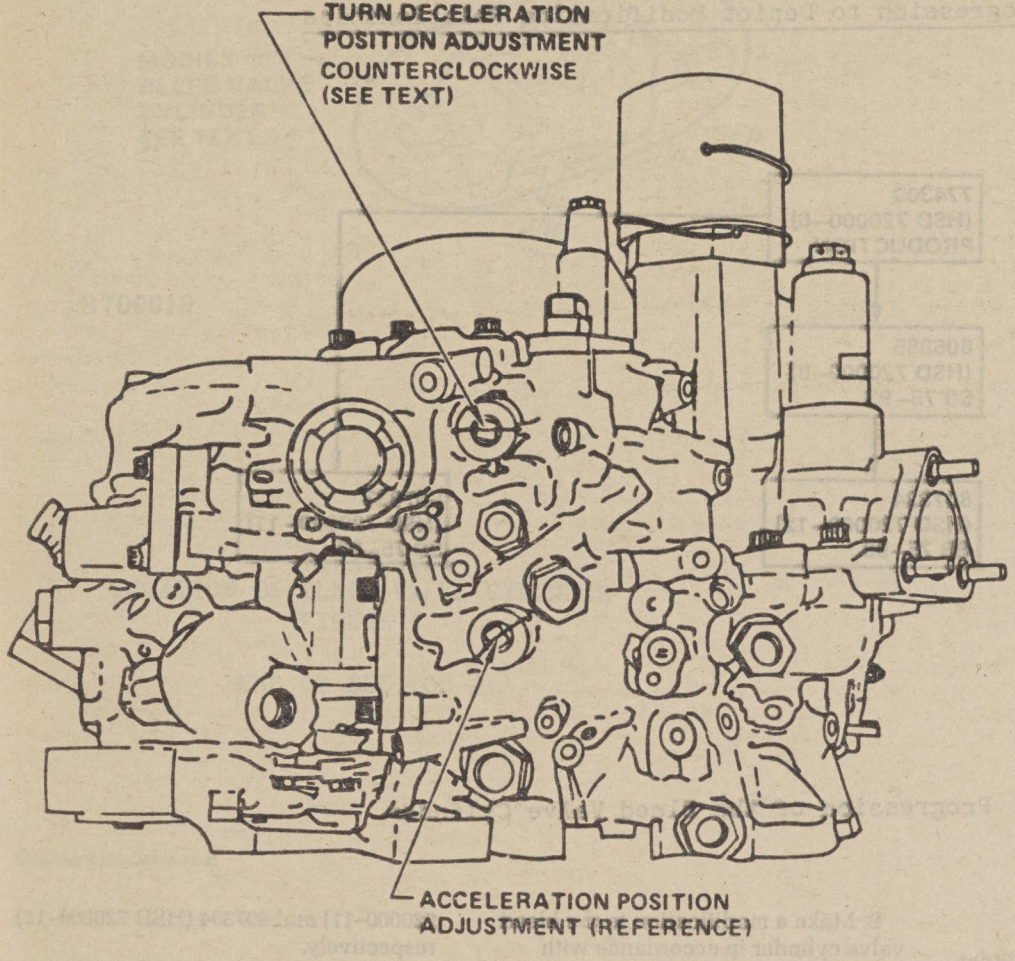
(2) Modify Main Fuel Control, PN 807697 (HSD 782960–504), to downtrim the deceleration schedule 1.5 ratio units as follows; see Figure 1.

(a) Turn the deceleration position adjustment 33—34° counterclockwise.

(b) Identify Main Fuel Control, PN 807697 (HSD 782960–504) as PN 804674 (HSD 782960–501).

BILLING CODE 4910–13–M





LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 1

BILLING CODE 4910-13-C

Appendix 3

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) JT9D–7R4 Engine Manual, Part No. 785058.

(3) JT9D–7R4 Engine Manual, Part No. 785059.

(4) JT9D–7R4 Engine Manual, Part No. 789328.

(5) JT9D–7R4 Illustrated Parts Catalog, Part No. 784409.

(6) JT9D–7R4 Illustrated Parts Catalog, Part No. 789330.

(7) JT9D–7R4 Illustrated Parts Catalog, Part No. 790148.

(8) JT9D–7R4 Illustrated Parts Catalog, Part No. 793294.

(9) Hamilton Standard Service Bulletin 75–3.

(10) Hamilton Standard Service Bulletin 75–4.

(11) Hamilton Standard Overhaul Manual, Part No. 720000.

(12) Service Bulletin No. JT9D–7R4–75–93; Air-Cylinder, Bleed Valve Modification of Selected Cylinders. Issue Sequence 75–93, JT9D–7R4 Series.

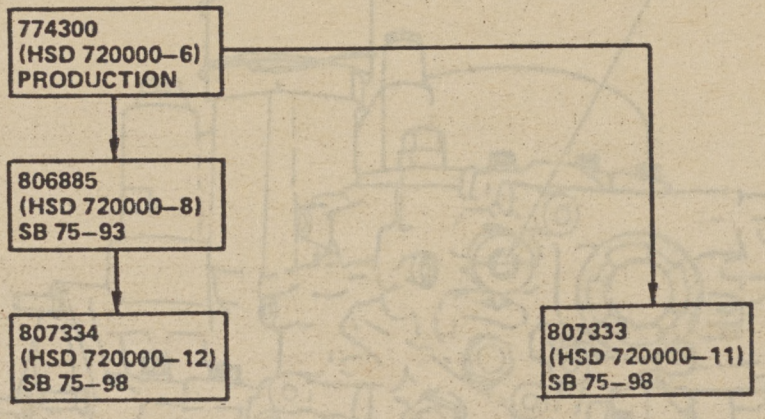
Note: Reference (9), (10), and (12), are listed to facilitate determining prior configurations relative to this bulletin.

Other Publications Affected

JT9D–7R4 Illustrated Parts Catalog, Part No. 784409, 789330, 790148, 793294.

75–31–00, Figure 1.

Parts Progression to Depict Modification Relationships



Progression of the Bleed Valve Cylinder

Accomplishment Instructions

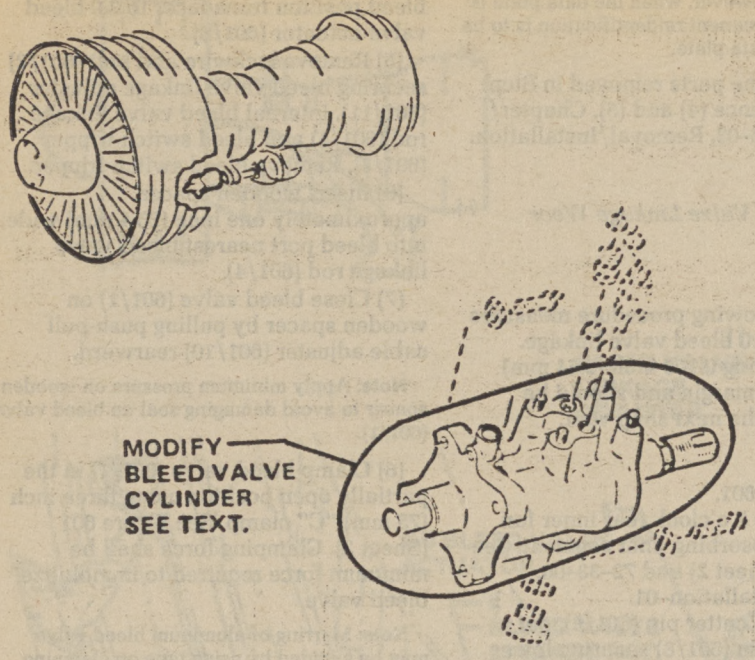
A. Remove the Bleed Valve Cylinder, PN 774300 (HSD 720000–6) or 806885 (HSD 720000–8) per Reference (2), (3), or (4), Chapter/Section 72–00–34, Removal-07.

B. Make a modification to the bleed valve cylinder in accordance with Reference (10).

C. Identify the Bleed Valve Cylinder, PN 774300 (HSD 720000–6) or 806885 (HSD 720000–8) as PN 807333 (HSD 720000–11) and 807334 (HSD 720000–12) respectively.

D. Install the bleed valve cylinder per Reference (2), (3), or (4), Chapter/Section 72–00–34, Installation-07.

BILLING CODE 4910–13–M



B700016

75-31-00
LOCATION OF BLEED VALVE CYLINDER
FIGURE 1

END OF SECTION 2

BILLING CODE 4910-13-C

Appendix 4

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Hamilton Standard Service Bulletin No. 75–4.

(3) JT9D–7R4 Engine Manual, Part No. 785058.

(4) A300–600 Aircraft Maintenance Manual.

(5) A310 Aircraft Maintenance Manual.

Accomplishment Instructions

A. Make a modification to the Bleed Valve Cylinder, PN 774300 (HSD 720000–6) or 806835 (HSD 720000–8) while the bleed valve cylinder remains installed on the aircraft.

(1) Remove the parts necessary to gain access to the bleed valve cylinder tube openings as specified in Reference (4) and (5), Chapter/Section 75–32–03, Removal/Installation.

(2) Make a modification to the Bleed Valve Cylinder, PN 774300 (HSD 720000–6) or 806885 (HSD 720000–8) as stated in Reference (2).

Note: Retain the part removed as stated in Reference (2) for future use.

(3) Identify the modified Bleed Valve Cylinder, PN 774300 (HSD 720000–6) or 806885 (HSD 720000–8) as PN 807333 (HSD 720000–11) and 807334 (HSD 720000–12), respectively.

Note: Temporary methods of identification may be used to mark any accessible area of the bleed valve cylinder as the data plate is not accessible when the bleed valve cylinder is installed. However, when the data plate is accessible permanent reidentification is to be made on the data plate.

(4) Install the parts removed in Step (1) per Reference (4) and (5), Chapter/Section 75–32–03, Removal/Installation.

Appendix 5

1. 3.0 Bleed Valve Linkage Wear Check

A. General

(1) The following procedure measures wear of the 3.0 bleed valve linkage. Wear exceeding 0.100 inch (2.54 mm) affects surge margin and should be corrected at the next shop visit.

B. Procedure

See Figure 601.

(1) Remove 7 o'clock rear inner fan exit sound absorbing liner segment. See Figure 601 (Sheet 2) and 72–33–06, Removal/Installation–01.

(2) Remove cotter pin (601/6), nut (610/7) and pin (601/8) securing lower push-pull feedback cable (601/9) to push-pull cable adjuster (601/10). Discard cotter pin.

(3) Fully open bleed valve (601/1) by pushing forward on bleed switch tripper (601/3).

(4) For engines equipped with propulsion multiplexer. Remove cotter pin (601/15), collar (601/14) and pin (601/12) securing bleed position transducer (601/13) to bleed switch tripper (601/3). Discard cotter pin. See Figure 601 (Sheet 3). Temporarily secure bleed position transducer to 3.0 bleed valve actuator (601/5).

(5) Remove lockwire and bolt (601/2) securing bleed valve linkage adjuster (601/11), internal bleed valve linkage rod (601/4) and bleed switch tripper (601/3). Remove bleed switch tripper.

(6) Insert wooden spacer, approximately one inch (25.4 mm) wide, into bleed port nearest bleed valve linkage rod (601/4).

(7) Close bleed valve (601/1) on wooden spacer by pulling push-pull cable adjuster (601/10) rearward.

Note: Apply minimum pressure on wooden spacer to avoid damaging seal on bleed valve (601/1).

(8) Clamp bleed valve (601/1) in the partially open position using three inch (75 mm) "C" clamp. See Figure 601 (Sheet 2). Clamping force shall be minimum force required to immobilize bleed valve.

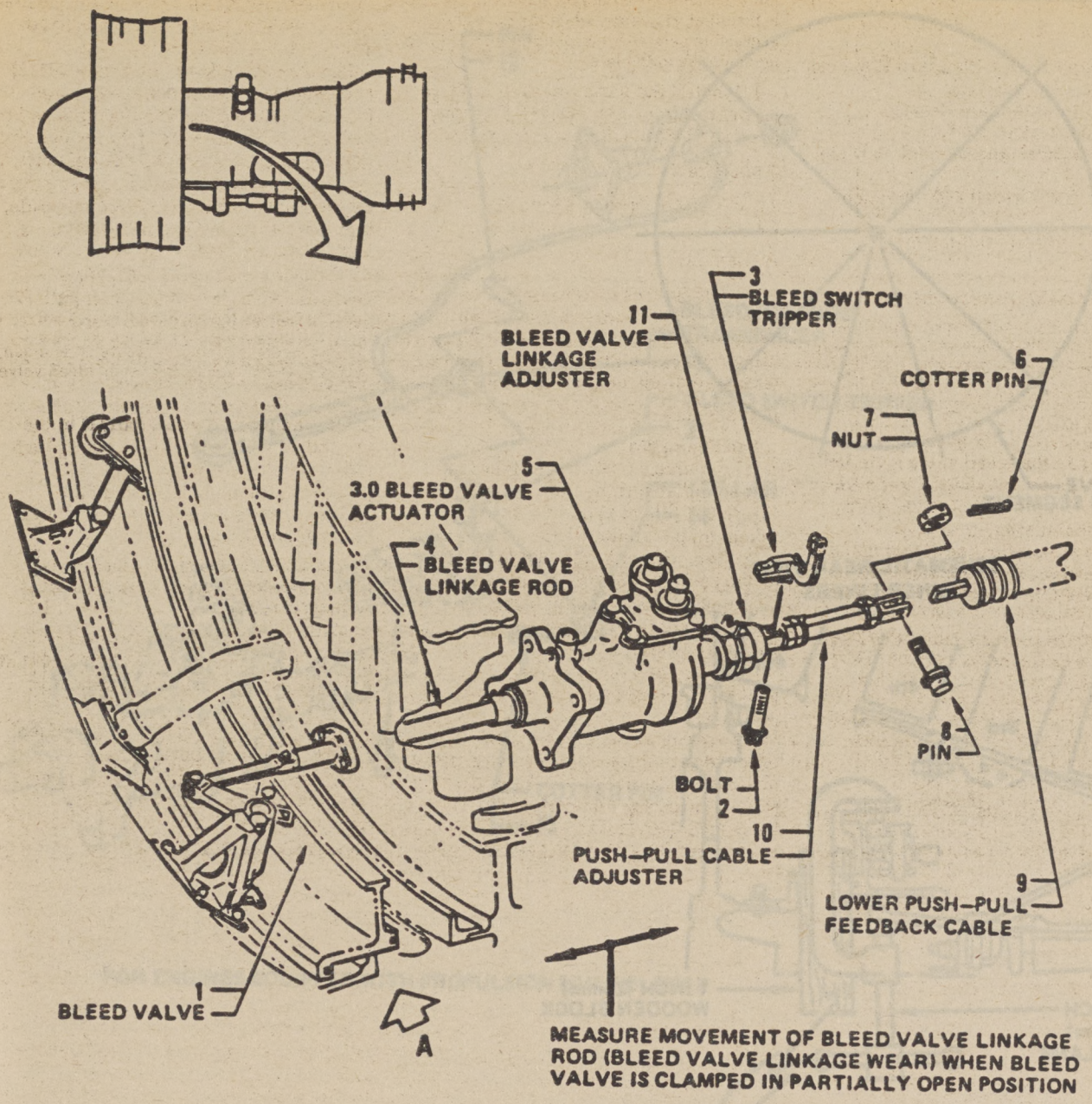
Note: Marring of aluminum bleed valve may be avoided by using tape on clamping surfaces of clamp.

(9) Check wear of 3.0 bleed valve linkage by measuring axial movement at adjuster (601/10) using dial indicator. Record wear.

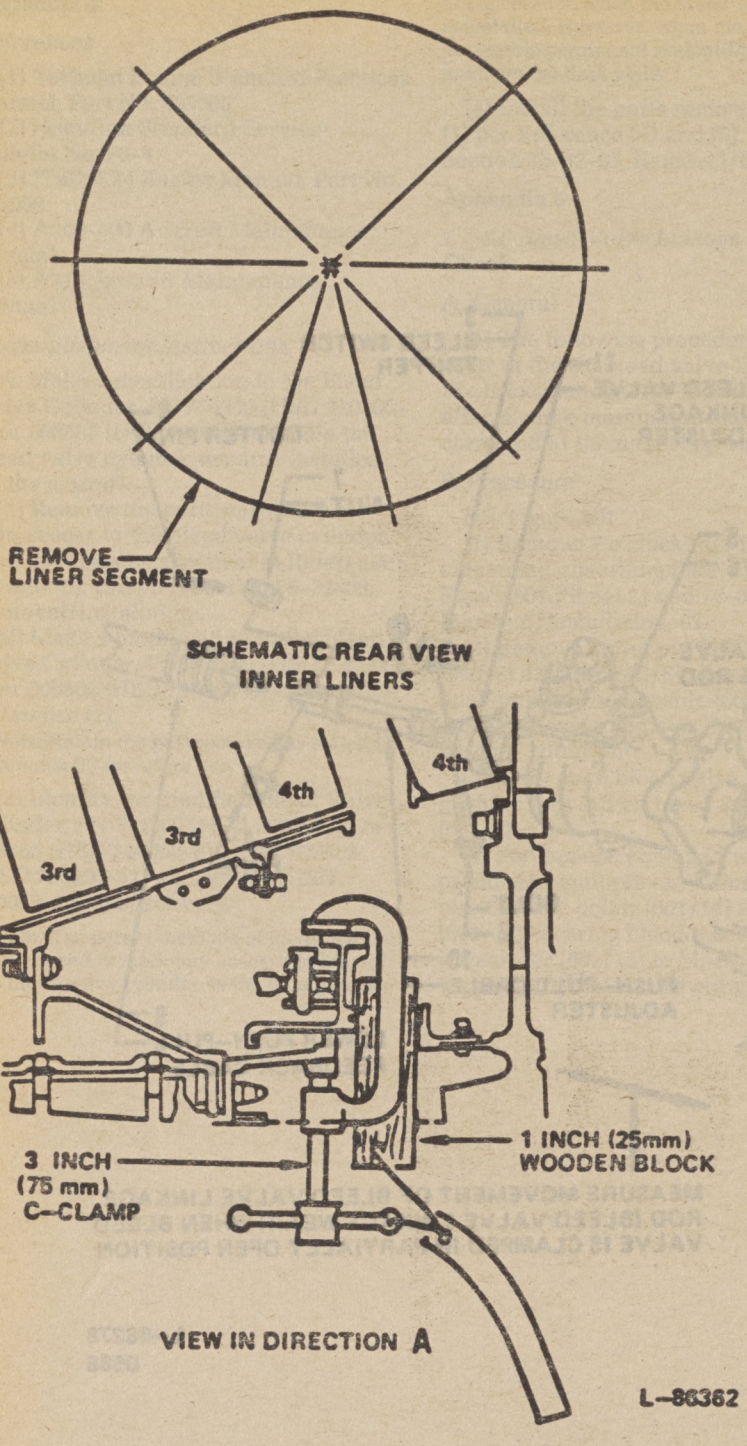
(10) Remove "C" clamp and wooden spacer from bleed port.

(11) Replace sound absorbing liner segment. See 72–33–06, Removal/Installation-01.

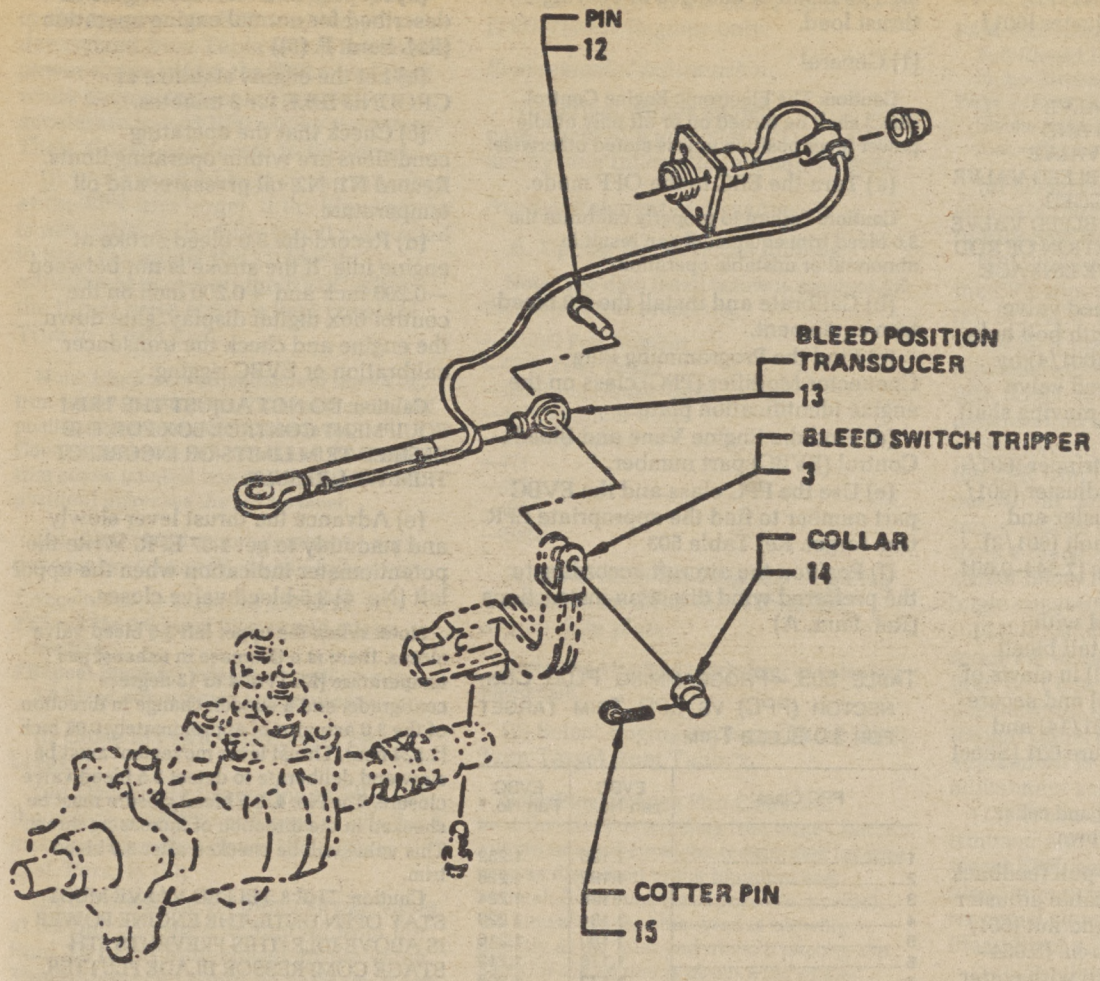
BILLING CODE 4910–13–M



Checking 3.0 Bleed Valve
Linkage Wear
Figure 601 (Sheet 1)



Checking 3.0 Bleed Valve
Linkage Wear
Figure 601 (Sheet 2)



FOR ENGINES EQUIPPED WITH PROPULSION MULTIPLEXER

Checking 3.0 Bleed Valve
Linkage Wear
Figure 601 (Sheet 3)

BILLING CODE 4910-13-C

(12) Open bleed valve (601/1) by pushing push-pull cable adjuster (601/10) forward.

Caution: DO NOT DISTURB RELATIONSHIP OF BLEED VALVE LINKAGE ADJUSTER (601/11) AND HOLLOW SHAFT OF BLEED VALVE ACTUATOR. IF DISTURBED, BLEED VALVE ACTUATOR MUST BE RE-RIGGED.

Caution: DO NOT ROTATE BLEED VALVE LINKAGE ROD (601/4). ROTATION OF ROD MAY DAMAGE BLEED VALVE LINKAGE.

(13) Align bolt hole in bleed valve linkage adjuster (601/11) with bolt hole in bleed valve linkage rod (601/4) by rotating hollow shaft of bleed valve actuator (601/5) and/or by moving shaft or linkage rod axially.

(14) Install bleed switch tripper (601/3) on bleed valve linkage adjuster (601/11) and secure tripper, adjuster and internal linkage rod using bolt (601/2). Apply torque of 65–85 lb-in. (7.344–9.604 N.m) to bolt. Lockwire bolt.

(15) For engines equipped with propulsion multiplexer. Install bleed position transducer (601/13) in clevis of bleed switch tripper (601/3) and secure with pin (601/12), collar (601/14) and cotter pin (601/15). See Figure 601 (Sheet 3).

Note: Flange on pin (601/12) and collar (601/15) shall be located as shown.

(16) Connect lower push-pull feedback cable (601/9) to push-pull cable adjuster (601/10) using pin (601/8) and nut (601/7). Apply torque of 45–60 lb-in. (5.084–6.779 N.m) to nut and secure with cotter pin.

Appendix 6

Test No. 10—3.0 Bleed Valve Test

Note: For engine operating limits, procedures, safety precautions and other related information refer to 72–00–00, P. Block 201.

If components have been changed which required removal and reinstallation of 1st stage turbine rotor cooling air duct or HPT rotor cooling air system, turbine cooling air pressure ratio (PS4–PS5I)/PS4 should be monitored and checked per Test No. 12, unless satisfactory turbine cooling air has been established by previous testing. Deviation from the turbine cooling air check curve can result in either:

(1) Insufficient cooling flow to the turbine (cooling air pressure ratio above maximum limit Shown in Turbine Cooling Air Check Curve)

(2) Excessive cooling flow to the turbine (cooling air pressure ratio below limit shown in Turbine Cooling Air Check Curve) which can affect engine performance and possibly cause bearing skid as result of changes in bearing thrust load.

(1) General

Caution: The Electronic Engine Control (EEC) shall be turned on or off only at idle power lever position unless stated otherwise.

(a) Turn the EEC to the OFF mode.

Caution: Failure to properly calibrate the 3.0 bleed trim equipment can result in abnormal or unstable operation.

(b) Calibrate and install the 3.0 bleed trim equipment.

(c) Find the Programming Plug Connector Modifier (PPC) class on the engine identification plate.

(d) Find the Engine Vane and Bleed Control (EVBC) part number.

(e) Use the PPC class and the EVBC part number to find the appropriate EPR trim target. Ref Table 503

(f) Position the aircraft according to the preferred wind direction instructions (Ref. Para. A)

TABLE 503.—PROGRAMMING PLUG CONNECTOR (PPC) VS EPR TRIM TARGET FOR 3.0 BLEED TRIM

PPC Class	EVBC part No. [1]	EVBC Part No. [2]
1	1.196	1.232
2	1.192	1.228
3	1.188	1.224
4	1.184	1.220
5	1.180	1.216
6	1.176	1.212
7	1.172	1.208
8	1.168	1.204
9 Null Class	1.164	1.200
10	1.160	1.196
11	1.156	1.192
12	1.152	1.188
13	1.148	1.184
14	1.144	1.180
15	1.140	1.176
16	1.136	1.172

[1] P&W 795283—PRE ASB 75–89 (HSD 776555–3); P&W 795283—POST ASB 75–89 (HSD 776555–3 L10); P&W 806894—POST ASB 75–89 (HSD 776555–6).

[2] P&W 806633—POST SB 75–95 (HSD 776555–5).

(2) Procedure

Caution: IF ENGINE SURGE IS ENCOUNTERED, RAPIDLY (IN LESS THAN ONE SECOND) RETARD POWER LEVER TO GROUND IDLE (MINIMUM IDLE), MOVE FUEL CONDITION LEVER (START LEVER) TO OFF POSITION AND MOTOR ENGINE FOR 30 SECONDS TO CLEAR OUT TRAPPED FUEL OR VAPORS. REFER TO START PROCEDURE FOLLOWING EMERGENCY SHUTDOWN FOR RESTARTING ENGINE IN 72–00–00, P. BLOCK 201.

FAILURE TO FOLLOW START PROCEDURE FOLLOWING EMERGENCY SHUTDOWN MAY RESULT IN DAMAGE TO TURBINE BLADE TIP SEALS.

(a) Prepare and start the engine as described for normal engine operation (Ref. Para. F. (5))

(b) Let the engine stabilize at GROUND IDLE for 3 minutes.

(c) Check that the operating conditions are within operating limits. Record N1, N2, oil pressure, and oil temperature.

(d) Record the 3.0 bleed stroke at engine idle. If the stroke is not between −0.200 inch and +0.200 inch on the control box digital display, shut down the engine and check the transducer calibration or EVBC rigging.

Caution: DO NOT ADJUST THE TRIM EQUIPMENT CONTROL BOX FOR THE DESIRED TRIM LIMITS OR INCORRECT TRIM WILL RESULT.

(e) Advance the thrust lever slowly and smoothly to get 1.37 EPR. Write the potentiometer indication when the upper left (No. 4) 3.5 bleed valve closes.

Note: When the upper left 3.5 bleed valve closes, there is a decrease in exhaust gas temperature (EGT) of 4 to 12 degrees centigrade, and a sudden change in direction of the 3.0 actuator of approximately 0.06 inch (1.524 mm). Thrust lever movement must be slow and deliberate to detect 3.5 bleed valve closure. The No. 4, 3.5 bleed closure must be checked in the direction of increasing thrust. This value will be checked after 3.0 bleed trim.

Caution: THE 3.5 BLEED VALVE MUST STAY OPEN UNTIL THE ENGINE POWER IS ABOVE IDLE. THIS PREVENTS 5TH STAGE COMPRESSOR BLADE FLUTTER.

(f) On panel 123 VU, location E62, open, safety and tag circuit breaker 1KR: ENGINES/ENG 1 AND 2/IDLE CTL to close the 3.5 Bleed Valve. 3.5 bleed valve must be closed during the 3.0 bleed trim procedure.

(g) Write the 3.0 bleed stroke at 1.37 EPR. If the control box indication is not 1.89 inches±0.100 inch, shut down the engine and check the transducer calibration or the EVBC rigging.

Caution: DO NOT ADJUST THE TRIM EQUIPMENT CONTROL BOX FOR DESIRED TRIM LIMITS OR INCORRECT TRIM WILL RESULT.

(h) Calculate the 3.0 bleed stroke trim target in inches for the appropriate EVBC part number:

EVBC Part Number	
P&W 795283 (HSD 776555–3; P&W 795283 (HSD 776555–3 L10); P&W 806894 (HSD 776555–6.	Stroke (Fully-Closed in Inches) minus 0.600 Inch divided by Trim Target (Inches).
P&W 806633 (HSD 776555–5.	Stroke (Fully-Closed in Inches) minus 1.000 Inch divided by Trim Target (Inches).

(i) Slowly decrease the engine power to the appropriate EPR trim target determined from Table 503. If the engine power drops below the EPR trim target while decreasing engine power, accelerate to 0.05 EPR above the target. Then, slowly decelerate to the target.

(j) Write the 3.0 bleed stroke in inches at the EPR trim target. If the bleed stroke is not ±0.03 inch of the target calculated in Step (h), adjust the 3.0 bleed adjustment screw on the EVBC while the thrust lever angle is kept constant. Trim to ±0.03 inch.

Note: Clockwise adjustment of the EVBC trim screw (control box TRIM switch in INC position) decreases the stroke level. Counterclockwise adjustment of the EVBC trim screw (control box trim switch in DEC position) increases the stroke level.

(k) If 3.0 bleed trim adjustment was necessary in Step (j), do the following:

1 Accelerate the engine to 1.37 EPR.
2 Check the 3.0 bleed fully-closed stroke reading.
3 Repeat Steps (g) through (l) until no more 3.0 bleed adjustments are necessary.

(l) Close the 1KR idle control circuit breaker.

(m) Decelerate the engine to idle. Let the engine stabilize and cool at idle for 5 minutes, then shut down the engine. (Ref. Para. F. (5))

(n) Subtract the 3.0 bleed stroke value at 3.5 bleed closure in Step (e) from the final 3.0 bleed fully-closed stroke value. This difference should be between 0.140 inch and 0.240 inch. If not, adjust the 3.0 bleed valve actuator position switch (Ref. 75–32–02, p. Block 501). Rig the bleed push switch and confirm proper 3.5 bleed closure.

(o) Inspect the engine and engine-mounted accessories for fuel, oil, or hydraulic leaks.

Appendix 7

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Hamilton Standard Component Maintenance Manual, Part No. 769299, GTA9–3.

(3) JT9D–7R4 Engine Manual, Part No. 785058.

(4) Airbus 300–600 Maintenance Manual

(5) Alert Service Bulletin No. 75–91, Air Engine Vane and Bleed Control—Modification of to Revised Trim Schedule, Issue sequence, A75–91; JT9D–7R4 Series.

(6) Special Instruction No. 53F–88, Provide Uptrim of 3.0 Bleed Schedule on JT9D–7R4H1 Engines only.

Supplemental Information

Numerical values shown parenthetically adjacent to U.S. values are System Internationale equivalents.

Accomplishment Instructions

A. Uptrim the EVBC as follows:

Note: The data listed below is required for the revised trim procedure.

—EVBC Part Number
—EPR Trim Target
—3.0 Bleed Stroke Targe
—EPR Modifier Class
—Bleed Stroke
—N1
—N2
—TAT
—Beta

(1) Determine the Programming Plug Connector modifier class from the engine data plate.

Note: Use attached worksheet to calculate bleed trim.

(2) Select Engine Pressure Ratio (EPR) Trim Target from Table 1.

Note: Programming Plug Connector modifier class determines trim target. Strictly adhere to wind envelope restrictions for trim runs as discussed in the Maintenance Manual, Reference (4). If possible, position the aircraft so that the wind is blowing directly at the inlet and *avoid trimming the EVBC if the engine is down wind of the fuselage.*

(3) Start the engine and run at idle power for 5 minutes.

(4) Record the 3.0 bleed stroke.

(5) Open Idle Control circuit breaker, 1KR, on Distribution Panel 123VU, to close the 3.5 tandem bleed as power is applied to accelerate the engine to 1.37 EPR which should be high enough to fully close the 3.0 bleed and record 3.0 bleed stroke at 1.37 EPR.

(6) Subtract the full closed bleed stroke reading, Step (5), from the 3.0 bleed full open stroke reading, Step (4). This difference should be within the values 1.89±0.10 inch (48.01±2.54 mm).

(7) If it is not within these limits of Step (6), shut down the engine and determine the source of the problem. Refer to Reference (4) for appropriate troubleshooting procedures, (recalibrate the 3.0 Bleed transducer, check for full 3.0 bleed travel, or other applicable procedure). Repeat procedure beginning with Step (3).

(8) Calculate the 3.0 Bleed stroke trim target per the following:

EVBC P/N and Stroke Trim Target

P&W P/N 795283 (HSD P/N776555–3), Stroke Full Closed Reading (Step 5)—0.70 inch=Stroke (17.78 mm) Trim Target
P&W P/N 795283 (HSD P/N776555–3 L10), Stroke Full Closed Reading (Step 5)—0.70 inch=Stroke (17.78 mm) Trim Target

(9) Observe EPR indicator to enable accurate reading of EPR when running to EPR trim target.

(10) Slowly decelerate the engine to the EPR trim target determined in Step (2). *DO NOT UNDER SHOOT THIS VALUE.* If the EPR is undershot, reaccelerate to .05 EPR higher than EPR trim target and make a slow deceleration to the target.

(11) Record bleed stroke and EPR at the EPR trim target. If the bleed stroke is not within ±0.03 inch (.076 mm) of the target values calculated in Step (8), trim the 3.0 bleed to within the 3.0 bleed stroke limits holding the thrust lever angle constant.

(12) If 3.0 bleed trim adjustment was required, accelerate to .05 EPR higher than EPR trim target and make a slow deceleration to the target as in Step (10). Repeat Steps (11) and (12) until no adjustment is necessary to 3.0 bleed adjustment screw.

(13) When the bleed is properly trimmed and the engine operating at the target EPR, confirm again that the 3.0 bleed trim point is correct. Data recorded should include EPR, N1, N2, Bleed Stroke, TAT, and BETA.

(14) Decelerate from the target EPR and close the Idle Control circuit breaker, 1KR, on Distribution Panel 123 VU, to open the 3.5 tandem bleed prior to returning the engine to idle power.

(15) Confirm 3.0 bleed full open stroke position after trim adjustment as follows:

(a) At idle record 3.0 bleed full open stroke position.

(b) If this reading is less than +0.2 inch (5.08 mm) of full open stroke position recorded in Step (4), trimming is complete.

(c) If it is more than +0.2 inch (5.08 mm) repeat trim procedure, (Steps 8–14), using 0.65 inch (16.51 mm) in calculating Stroke Trim Target in Step (9).

(d) If required results can not be achieved repeat procedure using 0.060 inch (15.24 mm) in calculating Stroke Trim Target in Step (8). This, however, is equivalent to a 1.27 EPR trim.

(e) If correct results can not be obtained, check equipment and/or replace the EVBC.

(16) As a result of the 3.0 bleed retrimming described above, the following instructions should be adhered to during all subsequent fuel control part power trimming.

(a) Use the 97° Power Lever Angle (PLA) Part Power Trim Curve, Reference (4),

Chapter/Section 71–00–00, Test No. 9 (Figures 1–5) if 87° Power Lever Angle (PLA) Part Power Trim would result in an EPR trim point below 1.35 EPR. In order to prevent fuel control trimming with the tandem 3.5 bleed open, 3.5 bleed closure should be confirmed during the slow acceleration to the 97° PLA Part Power Stop by observing an Exhaust Gas Temperature (EGT) decrease of 4°–12 °C (7.2°–21.6 °F). If the tandem 3.5 bleed remains open at the 97° Part Power Stop, open the Idle Control circuit breaker, 1KR, on Distribution Panel 123VU, to close the 3.5 bleed.

TABLE I

PPC Class	EPR Trim Target
1	1.196
2	1.192
3	1.188
4	1.184
5	1.180
6	1.176
7	1.172
8	1.168
9	1.164
10	1.160
11	1.156
12	1.152
13	1.148
14	1.144
15	1.140
16	1.136

Appendix 8

References

(1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Hamilton Standard Component Maintenance Manual, Part No. 769299, GTA9–3.

(3) JT9D–7R4 Engine Manual, Part No. 785058.

(4) Airbus 300–600 Maintenance Manual.

(5) Alert Service Bulletin No. 75–91, Air Engine Vane and Bleed Control—Modification of to Revised Trim Schedule, Issue sequence, A75–91; JT9D–7R4 Series.

Supplemental Information

Numerical values shown parenthetically adjacent to U.S. values are Systeme Internationale equivalents.

Accomplishment Instructions

A. Uptrim the EVBC as follows:

Note: This procedure is the equivalent of a 1.32 Engine Pressure Ratio (EPR) Uptrim.

The data listed below is required for the revised trim procedure:

—EVBC Part Number
—EPR Trim Target
—3.0 Bleed Stroke Target
—EPR Modifier Class
—Bleed Stroke
—N1
—N2
—TAT
—Beta

(1) Determine the Programming Plug Connector modifier class from the engine data plate.

Note: Use attached worksheet to calculate bleed trim.

(2) Select Engine Pressure Ratio (EPR) Trim Target from Table 1.

Note: Programming Plug Connector modifier class determines trim target. Strictly adhere to wind envelope restrictions for trim runs as discussed in the Maintenance Manual, Reference (4). If possible, position the aircraft so that the wind is blowing directly at the inlet and *avoid trimming the EVBC if the engine is down wind of the fuselage.*

(3) Start the engine and run at idle power for 5 minutes.

(4) Record the 3.0 bleed stroke. Stroke can read between −.2 inch (5.08 mm) and +.2 inch (5.08 mm) at idle.

(5) Open Idle Control circuit breaker 1KR, on Distribution Panel 123VU, to close the 3.5 tandem bleed as power is applied to accelerate the engine to 1.37 EPR which should be high enough to fully close the 3.0 bleed and record the 3.0 bleed stroke at 1.37 EPR.

(6) Subtract the full closed bleed stroke reading, Step (5), from the 3.0 bleed full open stroke reading, Step (4). This difference should be within the values 1.89±0.10 inch (48.01±2.54 mm).

(7) If it is not within these limits of Step (6), shut down the engine and determine the source of the problem. Refer to Reference (4) for appropriate troubleshooting procedures, (recalibrate the 3.0 Bleed transducer, check for full 3.0 bleed travel). Repeat procedure and start with Step (3).

(8) Calculate the 3.0 Bleed stroke trim target as follows:

EVBC P/N and Stroke Trim Target

P&W PN 795283 (HSD PN 776555–3), Stroke Full Closed Reading (Step 5)—0.70 inch =Stroke (17.78 mm) Trim Target

P&W PN 795283 (HSD PN 776555–3 L10), Stroke Full Closed Reading (Step 5)—0.70 inch=Stroke (17.78 mm) Trim Target

(9) Observe EPR Indicator to enable accurate reading of EPR when running to EPR trim target.

(10) Slowly decelerate the engine to the EPR trim target determined in Step (2). *DO NOT UNDER SHOOT THIS VALUE.* If the EPR is undershot, reaccelerate to .05 EPR higher than EPR trim target and make a slow deceleration to the target.

(11) Record bleed stroke and EPR at the EPR trim target. If the bleed stroke is not within +/−0.03 inch (.076 mm) of the target values calculated in Step (8), trim the 3.0 bleed to within the 3.0 bleed stroke limits and keep the thrust lever angle constant.

(12) If 3.0 bleed trim adjustment was required, accelerate to .05 EPR higher than EPR trim target and make a slow deceleration to the target as in Step (10). Repeat Steps (11) and (12) until no adjustment is necessary to 3.0 bleed adjustment screw.

(13) When the bleed is properly trimmed and the engine operates at the target EPR, confirm again that the 3.0 bleed trim point is correct. Data recorded should include EPR, N1, N2, Bleed Stroke, TAT, and BETA.

(14) Decelerate from the target EPR and close the Idle Control circuit breaker 1KR on Distribution Panel 123VU, to open the 3.5 tandem bleed before the engine is returned to idle power.

(15) Confirm 3.0 bleed full open stroke position after trim adjustment as follows:

(a) At idle record 3.0 bleed full open stroke position.

(b) If this value is less than +.0.2 inch (5.08 mm) of full open stroke position recorded in Step (4), trim procedure is complete.

(c) If it is more than +0.2 inch (5.08 mm) repeat trim procedure, (Steps 8–14), using 0.65 inch (16.51 mm) to calculate Stroke Trim Target in Step (9).

(d) If required results are not achieved repeat procedure and use 0.060 inch (15.24 mm) to calculate Stroke Trim Target in Step (8). This, however, is equivalent to a 1.27 EPR trim.

(e) If correct results can not be obtained, check equipment and/or replace the EVBC.

(16) As a result of the 3.0 bleed trim procedure described above, the instructions which follow must be adhered to during all subsequent fuel control part power trim procedures.

(a) Use the 97° Power Lever Angle (PLA) Part Power Trim Curve, Reference (4), Chapter/Section 71–00–00, Test No. 9 (Figures 1–5) if 87° Power Level Angle (PLA) Part Power Trim would result in an EPR trim point below 1.35 EPR. In order to prevent fuel control trim with the tandem 3.5 bleed open, 3.5 bleed closure should be confirmed during the slow acceleration to the 97° PLA Part Power Stop by observation of an Exhaust Gas Temperature (EGT) decrease of 4°–12 °C (7.2°–21.6 °F). If the tandem 3.5 bleed remains open at the 97° Part Power Stop, open the Idle Control circuit breaker, 1KR, on Distribution Panel 123VU to close the 3.5 bleed.

TABLE I

Programming Plug Connector (PPC) Class	EPR Trim Target
1	1.196
2	1.192
3	1.188
4	1.184
5	1.180
6	1.176
7	1.172
8	1.168

TABLE I—Continued

Programming Plug Connector (PPC) Class	EPR Trim Target
9	1.164
10	1.160
11	1.156
12	1.152
13	1.148
14	1.144
15	1.140
16	1.136

Appendix 9

Reference

Component Maintenance Manual with Illustrated Parts List 75–34–01.

Accomplishment Instructions

A. Modify engine vane and bleed control as follows:

(1) Inspect width of piston land, ("C", in Figure 1) on piston and insert PN 728050–1. Rework pistons having sufficient width of land by machining to the dimensions shown in Figure 1. Inspect reworked piston by magnetic particle inspection per AMS2640, using direct current applied of 300 amperes, and coil, 3000 ampere-turns. Reidentify reworked piston as PN 786018–1, and add "(SK104779)" above or below the new PN marking.

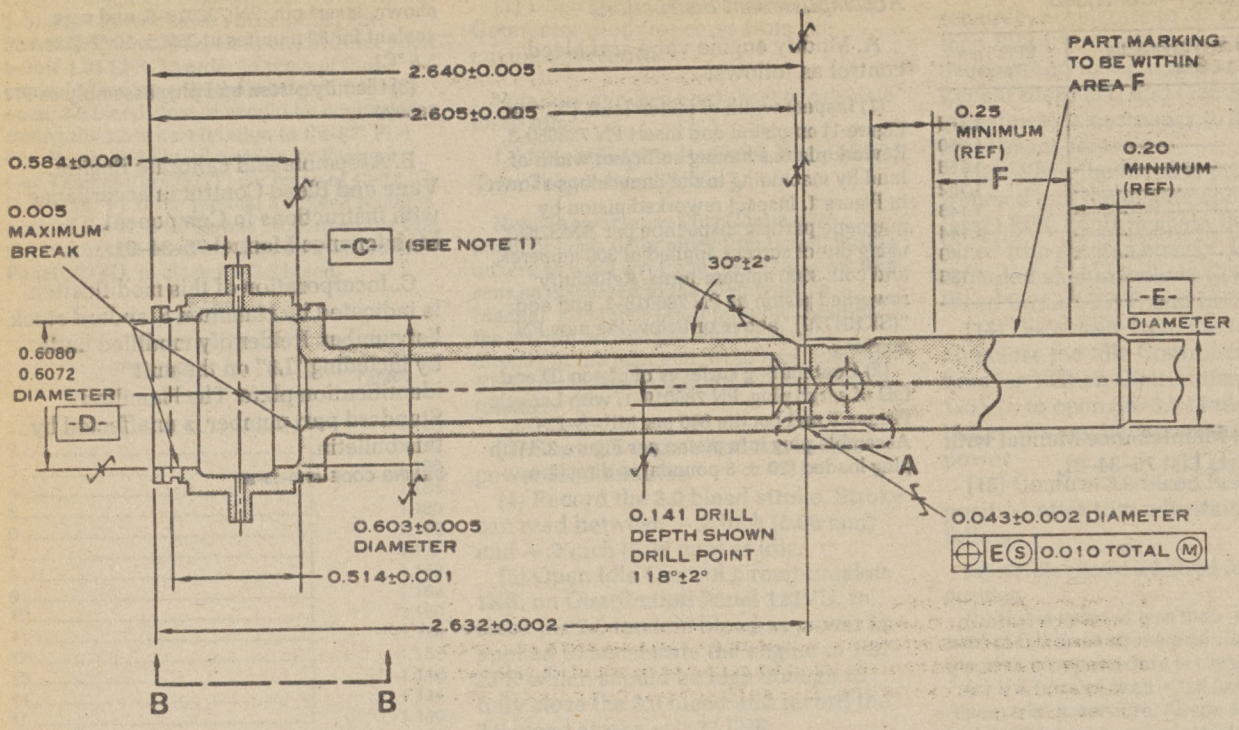
(2) Coat mating surfaces of piston ID and OD of servo plug, PN 786019–1, with Locquic Primer T and Loctite 640 per MIL–S–22473. Assemble plug into piston per Figure 2. With plug loaded (20 ± 3 pounds) in direction shown, insert pin, PN 732019–9, and cure sealant for 30 minutes at 250 ± 10 °F (121.1 ± 5.5 °C).

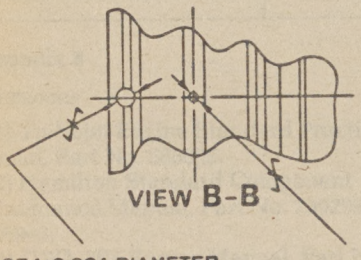
(3) Identify piston and plug assembly as PN 786020–1.

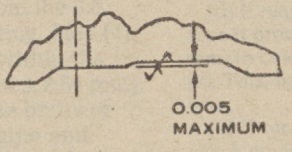
B. Assemble and calibrate Engine Vane and Bleed Control in accordance with instructions in Component Maintenance Manual 75–34–01.

C. Incorporation of this modification is indicated by Hamilton Standard stock list number. Reidentify modified units by including "L8" on the unit identification plate. The Hamilton Standard part number is unaffected by this bulletin.

BILLING CODE 4910–13–M







VIEW A
ENLARGED

0.074±0.001 DIAMETER

D M 0.004 TOTAL M

2 HOLES MUST SIMULTANEOUSLY ACCEPT A 0.0728 MINIMUM DIAMETER PIN ANGULAR LOCATION AS A GROUP MAY VARY FREELY

0.025±0.005 DIAMETER

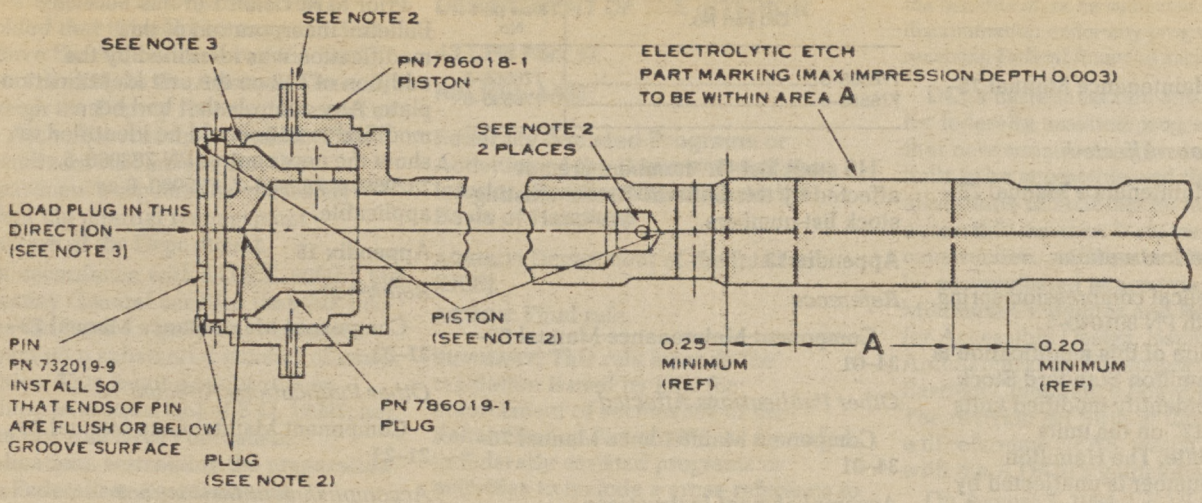
C S 0.004 TOTAL S

4 HOLES EQUALLY SPACED (SEE NOTE 3). ANGULAR LOCATION AS A GROUP MAY VARY FREELY. EDM PERMITTED IN THIS AREA.

NOTES:

1. WIDTH C MUST BE 0.064 MINIMUM.
2. MATERIAL: AMS5616
   HARDNESS: SURFACE, 1000 HV MINIMUM: CORE, 31 HRC MINIMUM.
3. IT IS PERMISSIBLE TO MACHINE FOUR FLATS 0.020 MAXIMUM WIDTH ON LAND OUTSIDE DIAMETER AT 4 HOLE LOCATIONS TO REMOVE HARDENED MATERIAL AND THEREBY FACILITATE DRILLING.
4. DIMENSIONS IN INCHES
5. SYMBOLS PER ANSI Y14.5

Rework of Piston and Insert
Figure 1



NOTES:

1. DIMENSIONS IN INCHES.
2. INSPECT INCLUDED AREA USING 5X MAGNIFICATION WITH 150 FOOT CANDLES MINIMUM LIGHTING INTENSITY. NO VISIBLE CONTAMINANTS ALLOWED.
3. PRIOR TO APPLYING PRIMER. SOLVENT CLEAN WITH SOLVENT PER AMS3160 AND AIR DRY. CHECK FOR CONTAMINANTS WITH 50 FOOT CANDLES OF LIGHTING NONE ALLOWED.

Assembly of Servo Piston and Plug
Figure 2

BILLING CODE 4910-13-C

Appendix 10

Reference

Component Maintenance Manual 75–34–01

Other Publications Affected

Component Maintenance Manual 75–34–01

Accomplishment Instructions

A. Replace helical compression spring, PN 728180–1 with PN 801040–1.

B. Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L12" on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 11

Reference

Component Maintenance Manual 75–34–01

Other Publications Affected

Component Maintenance Manual 75–34–01

Accomplishment Instructions

A. Replace helical compression spring, PN 765682–1 with PN 801073–1.

B. Recalibrate engine vane and bleed controls in accordance with instructions in Component Maintenance Manual 75–34–01 for controls incorporating L13.

C. Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L13" on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 12

Reference

Component Maintenance Manual 75–34–01

Other Publications Affected

Component Maintenance Manual 75–34–01

Accomplishment Instructions

A. Replace servo cam PN 765357–10 with PN 765357–11.

B. Calibrate the engine vane and bleed control PN 776555–3 or PN 776555–6 in accordance with instructions for PN 776555–5 of *TESTING* in referenced overhaul manual.

C. Incorporation of this modification is indicated by changing the Hamilton Standard Part Number on the unit identification plate.

Old part No.	New part No.
776555–3	776555–5
776555–6	776555–5

HS stock list "L" numbers are not affected by this bulletin. Retain existing stock list numbers.

Appendix 13

Reference

Component Maintenance Manual 75–34–01

Other Publications Affected

Component Maintenance Manual 75–34–01

Accomplishment Instructions

A. Replace actuator valve PN 728149–3 with PN 800997–1.

B. Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L14" on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 14

Reference

Component Maintenance Manual 73–21–23

Other Publications Affected

Component Maintenance Manual 73–21–23

Illustrated Parts Catalog 73–21–23

Accomplishment Instructions

A. Modify servo assembly, PN 728142–33 by replacing servo cam and sleeve, PN 774538–12 with PN 774538–15.

B. Use Vibration Peen or Electrolytic Etch to reidentify modified servo assembly as PN 728142–36.

C. Recalibrate controls PN 782960–1, 782960–2, 782960–3, and 782960–4 in accordance with instructions of *TESTING* as referenced in Component Maintenance Manual for PN 782960–5, 782960–6, 782960–7, and 782960–8.

D. After completing recalibration, reidentify the fuel control. Incorporation of this modification is indicated by changing the Hamilton Standard Part Number on the unit identification plate as follows:

Before remarking	After remarking
782960–1	782960–5
782960–2	782960–6
782960–3	782960–7
782960–4	782960–8

Prior to Revision 1 of this Service Bulletin, incorporation of this modification was identified by the addition of L12 on the unit identification plate. Any controls that had been modified to L12 should be identified to show the new control PN 782960–5, 782960–6, 782960–7, 782960–8 as applicable.

Appendix 15

Reference

Component Maintenance Manual 73–21–23

Other Publications Affected

Component Maintenance Manual 73–21–23

Accomplishment Instructions

A. Recalibrate engine fuel controls per instructions in Component Maintenance Manual 73–21–23 for controls incorporating L11.

B. Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including L11 on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

[FR Doc. 90–16261 Filed 7–13–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Attorney General Order No. 1429–90]

Administrator of the Drug Enforcement Administration

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule will amend title 28 of the Code of Federal Regulations so that the Department's regulations will accurately reflect the Department's internal reporting structure. This is being done so that the public will know the supervisor for the Drug Enforcement Administration.

EFFECTIVE DATE: This rule is effective July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Barry Stern, Office of the Deputy Attorney General. Phone: (202) 514–3070.

SUPPLEMENTARY INFORMATION: The present Code of Federal Regulations states that the Administrator of the Drug Enforcement Administration reports to the Attorney General through the Director of the Federal Bureau of

Investigation. The Department has decided that it would be more efficient to have the Administrator of the DEA report directly to the Attorney General, through the Deputy Attorney General or the Associate Attorney General. This amendment will ensure that the Department's regulations accurately reflect the internal management structure of the Department.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant economic impact on a substantial number of small entities. This is not a major rule as defined in section 1(b) of E.O. 12991, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Therefore, by virtue of the authority vested in me, including 28 U.S.C. 509, 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

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

Authority: 5 U.S.C. 301, 2303, 3101; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3521, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 873, 881(d), 883, 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001–2017p; Public Law 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

2. Section 0.102 is revised to read as follows:

§ 0.102 Drug enforcement policy coordination.

The Administrator of the Drug Enforcement Administration shall report to the Attorney General, through the Deputy Attorney General or the Associate Attorney General, as directed by the Attorney General.

Dated: July 6, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 90–16462 Filed 7–13–90; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

43 CFR Part 17

RIN 1091–AA03

Federally Assisted Programs or Activities of the Department of the Interior, Nondiscrimination on the Basis of Handicap

AGENCY: Department of the Interior (DOI).

ACTION: Final rule.

SUMMARY: This rule amends the regulation issued by DOI for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations of more than one Federal agency.

EFFECTIVE DATE: August 15, 1990.

ADDRESSES: Copies of this notice are available on tapes for persons with impaired vision. They may be obtained from the Office for Equal Opportunity, Room 1324, Main Interior Building, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Melvin C. Fowler at (202) 208–3455 (voice) or 208–3434 (voice/TDD). These numbers are not toll free numbers.

SUPPLEMENTARY INFORMATION: On May 1, 1989 (54 FR 18554), DOI published a proposed rule that would amend its existing regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to UFAS. All comments received by DOI were reviewed and considered, and are discussed in this document. After carefully considering these comments, DOI decided to adopt the rule as final.

Background

Section 504 (29 U.S.C. 794) provides in part that

> No otherwise qualified individual with handicaps in the United States * * * shall, solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *.

DOI's current section 504 regulation for federally assisted programs requires that new construction be designed and built to be accessible and that alterations of facilities be made in an accessible manner. It states that new construction, addition or alteration must be accomplished in accordance with the Minimum Guidelines and Requirements for Accessible Design, issued by the Architectural and Transportation Barriers Compliance Board (ATBCB). The revision set forth in this document will reference UFAS, which is consistent with the ATBCB's guidelines.

On August 7, 1984, UFAS was issued by the four agencies establishing standards under the Architectural Barriers Act (49 FR 31538(see discussion *infra*)). The Department of Justice (DOJ), as the agency responsible under Executive Order 12250 for coordinating the enforcement of section 504, has recommended that agencies amend their section 504 regulations for federally assisted programs or activities to establish that, with respect to new construction and alterations, compliance with UFAS shall be deemed to be compliance with section 504. Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce protential conflicts when a building is subject to the section 504 regulations or more than one Federal agency.

Background of Accessibility Standards

The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) requires certain Federal and federally funded buildings to be designed, constructed, and altered in accordance with accessibility standards. It also designates four agencies (the General Services Administration, the Departments of Defense and Housing and Urban Development, and the United States Postal Service) to prescribe the accessibility standards. Section 502(b)(7) of the Rehabilitation Act of 1973, as amended, directed the Architectural and Transportation Barriers Compliance Board (ATBCB) to issue minimum guidelines and requirements for these standards 29

U.S.C. 792(b)(7). The guidelines [1] now in effect are found at 36 CFR part 1190.[2]

In 1984, the four standard-setting agencies issued UFAS as an effort to minimize the differences among their Barriers Act standards, and among those standards and accessibility standards used by the private sector. The General Services Administration (GSA) and Department of Housing and Urban Development (HUD) have incorporated UFAS into their Barriers Act regulations (*see* 41 CFR Subpart 101–19.6 and 24 CFR part 40, respectively). In order to ensure uniformity, UFAS was designed to be consistent with the scoping and technical provisions of the ATBCB's minimum guidelines and requirements, as well as with the technical provisions of ANSI A117.1–1980. ANSI is a private, national organization that publishes recommended standards on a wide variety of subjects. The original ANSI A117.1 was adopted in 1961 and reaffirmed in 1971. The current edition, issued in 1986, is ANSI A117.1–1986. The 1961, 1980, and 1986 ANSI standards are frequently used in private practice and by State and local governments.

The final rule amends the current regulation implementing section 504 in programs or activities receiving Federal financial assistance from DOI to refer to UFAS.

DOI has determined that it will not require the use of UFAS, or any other standard, as the sole means by which recipients can achieve compliance with the requirement that new construction and alterations be accessible. To do so would unnecessarily restrict recipients' ability to design for particular circumstances. In addition, it might create conflicts with State or local accessibility requirements that may also apply to recipients' buildings and that are intended to achieve ready access and use. It is expected that in some instances recipients will be able to satisfy the section 504 new construction and alteration requirements by following applicable State or local codes, and vice versa.

Some facilities may be covered by both section 504 and the Architectural Barriers Act. Nothing in this rule relieves recipients whose facilities are covered by the Barriers Act and that Act's implementing regulations from complying with the requirements of UFAS or any other Barriers Act standard or requirements that may be in effect.

[1] The minimum guidelines were established on August 4, 1982 (47 FR 33864), and amended on September 14, 1988 (53 FR 35510), February 3, 1989 (54 FR 5444), and August 23, 1989 (54 FR 34977).

[2] The ATBCB Office of Technical Services is available to provide technical assistance to recipients upon request relating to the elimination of architectural barriers. Its address is: U.S. ATBCB, Office of Technical Services, 1111 18th Street, NW., Suite 500, Washington, DC 20036. The telephone number is (202) 653–7834 [voice/TDD]. This is not a toll free number.

Effect of Amendment

One comment expressed concern over maintaining the use of the term "facilities" rather than the term "buildings." DOI's current section 504 rule requires that new facilities be designed and constructed to be readily accessible to and usable by persons with handicaps and that alterations be accessible to the maximum extent feasible. The amendment does not affect these requirements but merely provides that compliance with UFAS with respect to buildings (as opposed to "facilities," a broader term that encompasses buildings as well as other types of property) shall be deemed compliance with these requirements with respect to those buildings. Thus, for example, an alteration is accessible "to the maximum extent feasible" if it is done in accordance with UFAS. It should be noted that UFAS contains special requirements for alterations where meeting the general standards would be impracticable or infeasible (*see, e.g.*, UFAS section 4.1.6(1)(b), 4.1.6(3), 4.1.6(4), and 4.1.7).

The amendment also includes language providing that departures from particular UFAS technical and scoping requirements are permitted so long as the alternative methods used will provide substantially equivalent or greater access to and utilization of the building. Allowing these departures from UFAS will provide recipients with necessary flexibility to design for special circumstances and will facilitate the application of new technologies that are not specified in UFAS. As explained under "Background of Accessibility Standards," DOI anticipates that compliance with some provisions of applicable State and local accessibility requirements will provide "substantially equivalent" access. In some circumstances, recipients may choose to use methods specified in model building codes or other State or local codes that are not necessarily applicable to their buildings but that achieve substantially equivalent access.

The amendment requires that the alternative methods provide "substantially" equivalent or greater access, in order to clarify that the alternative access need not be precisely equivalent to that afforded by UFAS. Application of the "substantially equivalent access" language will depend on the nature, location, and intended use of a particular building. Generally, alternative methods will satisfy the requirement if in material respects the access is substantially equivalent to that which would be provided by UFAS in such respects as safety, convenience, and independence of movement. For example, it would be permissible to depart from the technical requirement of UFAS section 4.10.9 that the inside dimensions of an elevator car be at least 68 inches or 80 inches (depending on the location of the door) on the door opening side, by 54 inches, if the clear floor area and the configuration of the car permits wheelchair users to enter the car, make a 360 degree turn, maneuver within reach of controls, and exit from the car. This departure is permissible because it results in access that is safe, convenient, and independent, and therefore substantially equivalent to that provided by UFAS.

With respect to UFAS scoping requirements, it would be permissible in some circumstances to depart from the UFAS new construction requirement of one accessible principal entrance at each grade floor level of a building (see UFAS section 4.1.2(8)), if safe, convenient, and independent access is provided to each level of the new facility by a wheelchair user from an accessible principal entrance. This departure would not be permissible if it required an individual with handicaps to travel an extremely long distance to reach the spaces served by the inaccessible entrances or otherwise provided access that was substantially less convenient than that which would be provided by UFAS.

It would not be permissible for a recipient to depart from UFAS' requirement that, in new construction of a long-term care facility, at least 50% of all patient bedrooms be accessible (see UFAS section 4.1.4(9)(b)), by using large accessible wards that make it possible for 50% of all beds in the facility to be accessible to individuals with handicaps. The result is that the population of individuals with handicaps in the facility will be concentrated in large wards, while able-bodied persons will be concentrated in smaller, more private rooms. Because convenience for persons with handicaps is therefore compromised to such a great extent, the degree of accessibility provided to persons with handicaps is not substantially equivalent to that intended to be afforded by UFAS.

It should be noted that the amendment does not require that existing buildings leased by recipients meet the standards for new construction

and alterations.[3] Rather, it continues the current Federal practice under section 504 of treating newly leased buildings as subject to the program accessibility standard for existing facilities.

One comment expressed concern about the deletion of the term "additions" from the accessibility requirements. UFAS contains specific requirements for additions to existing buildings (see UFAS section 4.1.5). The amendment references UFAS only for "design, new construction, or alteration of buildings," and does not mention additions specifically. For purposes of section 504, an addition is considered "new construction" or "alteration." Thus, the absence of a reference to additions in the rule should not be read to exempt additions from the accessibility requirements.

Buildings under design on the effective date of this amendment will be governed by the amendment if the date that bids were invited falls after the effective date. This interpretation is consistent with GSA's Barriers Act regulation incorporating UFAS, at 41 CFR subpart 101–19.6.

The revision includes language modifying the effect of UFAS section 4.1.6(1)(g), which provides an exception to UFAS 4.1.6, *Accessible Buildings: Alterations.* Section 4.1.6(1)(g) of UFAS states that "mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6." Particularly after the development of specific UFAS provisions for housing alterations and additions, UFAS section 4.1.6.(1)(g) could be read to exempt alterations to privately owned residential housing, which is not covered by the Architectural Barriers Act unless leased by the Federal Government for subsidized housing programs. This exception, however, is not appropriate under section 504, which protects beneficiaries of housing provided as part of a federally assisted program. Consequently, the amendment provides that, for purposes of this section, section 4.1.6.(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries, or result in the employment or residence therein of persons with handicaps.

This exception does not apply to a room merely because it contains mechanical equipment. For instance, the exception shall not be read to exempt from the requirements of UFAS a "mechanical room" with a photocopier, control mechanisms and operating equipment for a large heating and air conditioning system, and controls for a security system. Since the room would be frequented by employees, it is not excepted from UFAS. In this case, the control mechanisms, including switches, thermostats, and alarms, used by employees should be on an accessible path and mounted at the proper height.

One comment proposed deleting the revision, "of not requiring construction alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member." DOI has retained this revision. The revision provides that whether or not the recipient opts to follow UFAS in satisfaction of the ready access requirement, the recipient is not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member. This provision does not relieve recipients of their obligation under the current regulation to ensure program accessibility.

The final rule also revises the definition of "historic properties" in the current regulation in order to conform it to UFAS section 4.1.7.(1)(a). Historic properties under the current regulation are limited to those listed or eligible for listing in the National Register of Historic Places. The special historic preservation section of UFAS applies additionally to buildings and facilities designated as historic under State and local law. One comment was received regarding the revised definition of "Historic properties." This provisions should not be interpreted to broaden the categories of buildings that can be designated as national historic properties, or to affect the process that is followed for buildings that are on the National Register. Rather, it is intended to provide some flexibility with respect to those properties that States and localities have designated as historic.

This document has been reviewed by DOJ. It is an adaptation of a prototype prepared by DOJ Executive Order 12250 of November 2, 1980. The ATBCB has been consulted in the development of this document in accordance with 28 CFR 41.7.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the Federal government to anticipate and reduce the effect of rules and paperwork requirements on small entities. The Department of the Interior hereby certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely substitutes DOI's current standard with UFAS which is already required throughout the Federal government.

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules. A major rule is defined as a rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it promotes governmentwide consistency and minimizes potential recipient compliance conflicts by incorporating UFAS in place of DOI's standard.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

Since this regulation is administrative, legal, and procedural in nature it is categorically excluded from the National Environmental Policy Act Process. *See* 516 DM 2, Appendix 1.

Authorship Statement

The principal author of this rulemaking document is Melvin C. Fowler, Supervisory, Equal Opportunity Specialist, Federal Assistance Programs Staff, Office for Equal Opportunity, U.S. Department of the Interior.

List of Subjects in 43 CFR Part 17

Blind, Buildings, Civil rights, Color, Employment, Equal employment opportunity, Federal assistance, Grant

[3] This will be the case even if UFAS is revised to be consistent with the 1988 amendment to the ATBCB minimum guidelines to provide minimum guidelines and requirements for accessible leased facilities. On September 14, 1988 (53 FR 35510), the ATBCB amended its minimum guidelines to establish requirements for standards for buildings leased by the Federal Government. 36 CFR 1190.34 (1989). The requirements apply to leased buildings even if they are not altered. Section 1190.34(a) requires that any building or facility that is to be leased by the Federal Government, without having been designed or constructed in accordance with its specifications, comply with the standards for new construction (§ 1190.31), incorporate the features listed in the standards for alterations (§ 1190.33(c)), or, if no such space is available, be altered to include certain accessible elements and spaces. These requirements will be incorporated into UFAS and will apply to buildings covered by the Architectural Barriers Act. However, existing buildings leased by recipients are not covered by the Act unless the buildings are to be altered.

programs, Handicapped, Historic preservation, Loan programs, National origin, Nondiscrimination, Race.

For the reasons set forth in the preamble, 43 CFR part 17 is amended as follows:

PART 17—[AMENDED]

1. The authority citation for part 17, subpart B, is revised to read as follows:

Authority: 29 U.S.C. 794.

2. Section 17.218, paragraph (c) is revised to read as follows:

§ 17.218 New construction.

* * * * *

(c) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of August 15, 1990, design, construction, or alteration of buildings in conformance with sections 3–8 of the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101–19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

3. Section 17.260, "Historic preservation programs," is amended by revising the definition of "Historic properties" in paragraph (a) to read as follows:

§ 17.260 Historic preservation programs.

(a) *Definitions.*

* * * * *

Historic properties means those buildings or facilities that are listed or eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate State or local governmental body.

* * * * *

Lou Gallegos,

Assistant Secretary, Policy, Management and Budget, Department of the Interior.

[FR Doc. 90–16568 Filed 7–13–90; 8:45 am]

BILLING CODE 4310–RE–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[MM Docket No. 87–314; FCC 90–191]

Broadcast Service; Abuse of the Commission's Licensing Processes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The instant Report and Order (Report) enacts rules designed to eliminate abuse of the Commission's processes through the improper use of petitions to deny and threats to file such petitions in the context of applications proceedings involving construction permits, modifications, transfers, assignments, and license renewals. Also at issue is abuse in allotment proceedings. Specifically, the Commission: (1) Adopts rules limiting the amount of payment that may be made in exchange for withdrawing petitions to deny or threats to file petitions to deny in new licensing, modification, and transfer and assignment proceedings; (2) undertakes case-by-case review of all citizens' agreements reached in consideration for withdrawing petitions to deny or threats to file petitions to deny in these proceedings, to ensure that they comport with the public interest; (3) clarifies its treatment of programming provisions contained in these agreements; (4) limits the amount and type of consideration that may be paid for the withdrawal of an expression of interest in allotment proceedings to legitimate and prudent expenses incurred in preparing and filing the expression of interest; and (5) clarifies its policies concerning expressions of interest in applying for and constructing a station made in allotment proceedings. This Report is part of the Commission's comprehensive effort to eliminate abuse of its processes.

EFFECTIVE DATE: October 4, 1990.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugenia Hull, Mass Media Bureau, Policy and Rules Division, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 87–314, FCC 90–191, adopted May 10, 1990, and released July 2, 1990.

The complete text of this Report is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. This Report is part of the Commission's effort to eliminate abuse of its processes. This proceeding in particular concerns abuse of the Commission's processes through the improper use of petitions to deny and threats to file such petitions in the context of applications proceedings involving construction permits, modifications, transfers, assignments, and license renewals, and abuse in allotment proceedings. Specifically, the Commission: (1) Adopts rules limiting the amount of payment that may be made in exchange for withdrawing petitions to deny or threats to file petitions to deny in new licensing, modification, and transfer and assignment proceedings; (2) undertakes case-by-case review of all citizens' agreements reached in consideration for withdrawing petitions to deny or threats to file petitions to deny in these proceedings, to ensure that they comport with the public interest; (3) clarifies its treatment of programming provisions contained in these agreements; (4) limits the amount and type of consideration that may be paid for the withdrawal of an expression of interest in allotment proceedings to legitimate and prudent expenses incurred in preparing and filing the expression of interest; and (5) clarifies its policies concerning expressions of interest in applying for and constructing a station made in allotment proceedings. (The Notice of Proposed Rulemaking in this proceeding may be found at 52 FR 35737, September 23, 1987.)

2. The policy revisions and rules set out below, significantly advance our goal of reducing the opportunities, incentives, and mechanisms for abuse of our application processes. By placing limitations on payments that can be made in exchange for withdrawing petitions to deny filed against applications for new construction

permits, modifications, transfers and assignments or in exchange for withdrawing expressions of interest in allotment proceedings, we are extending the limits imposed on petitions in the renewal context to filings in these other contexts. By prohibiting abusive threats to file petitions to deny (those in which money or other improper consideration is demanded in exchange for withdrawing the threat), we are ensuring that abusive practices are not merely shifted to the pre-petition stage. By reviewing citizens' agreements reached in exchange for the withdrawal of a petition or threat to file a petition on a case-by-case basis, we will ensure that these agreements further the public interest.

3. The Commission also clarifies that, consistent with our treatment of citizens' agreements in the renewal context, we will not enforce private contractual agreements related to programming in citizens' agreements reached in settlement of petitions filed in new licensing, modification and transfer and assignment contexts. Our decision not to enforce programming commitments made in citizen's agreements does not diminish our commitment to ensuring that broadcast licensees present programming responsive to the needs of the communities they serve. The renewal process remains the appropriate setting in which to assert that a licensee has failed adequately to serve those community needs.

4. Finally, based on the record compiled in response to the Notice of Proposed Rulemaking and on our experience, the Commission concludes that there is significant potential for abuse of the allotment process. Therefore, we are limiting the amount and type of consideration that may be paid for the withdrawal of an expression of interest to legitimate and prudent expenses incurred in preparing and filing the expression of interest. As an additional safeguard against abuse, we are also clarifying our policies concerning expressions of interest in applying for and constructing a station made in allotment proceedings. Currently, parties are required to include an expression of interest in applying for, constructing, and operating the proposed facility if the allotment is made. While we have not previously stated a view on this issue, we are of the opinion that these expressions have the status of representations to the Commission, as do any assertions contained in pleadings filed with the Commission. Thus, a statement of interest in operating a station made by a party who, in fact, lacks the requisite intent to construct and operate the proposed facility will henceforth be considered a material misrepresentation within the meaning of § 73.1015 of the Commission's Rules, and would be subject to prosecution pursuant to section 502 of the Communications Act of 1934, as amended, forfeiture pursuant to section 503 of the Act or other appropriate administrative sanctions.

5. However, we also wish to ensure that a charge of misrepresentation is raised and treated as a serious matter. The mere fact that a party in one proceeding files a pleading in which it states an interest in applying for a stations, but subsequently fails to do so, is not sufficient evidence, by itself, of misrepresentation. On the other hand, where there is either direct evidence or misrepresentation, or evidence of a pattern of filings in which a party expresses an interest in an allotment and either voluntarily dismisses its proposal prior to action in the allotment proceeding or fails to file an application, a question may arise as to whether the party is advancing proposals in good faith. Depending on the facts in the case, the Commission may find the intent to deceive necessary for a determination of misrepresentation.

6. In sum, we believe that imposing settlement limitations and sanctioning parties who file without the intent to construct and operate the proposed facility will deter the filing of disingenuous proposals and aid the expeditious resolution of allotment and related cases.

7. In order to enforce our policies regarding petitions to deny, threats to file petitions to deny and citizens' agreements, we are adopting the following disclosure and certification requirements. Where a petitioner to deny seeks to dismiss a petition filed against an application for a new station or the transfer, assignment or modification of an existing facility, each party to the petition must submit a copy of any written agreement relating to the dismissal and an affidavit: (1) Certifying that it has not received or paid it will not receive or pay any money in exchange for the dismissal of the petition to deny in excess of legitimate and prudent expenses incurred by the petitioner seeking dismissal; (2) disclosing the exact nature and amount of any money or other consideration paid or promised in connection with the dismissal of the petition to deny; and (3) disclosing the terms of any oral agreement related to the dismissal of the petition to deny.

8. Any petitioner seeking reimbursement of expenses under the agreement must also submit an itemized accounting of its expenses incurred in preparing, filing, and prosecuting its petition for which reimbursement is sought. This information is needed to verify the expenses for which the petitioner is seeking reimbursement. We are also adopting similar procedures for withdrawal of expressions of interest in FM and TV allotment proceedings.

Paperwork Reduction Act Statement

9. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Regulatory Flexibility Act Analysis

10. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rules will have a significant impact (both positive and negative) on a substantial number of small entities because of the limitations placed on the amount of payment that may be made in settlement agreements, because of the paperwork involved in verifying that such a settlement payment is justified, and in the risk of prosecution in case of violation of the new rules. However, the Commission believes that its action is warranted by the potential for abuse of its processes, and its action will positively impact on small entities by reducing that potential for abuse, and thus enhancing the fairness of its processes for all possible participants.

11. The Secretary shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

12. Authority for the rule changes adopted in this document is contained in sections (4) (i) and (j), and 301, 303, 308, and 309 of the Communications Act of 1934, as amended.

13. Accordingly, *it is ordered*, that the policies and the amendments to the Commission's Rules and Regulations adopted here and set forth below shall become effective on October 4, 1990.

14. *It is further ordered*, that the Petition of the National Black Media Coalition to accept its late-filed comments IS GRANTED.

15. *It is further ordered*, that this proceeding IS TERMINATED.

List of Subjects

47 CFR Part 1

Radio, Television.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 73.1015 is amended by revising the introductory text to read as follows:

§ 73.1015 Truthful written statements and responses to Commission inquiries and correspondence.

The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. No applicant, permittee, licensee, or person who files an expression of interest shall in any response to Commission correspondence or inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission.

* * * * *

3. Section 73.3524 is redesignated as § 73.3588 and the title and paragraphs (a) and (b) introductory text are revised to read as follows:

§ 73.3588 Dismissal of petitions to deny or withdrawal of informal objections.

(a) Whenever a petition to deny or an informal objection has been filed against any application, and the filing party seeks to dismiss or withdraw the petition to deny or the informal objection, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

* * * * *

(b) Citizens' agreements. For purposes of this section, citizens agreements include agreements arising whenever a petition to deny or informal objection has been filed against any application and the filing party seeks to dismiss or withdraw the petition or objection in exchange for nonfinancial consideration (*e.g.*, programming, ascertainment or employment initiatives). The parties to such an agreement must file with the Commission a joint request for approval of the agreement, a copy of any written agreement, and an affidavit executed by each party setting forth:

* * * * *

4. A new § 73.3589 is added to read as follows:

§ 73.3589 Threats to file petitions to deny or informal objections.

(a) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny or an informal objection. For the purposes of this section, reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector incurred reasonably and directly in preparing to file a petition to deny will not be considered to be payment for refraining from filing a petition to deny or informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement nonfinancial promises are prohibited unless specifically approved by the Commission.

(b) Whenever any payment is made in exchange for withdrawing a threat to file or refraining from filing a petition to deny or informal objection, the licensee must file with the Commission a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) Certification that neither the would-be petitioner, nor any person or organization related to the would-be petitioner, has received or will receive any money or other consideration in connection with the citizens' agreement other than legitimate and prudent expenses reasonably incurred in preparing to file the petition to deny;

(2) Certification that unless such arrangement has been specifically approved by the Commission, neither the would-be petitioner, nor any person or organization related to the would-be petitioner, is or will be involved in carrying out, for a fee, any programming ascertainment, employment or other nonfinancial initiative referred to in the citizens' agreement; and

(3) The terms of any oral agreement.

(c) For purposes of this section:

(1) Affidavits filed pursuant to this section shall be executed by the licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(2) "Legitimate and prudent expenses" are those expenses reasonably incurred by a would-be petitioner in preparing to file its petition for which reimbursement is being sought.

(3) "Other consideration" consists of financial concessions, including but not limited to the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

5. Section 73.3584 is amended by revising the heading to read as follows:

§ 73.3584 Procedure for filing petitions to deny.

* * * * *

PART 1—[AMENDED]

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

6. The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

§ 1.420 [Amended]

7. Section 1.420 is amended by adding a new paragraph (j) to read as follows:

* * * * *

(j) Whenever an expression of interest in applying for, constructing, and operating a station has been filed in a proceeding to amend the FM or TV Table of Allotments, and the filing party seeks to dismiss or withdraw the expression of interest, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal, a copy of any written agreement related to the dismissal or withdrawal, and an affidavit setting forth:

(1) A certification that neither the party withdrawing its interest nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the dismissal

or withdrawal of the expression of interest;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the dismissal or withdrawal of the expression of interest.

(5) In addition, within 5 days of a party's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(i) A certification that neither it nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the party withdrawing its expression of interest; and

(ii) The terms of any oral agreement relating to the dismissal or withdrawal of the expression of interest.

[FR Doc. 90-16547 Filed 7-13-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 64

[Gen. Docket 90-64; FCC 90-230]

Indecent Communications by Telephone

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By its Notice of Proposed Rulemaking (NPRM) in Regulations Concerning Indecent Communications by Telephone, Gen. Docket 90-64 adopted February 13, 1990, 5 FCC Rcd 1011, FCC 90-74 (1990), 55 FR 5632, February 16, 1990, the Federal Communications Commission (FCC) sought comments on proposed changes to its rules governing restrictions on indecent telephone message services. The adoption of amended rules is required by congressional revisions enacted November 21, 1989 to section 223 of the Communications Act of 1934, as amended (the Act), which prohibits obscene communications for commercial purposes and imposes penalties on those who knowingly make available indecent communications by telephone for commercial purposes to persons under 18 years of age, or to adults without their consent. In this Report and Order (*R&O*) we adopt final rules under 47 CFR part 64 to establish defenses to prosecution in accordance with section 223(b) of the Act.

EFFECTIVE DATE: August 15, 1990.

FOR FURTHER INFORMATION CONTACT: Olga Madruga-Forti, Domestic Services Branch, Common Carrier Bureau, (202) 634-1855.

SUPPLEMENTARY INFORMATION: The "summary" and "supplementary information" in this notice summarize the aspects of the amended rules in a nontechnical manner. For a legal interpretation of the laws and regulations on indecent communications by telephone and a complete description of the changes adopted by the FCC in its R&O in GEN. Docket 90-64, FCC 90-230, adopted June 14, 1990 and released June 29, 1990, interested persons should refer to the final regulations in the R&O. The full text of the decision is available for inspection and copying during the weekday hours (excluding federal holidays) of 9 a.m. to 4:30 p.m. in the FCC's Public Reference Room, Room 239, 1919 M Street NW., Washington, DC, or transcripts may be purchased from the duplicating contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800. The item also will be published in the FCC Record.

On November 21, 1989, Congress enacted legislation (Pub. L. 101-166, 103 Stat. 1159, 1192-94 (1989)) which amends section 223 of the Act to prohibit obscene communications for commercial purposes and impose penalties on those who knowingly make available indecent communications by telephone for commercial purposes to persons under 18 years of age or to adults without their consent. Section 223(b)(3) established that it is a defense to prosecution for the defendant to restrict access to the prohibited indecent communications to persons eighteen years of age or older by complying with such procedures as the FCC may prescribe by regulation. As detailed in the NPRM and summarized in 55 FR 5632, the FCC has amended its rules governing obscene or indecent services on three occasions in accordance with congressional mandate. In this R&O we review the amended rules as proposed in the NPRM and the comments submitted, and adopt final rules under Part 64 to establish defenses to prosecution under section 223(b) of the Act.

The amended rules provide that in order to establish a defense to prosecution under section 223, adult information service providers are required to utilize credit card authorization, access codes, or scrambling in order to limit access to consenting adults over the age of eighteen. In addition, adult information service providers are required to notify carriers identified in section 223(c)(1) that they are providing the kind of service described in section 223(b). Where the providers subscribe to mass announcement services tariffed at the FCC, they must request of the carriers in writing that calls to the message services be subject to billing notification as adult message services. Moreover, we establish in our regulations that a common carrier shall not provide access to a communication specified in section 223(b) from the telephone of any subscriber who has not previously, in wirting, asked the carrier to provide access to such communication.

The defenses proposed take into account the varying technologies used by information providers and the differing business practices within the information industry; are sufficiently varied that any information provider should be able to adapt at least one to its operation without unreasonable expense; and will protect minors from access to indecent communications in the most minimally burdensome manner to information providers, carriers and those adults who wish access.

The regulations adopted in this R&O are required by section 223(b)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 223(b)(3). The FCC adopts rules that will curtail children's access to indecent telephone messages and establish defenses to prosecution under section 223(b) of the Act, as directed by Congress.

No comments in direct response to the final regulatory flexibility analysis were filed.

The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and has been approved by the Office of Management and Budget under OMB control number 3060-0439.

List of Subjects in 47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Part 64 of the Commission's Rules and Regulations (chapter I of title 47 of the Code of Federal Regulations, part 64), is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, unless otherwise noted.

2. Part 64 is amended by revising the subpart B heading, the § 64.201 heading, and redesignating paragraph (a) as paragraph (a)(2), the introductory paragraph as paragraph (a) and revising it; by adding new paragraph (a)(1); by redesignating paragraphs (b), (b)(1) and (b)(2) as paragraphs (a)(3), (a)(3)(i) and (a)(3)(ii); by redesignating paragraphs (c) and (d) as paragraphs (a)(4) and (a)(5) and revising them; and by adding new paragraph (b), to read as follows:

Subpart B—Restrictions on Indecent Telephone Message Services

§ 64.201 Restrictions on indecent telephone message services.

(a) It is a defense to prosecution for the provision of indecent communications under section 223(b)(2) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 223(b)(2), that the defendant has taken the action set forth in paragraph (a)(1) of this section and, in addition, has complied with the following: Taken one of the actions set forth in paragraphs (a)(2), (3), or (4) of this section to restrict access to prohibited communications to persons eighteen years of age or older, and has additionally complied with paragraph (a)(5) of this section, where applicable:

(1) Has notified the common carrier identified in section 223(c)(1) of the Act, in writing, that he or she is providing the kind of service described in section 223(b)(2) of the Act.

* * * * *

(4) Scrambles the message using any technique that renders the audio unintelligible and incomprehensible to the calling party unless that party uses a descrambler; and,

(5) Where the defendant is a message sponsor subscriber to mass announcement services tariffed at this Commission and such defendant prior to the transmission of the message has requested in writing to the carrier providing the public announcement service that calls to this message service be subject to billing notification as an adult telephone message service.

(b) A common carrier within the District of Columbia or within any State, or in interstate or foreign commerce, shall not, to the extent technically feasible, provide access to a communication described in section 223(b) of the Act from the telephone of any subscriber who has not previously requested in writing the carrier to provide access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

[FR Doc. 90-16546 Filed 7-13-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900496-0096]

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Emergency rule; extension of effectiveness.

SUMMARY: An emergency rule that prohibits the harvest and possession of jewfish in or from the exclusive economic zone (EEZ) off the South Atlantic states is in effect through July 31, 1990. The Secretary of Commerce (Secretary) extends the emergency rule for an additional 90 days (through October 29, 1990) to allow sufficient time to implement an amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) that would continue the prohibition. The intended effect of this rule is to respond to an emergency in the snapper-grouper fishery by reducing the fishing mortality of jewfish.

EFFECTIVE DATE: August 1, 1990, through October 29, 1990.

ADDRESSES: Copies of documents supporting this action may be obtained from Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the FMP, prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under sections 305 (e)(2)(B) and (e)(3)(B) of the Magnuson Act, the Secretary promulgated an emergency rule (55 FR 18893, May 7, 1990) effective for 90 days (May 2 through July 31, 1990) to reduce the fishing mortality of the depleted jewfish resource off the South Atlantic states. The Secretary extends the emergency rule for an additional 90 days in accordance with section 305(e)(3)(B) of the Magnuson Act because conditions justifying the emergency action remain unchanged. The 90-day extension will prevent the resumption of jewfish harvest in the EEZ.

The initial emergency rule prohibits the harvest and possession of jewfish in the EEZ off the South Atlantic states based on declines in abundance reported by the fishing and scientific communities. Details concerning the basis for the emergency rule and the classification of the rulemaking are contained in the initial emergency rule and are not repeated here. This extension is necessary to prevent a lapse of the harvest prohibition prior to the implementation of Amendment 2 to the FMP, which will continue the prohibition in the EEZ off the South Atlantic states.

As required by section 305(e)(3)(B) of the Magnuson Act, the Secretary and the Council have agreed that the emergency rule should be promulgated for an additional period of 90 days. Accordingly, the provisions of the emergency rule, as published on May 7, 1990 (55 FR 18893), remain effective through October 29, 1990.

Other Matters

This extension of an emergency rule is exempt from the normal review procedures of E.O. 12291 as provided for in section 8(a)(1) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: July 10, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-16544 Filed 7-13-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 136
Monday, July 16, 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

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV-90-181 PR]

Proposed Expenses and Assessment Rate for Marketing Order Covering Winter Pears Grown in Oregon, Washington, and California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order 927 for the 1990–91 fiscal year established for that order. The proposal is needed for the Winter Pear Control Committee (committee) to incur operating expenses during the 1990–91 fiscal year and to collect funds during that year to pay those expenses. This would facilitate program operations. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by July 26, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Marketing Order No. 927 (7 CFR part 927) regulating the handling of winter pears grown in Oregon, Washington, and California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Approximately 90 handlers of winter pears are subject to regulation under this marketing order each season. There are approximately 1,800 winter pear producers in Washington, Oregon, and California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of winter pears may be classified as small entities.

The winter pear marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year shall apply to all assessable pears handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of winter pears. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of pears (in standard boxes or equivalents). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met on June 1, 1990, and unanimously recommended 1990–91 fiscal year expenditures of $4,943,738 and an assessment rate of $0.315 per standard box, or equivalent, of assessable pears shipped under M.O. 927. In comparison, 1989–90 fiscal year budgeted expenditures were $4,501,022 and the assessment rate was $0.335.

Major expenditure items this year in comparison to 1989–90 budgeted expenditures (in parentheses) are $3,859,775 ($3,737,038) for paid advertising, $317,767 ($187,693) for contingencies to cover unanticipated expenses, and $350,861 ($211,870) for research designed to improve winter pear yields and quality. The committee has budgeted $145,000 for industry development, of which $100,000 would be held in reserve for use in the event of a consumer-related industry crisis. The balance of $45,000 would cover marketing and promotional services and other services to be provided by the Northwest Horticultural Council under a consultant agreement. The remaining expenses are primarily for program administration and are budgeted at about last year's amounts.

Assessment income for the 1990–91 fiscal year is expected to total $4,266,068 based on shipments of 13,543,072 packed boxes of pears. Other available funds, including $20,000 in prior year assessments, $36,000 in miscellaneous

income, $94,500 in voluntary intrastate assessments, and a reserve of $527,170 carried into this fiscal year, would also be utilized to cover proposed 1990–91 fiscal year expenditures. The committee's reserves are within authorized limits.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for the pear program needs to be expedited and the committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 927

Marketing agreements, Reporting and recordkeeping requirements, Winter pears.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 927 be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 927.230 is added to read as follows:

§ 927.230 Expenses and assessment rate.

Expenses of $4,943,738 by the Winter Pear Control Committee are authorized, and an assessment rate of $0.315 per standard box, or equivalent, of pears is established for the fiscal year ending June 30, 1991. Unexpended funds from the 1990–91 fiscal year may be carried over as a reserve.

Dated: July 10, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–16476 Filed 7–13–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 1001, 1002 and 1004

[Docket Nos. AO–14–A62 and AO–14–A62–RO1, AO–71–A77 and AO–71–A77–RO1, and AO–160–A65 and AO–160–A65–RO–1; AMS–88–105 and DA–89–028]

Milk in the New England, New York-New Jersey and Middle Atlantic Marketing Areas; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends until August 1, 1990, the deadline for filing exceptions to a recommended decision issued May 18, 1990, concerning proposed amendments to the New England, New York-New Jersey and Middle Atlantic milk marketing orders. Additional time to prepare exceptions was requested on behalf of a number of cooperative associations and proprietary handlers. Those requesting the extension state that more time is needed because of the voluminous nature of the record and exhibits on which the decision is based.

DATES: Exceptions now are due on or before August 1, 1990.

ADDRESSES: Exceptions (seven copies) should be filed with the Hearing Clerk, room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding:

Notice of Hearing: Issued June 7, 1988; published June 20, 1988 (53 FR 21825).

Supplemental Notice of Hearing: Issued September 29, 1988; published October 4, 1988 (53 FR 38963).

Notice of re-opened Hearing: Issued August 10, 1989; published August 16, 1989 (54 FR 33709). (To consider changes in Class II pricing for 40 orders)

Partial Recommended Decision: Issued September 20, 19879; published September 26, 1989 (54 FR 39377).

Partial Final Decision: Issued December 12, 1989; published December 18, 1989 (54 FR 51749).

Order Amending the New York-New Jersey Order: Issued January 25, 1990; published January 31, 1990 (55 FR 3198).

Recommended Decision: Issued May 18, 1990; published May 25, 1990 (55 FR 21556).

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the New England, New York-New Jersey and Middle Atlantic marketing areas which was issued May 18, 1990, is hereby extended to August 1, 1990.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

List of Subjects in 7 CFR Parts 1001, 1002 and 1004

Milk marketing orders.

The authority citation for 7 CFR parts 1001, 1002 and 1004 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Signed at Washington, DC, on July 10, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–16474 Filed 7–13–90; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–263; FCC 90–193]

Broadcast Service; Settlement Agreements Among Applicants for Construction Permits

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts a Notice of Proposed Rule Making (Notice) initiating this proceeding as part of a comprehensive effort to eliminate the potential for abuse of its processes. In particular, the Notice considers imposing limitations on payments that can be made to settle cases involving competing applications for construction permits for new broadcast stations or modifications to facilities of existing stations.

DATES: Comments are due by August 23, 1990, and reply comments are due by September 7, 1990.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugenia Hull, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No. 90-263, FCC 90-193, adopted May 10, 1990, and released July 2, 1990.

The complete text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rule Making

1. This proceeding is part of the Commission's effort to eliminate the potential for abuse of our processes. The Notice proposes imposing limitations on payments that can be made to settle cases involving competing applications for construction permits for new broadcast stations or modifications to facilities of existing stations. In a previous decision (See the Report and Order in BC Docket No. 81-742, 54 FR 22595, May 25, 1989, 4 FCC Rcd 4780) the Commission found evidence that our policy of approving unlimited settlements created an incentive to file competing applications against incumbent licensees with the intention of settling for a profit rather than for the legitimate purpose of obtaining a license. Similar potential for abuse may exist in the context of licensing for new stations, and some type of settlement limitations may be likewise warranted. Thus, we solicit comments on the opportunities for abuse that exist in the comparative new context and types of limitations that should be imposed to deter any such abuse.

2. One step under consideration is reinstituting limits on the amount of money that an applicant can receive for amending or dismissing a construction permit application. We solicit comment on the need for limitations on the amount of settlements in the comparative new process. Specifically, we seek comment as to whether significant numbers of competing applications are being filed primarily to extract a payoff in exchange for dismissal of the application and whether payment limitations might effectively deter such applications.

3. Assuming that settlement limitations are warranted, we believe that the best way to reduce abuse of our process is to eliminate the ability to profit from the dismissal of a mutually exclusive application. Thus, we propose to limit settlement payments to the legitimate and prudent out-of-pocket expenses of applicants. We seek comment on this proposal.

4. One factor which must be considered in reviewing this proposal, is its consistency with our other proposals for reforming our comparative hearing process. (See Notice of Proposed Rule Making in Gen. Docket 90-264, FCC 90-194.) These other proposals seek to encourage settlements at an early stage of the comparative hearing process. We ask commenters to consider what, if any, variations of the out-of-pocket expense limitation proposed above, would address our concerns regarding abuse and further the goal of encouraging early settlements.

5. One such approach would be to permit reimbursement of out-of-pocket expenses until the settlement conference with the settlement advocate or settlement judge, and thereafter permit recovery of a lesser amount of expenses, such as 50%. We request comments on this proposal. Would it address our concerns regarding abuse, and still encourage early settlements? If so, what should be the appropriate percentage of out-of-pocket expenses that could be recovered after the settlement conference stage? We also ask parties to suggest alternative limitations on the timing and amount of settlement limitations.

6. We also seek comment on the Commission's tentative conclusion that we do have the legal authority to impose settlement limitations under section 311(c) of the Communications Act of 1934, as amended. In 1982, Congress eliminated the out-of-pocket expense limitation formerly contained in section 311(c)(3) of the Act, but continued to require that the Commission approve settlement agreements only after finding that they are consistent with the public interest and that the application to be dismissed was not initially filed for purposes of reaching a settlement. Taken together, we believe these two provisions allow the Commission broad discretion to alter its approach in approving settlement agreements.

7. Another issue we ask parties to consider is the extent to which the proposed settlement restrictions should be applied to pending applications. In the comparative renewal context, we adopted new rules limiting the amount of settlements, but we did not apply the new rules to applications that had already been designated for hearing. However, we did apply these restrictions prospectively to pre-designation applications that were filed as of the effective dates of the rules.

8. Finally, we seek comment on what disclosure and certification requirements should be imposed to assist the Commission in enforcing the settlement limitations. Our tentative view is to add to § 73.3525 of the Commission's rules, a requirement that parties seeking Commission approval of a settlement must also submit: (1) Certifications that they have not received or will not receive any money or other consideration in excess of their legitimate and prudent expenses; (2) the exact nature and amount of any consideration paid or promised; (3) an itemized accounting of the expenses for which they seek reimbursement; and (4) the terms of any oral agreement relating to the dismissal or amendment of the application in question. We seek comment on these reporting requirements or any different requirements commenters believe would enable the Commission to enforce its settlement policy.

Procedural Matters

9. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act.

Ex Parte Considerations

10. This is a non-restricted proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Comment Information

11. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 23, 1990, and reply comments on or before September 7, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Initial Regulatory Flexibility Act Analysis

12. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding, depending on the proposals ultimately adopted, will positively impact on entities of all sizes by

reducing the number of competing applications filed in bad faith. This result will be especially beneficial to small entities with limited financial resources. If the Commission were to adopt limitations on payments that can be made in exchange for withdrawing competing applications, there would be new reporting requirements. Parties entering into settlements would be required to submit an accounting of their expenses for which they seek reimbursement. However, such reporting should not be unduly burdensome since, presumably, this information is already retained for tax purposes. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

13. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IFRA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Inquiry, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, Stat. 1164, 5 U.S.C. section 601 *et seq.*, (1981)).

14. Authority for this action is contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–16548 Filed 7–13–90; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1043 and 1084

[Ex Parte No. MC–5 (Sub No. 11)]

Revision of Regulations Governing Insurance and Surety Companies Making ICC Filings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is instituting a rulemaking proceeding to clarify, and consider whether it should change, its regulations in 49 CFR 1043.8 and 1084.6, which set forth the eligibility requirements for insurance and surety companies to write coverage for ICC-regulated motor carrier, brokers and freight forwarders. In particular, the Commission will consider the circumstances under which it will allow insurance and surety bonds to be provided by companies that are authorized to write insurance only on an excess/surplus line basis.

DATES: Written comments are due on August 15, 1990.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte MC–5 (Sub No. 11) to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Alice K. Ramsay (202) 275–0854 or Heber P. Hardy (202) 275–7148. [TDD for hearing impaired: (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275–7428. [Assistance for the hearing impaired is available through TDD services (202) 275–1721].

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

This action will not substantially affect a significant number of small entities. The only effect would be to clarify and/or change the eligibility requirements for companies to serve as insurers for ICC-regulated carriers, brokers and freight forwarders. This action will not require additional record keeping or report filings by small entities.

The ICC's current regulations at 49 CFR 1043.8 and 1084.6 are virtually identical to regulations maintained by the Federal Highway Administration, United States Department of Transportation (DOT) at 49 CFR 387.11, and the Commission therefore specifically solicits comments from DOT in this rulemaking proceeding.

List of Subjects

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

49 CFR Part 1084

Freight forwarders, Insurance, Surety bonds.

Authority: 49 U.S.C. 10101, 10321, 11701, and 10927; and 5 U.S.C. 553.

Decided: July 5, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16517 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 55, No. 136
Monday, July 16, 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

Food Distribution Program—Value of Donated Foods From July 1, 1990 to June 30, 1991

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods, or where applicable, cash in lieu thereof to be provided in the 1991 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity schools and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program.

This notice also announces that the value of agricultural commodities and other foods provided to States during the past school year met the level of assistance authorized under the National School Lunch Act. Thus, there will be no shortfall cash payments to States for the NSLP for the 1990 school year. The annually programmed level of assistance was met in food donations by June 30, 1990.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 756–3660.

SUPPLEMENTAL INFORMATION:

Classification

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.550, 10.555, 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 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 Office of Management and Budget 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.

National Average Minimum Value of Donated Foods for the Period July 1, 1990 through June 30, 1991

This notice implements mandatory provisions of sections 6(e), 14(f) and 17(h) of the National School Lunch Act (the Act) (42 U.S.C. 1755(e), 1762a(f), and 1766(h)). Section 6(e) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. This amount is subject to annual adjustments as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child and Adult Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR part 210) and per lunch and supper under the Child and Adult Care Food Program (7 CFR part 226) shall be 14.00 cents for the period July 1, 1990 through June 30, 1991.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index increased by 6.34 percent from 115.56 for March, April and May of 1989 to 122.88 for the same three months in 1990. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1990 through June 30, 1991 will be 14.00 cents per meal. This constitutes a .75 cent per lunch increase over the rate in effect for the past school year.

Section 14(f) of the Act provides that commodity schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act. Such schools are eligible to receive up to 5 cents of this value in cash for processig and handling expenses related to the use of such foods.

Commodity schools are defined in section 12(d)(7) of the Act as "schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs."

For the 1991 school year, commodity schools shall be eligible to receive donated-food assistance valued at 29.50 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1991. The section 4 factor for commodity schools does not include the two cents per lunch increase for schools where 60 percent of the lunches were served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

Cash in Lieu Payments—Value of Donated Commodities for School Year 1989–90

Section 6(b) of the Act, as amended, (42 U.S.C. 1755(b)) and the regulations governing cash in lieu of donated foods (7 CFR part 240) require the Secretary of Agriculture by June 1 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. Under the food distribution regulations (7 CFR part 250), these foods are used by schools participating in NSLP. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act,

the Secretary is required by July 1 of that school year to pay to each State educational agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

During the past school year the adjusted minimum natinal average value of donated foods or payments of cash in lieu thereof per lunch was 13.25 cents. In accordance with section 6(e) of the Act, the mandated level of commodity assistance was $517,844,028 for school year 1990. The Secretary has determined that at least that amount was available for delivery nationally by June 30, 1990 to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1990.

Dated: July 3, 1990.

George A. Braley

Acting Administrator.

[FR Doc. 90-16541 Filed 7-13-90; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Road Access to Chugach Alaska Corporation Lands Near Bering River, AK

AGENCY: Forest Service, USDA.

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

SUMMARY: The Department of Agriculture, Forest Service, will conduct an environmental impact statement on the proposed road access from salt water to Chugach Alaska Corporation Lands in the Bering River area.

DATES: Comments concerning the scope of the analysis should be received by September 1, 1990.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis must be sent to Bruce Van Zee, Forest Supervisor, Chugach National Forest, 201 E. Ninth Avenue, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Ken Rice, Environmental Coordinator, Chugach National Forest, 201 E. Ninth Avenue, Anchorage, Alaska 99501, phone 907-271-2536.

SUPPLEMENTARY INFORMATION: In 1982 the Department of Agriculture, through the Forest Service, entered into a settlement agreement with Chugach Natives Incorporated to resolve their land claims under the Alaska Native Claims Settlement Act of December 18, 1971. 43 U.S.C. 1606. As part of the Settlement Agreement, Chugach Natives Incorporated, now known as Chugach Alaska Corporation (CAC), received title to lands in the Bering River area of the Chugach National Forest. Paragraph 8 of the Settlement Agreement gives CAC two rights of access across Chugach National Forest lands to their lands in the Bering River area.

The two routes are: (1) A route generally linking the Copper River Highway (Alaska Route 10) with the Bering River property, across Federal lands drained by the Martin River; and (2) A route linking the coast of the Gulf of Alaska between Point Martin and Strawberry Point across Federal land to the Bering River area.

CAC has applied for a permit to construct a road from Katalla to its private land within the second right-of-way. The purpose of the road is to access and develop the timber resources. Under the terms of the Chugach Settlement Agreement the road would be open for public access to National Forest System lands.

Notwithstanding section 910 of ANILCA and section 8C of the Agreement, the Forest Service and CAC have determined that an environmental impact statement is the best way to determine and display the consequences of issuing a permit. The purpose of this environmental impact statement is to determine the best location, what construction standards will apply, and what are the potential environmental consequences of building the road, and salt water access.

Bruce Van Zee, Forest Supervisor, Chugach National Forest, is the responsible official.

Section 501(b) of the Alaska National Interest Lands Conservation Act requires that these lands be managed with their primary purpose being the conservation of fish and wildlife and their habitat. Bering Lake is known to be an important rearing area for trumpeter swans. Brown bear, moose, mountain goats, and salmon, also utilize the area. Protection of the fish and wildlife species and habitats as well as the numerous cultural resources will be a primary consideration in developing the EIS.

Several alternative road access routes will be considered. The no action alternative will also be developed. Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, individuals, and organizations, who may be interested in or affected by the proposed action. This information and comments will be used in preparation of the draft environmental impact statement (DEIS). The scoping process will include:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 15, 1991. At that time EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the (DEIS) will be 70 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register. It is very important that reviewers participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal Court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). NEPA case law supports the proposition that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS). *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure 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 FEIS.

After the comment period ends, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed by September 1991. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: June 29, 1990.

Bruce Van Zee,

Forest Supervisor.

[FR Doc. 90-16461 Filed 07-13-90; 8:45 am]

BILLING CODE 3410-11-M

East Fortine Timber Harvest and Road Construction Proposal— Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service is gathering information in order to prepare an Environmental Impact Statement (EIS) for a proposal to harvest timber, reforest the site, and construct haul roads in the southern portions of the Fortine Creek drainage. The Fortine Creek drainage is located approximately 30 air miles northeast of Libby, Montana.

The Forest Service proposes to harvest approximately 24.5 million board feet of timber through application of a variety of harvest methods on approximately 2,760 acres of forest land. The proposal also includes the construction of approximately 3.6 miles of new haul roads to access the specific harvest units.

The proposal is designed to help achieve the goals and objectives of the 1987 Kootenai National Forest Land and Resource Management Plan (Forest Plan). More specifically, the proposal has the following purposes:

1. Help satisfy local and national demands for timber and maintain a continuous supply of timber in the future.

2. Increase timber productivity in treated stands by: (1) Replacing mature and overmature trees with younger trees capable of increased growth; (2) selective harvest of seed and shelterwood trees to promote growth and development of existing seedlings and saplings; (3) salvage harvest of selected merchantable dead, dying, and down trees; and (4) selective harvest of unsuitable merchantable sized trees to produce optimal stand growing conditions.

3. Provide for an even-flow of forage-producing openings for whitetail deer and elk.

DATES: Comments concerning the scope of the analysis should be received in writing on or before August 15, 1990.

ADDRESSES: The responsible official is Thomas Puchlerz, District Ranger, Kootenai National Forest, Fortine Ranger District, P.O. Box 116, Fortine. MT 59918. Written comments may be sent to him at this address.

FOR FURTHER INFORMATION CONTACT: Rob Carlin, EIS Team Leader, Fortine Ranger District. Phone: (406) 882-4451.

SUPPLEMENTARY INFORMATION: This EIS will tier to the Kootenai National Forest Land and Resource Management Plan and Final EIS of September 1987, which provides program goals, objectives, and standards and guidelines for conducting management activities in this area. All activities associated with the proposal will be designed to maintain high quality wildlife, fisheries, and watershed objectives.

An integrated resource analysis for the area encompassing the proposed project area was initiated in December of 1989. Analysis and collection of site specific resource information has been on-going since that date. The Forest Service is seeking information and comments from Federal, State, local agencies, and other organizations or individuals who may be interested in or affected by the proposed actions. 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.

Preparation of the EIS will include the following steps:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies.

The timber sales and road construction under consideration would occur on National Forest lands in the southern portions of the Fortine Creek drainage on the Fortine Ranger District. Included in the area of analysis are all or portions of the following: Section 35, T33N, R26W; Sections 3, 4, 5, 8, 9, 10, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 32, T32N, R26W, Montana Principal Meridian.

Prescribed harvest treatments in this proposal are as follows:

Prescription	Acres (approximate)	Number of units	Maximum opening size (acres)
Intermediate harvest	610	13	0
Sanitation/salvage Harvest	110	4	<1
Group shelterwood harvest with reserve trees	570	16	2
Shelterwood harvest with reserve trees	420	19	37
Seed tree harvest with reserve trees	440	15	40
Selective harvest of existing seed and shelterwood trees	610	15	N/A

There are no clearcuts prescribed under this proposal.

The prescriptions included in this proposal are defined as follows:

Intermediate Harvest—Merchantable sized trees are selected and designated for harvest to provide optimum stand quality and growth conditions in the stand. A fully stocked stand of the highest quality, most vigorous individual trees remains.

Sanitation/Salvage Harvest—Trees selected for harvest include the salvage of dead and down merchantable trees as well as all lodgepole pine susceptible to mountain pine beetle infestation. The remaining stand is fully stocked with species other than lodgepole pine.

Group-Shelterwood Harvest with Reserve Trees—Small groups of trees less than two acres in size are selected for harvest throughout the entire stand. The harvested area constitutes approximately one third of the total stand area.

Shelterwood Harvest with Reserve Trees—Twenty to thirty trees would be selected and designated to remain on each acre to provide seed, shade, and site protection. All other merchantable trees would be harvested. Once seedlings reestablish in the stand, six to ten trees per acre would be selected to remain through the next rotation and form the upper story of a multi-storied stand. All other seed and shelterwood trees would be harvested.

Seed Tree Harvest with Reserve Trees—Six to ten seed producing trees would be selected and designated to remain on each acre. All other merchantable trees would be harvested. All or some of the six to ten seed trees may be retained as reserve trees, while those not selected to be retained would be removed once new seedlings become established. Reserve trees would remain through the next rotation and form the uppor story of a multi-storied stand.

Selective Harvest of Existing Seed and Shelterwood Trees—On existing seed tree and shelterwood harvests where seedlings have reestablished, six to ten individual reserve trees per acre would be selected and designated to remain within the stand through the next rotation. Trees not selected as reserve trees would be harvested.

The areas of proposed harvest and road construction are within Management Areas (MA's) 12 and 15. Kootenai National Forest Plan direction states these MA's are suitable for timber production and will produce a programmed yield of timber. All proposed activities are outside the boundaries of any roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Kootenai National Forest Plan or by current legislative wilderness proposals.

The Forest Service will analyze and disclose in the DEIS/FEIS the environmental effects of the proposed action and a reasonable range of alternatives, including no action. The alternatives to the proposed action will be developed to respond to the purpose and need for the action and to the environmental issues raised during the scoping process. The DEIS/FEIS will disclose the direct, indirect, and cumulative environmental effects of each alternative and its associated site specific mitigation measures.

Public participation is especially important at several points of the analysis. Interested publics may visit with Forest Service officials at any time during the analysis. However, two periods of time are identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process on or before August 15, 1990, and during the review of the DEIS in August and September of 1990.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in August, 1990. At that time, the EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the draft environmental impact statement will be 45 days from the date the notice of availability is published in the Federal Register.

At this early stage in the scoping process, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Second, 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. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed and considered by the Forest Service in preparing the Final EIS.

Dated: July 6, 1990.

Thomas Puchlerz,

District Ranger, Fortine Ranger District, Kootenai National Forest.

[FR Doc. 90-16465 Filed 7-13-90; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Little Beaver Creek Watershed, OK

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environment Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Beaver Creek Watershed, Comanche, Cotton, Grady, and Stephens Counties, Oklahoma.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

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, C. Budd Fountain, 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 flood prevention. The planned works of improvement include twelve floodwater retarding structures and 101 acres of wildlife mitigation measures.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting C. Budd Fountain.

No administrative action on implementation of the proposal will be taken until 30 days after the date of the 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)

Donald R. Vandersypen

Assistant State Conservationist (WR).

[FR Doc. 90-16510 Filed 7-13-90; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-357-803]

Preliminary Affirmative Countervailing Duty Determination: Leather From Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of leather as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 1.58 percent *ad valorem* for all manufacturers, producers, or exporters in Argentina of leather, except for Antonio Esposito S.A., Coplinco S.A., Gibaut Hermanos, S.A., and Manuel Neira, S.A.I.C.F. These companies are excluded from this determination because their estimated net bounty or grant rates are *de minimis* (less than 0.50 percent *ad valorem*.)

To take into account program-wide changes that occurred before our preliminary determination, we are adjusting the rate to reflect the phase-out of pre-export financing under Circular RF-153 and the indefinite suspension of the tax deduction under Decree 173/85. The adjusted rate for all manufacturers, producers, or exporters in Argentina of leather, except for the above-named excluded companies, is 0.19 percent, which is *de minimis*.

Due to the fact that the bounty or grant rate for all non-excluded manufacturers, producers, or exporters in Argentina of leather, as adjusted for the above-described program-wide changes, is *de minimis*, we are not directing the U.S. Customs Service to suspend liquidation on entries of leather from Argentina at this time.

If this investigation proceeds normally, we will make a final determination on or before September 24, 1990.

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0192 or 377-5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Argentina of leather. We preliminarily determine that the following programs confer bounties or grants:

- Circular RF-153: Pre-export Financing.
- Discounts of Foreign Currency Accounts Receivable under Circular RF-21.
- Tax Deduction under Decree 173.

Case History

Since publication of the notice of initiation in the Federal Register (55 FR 8159, March 7, 1990), the following events have occurred. On March 22, 1990, we received a letter from petitioners requesting that the scope of this investigation be amended to exclude those products entering duty-free under the Generalized System of Preferences. Pursuant to 19 CFR 355.12(e), we published in the Federal Register an Amendment to the Scope of Investigation (55 FR 13303, April 10, 1990).

On March 23, 1990, we presented a questionnaire to the Government of Argentina (GOA) in Washington, DC concerning petitioners' allegations. On May 7, 1990, we received responses from the GOA and from Camara de la Industria Curtidora Argentina (CICA), the Argentine leather industry association. We also received responses from twelve companies: Curtiembres Fonseca S.A. (CF), Federico Meiners Ltda. S.A. (Meiners), S.A.D.E.S.A. (SADESA), Curtiembre Los Cabritos, S.A. (CLC), Compania Industrial del Cuero, S.A. (CIDEC), C.I.D.E.C. La Rioja, S.A. (CIDEC La Rioja), Ultrahide S.A. (Ultrahide), Antonio Esposito S.A. (Esposito), Coplinco S.A. (Coplinco), Grunbaum, Rico y Daucourt, S.A.I.C.F. (Grunbaum), Gibaut Hermanos, S.A. (Gibaut), and Manuel Neira, S.A.I.C.F. (Neira). On May 22, 1990, we issued a supplemental/deficiency questionnaire to the GOA and the respondent companies. We received responses to this questionnaire on June 5, 1990. We issued a second questionnaire concerning related company issues to the respondent companies on June 13, 1990. We received responses to this questionnaire on June 20, 1990. On June 26 and 29, 1990, the respondent companies submitted an erratum correcting errors in the responses. The GOA submitted additional information on June 27, 1990.

On April 3, 1990, the petition was amended to include Westfield Tanning Co. as a petitioner. On May 10, 1990, Gebhardt-Vogel Tanning Co., Inc., and Pfister & Vogel Tanning Company withdrew as petitioners. On May 14, 1990, Eagle-Ottawa Leather Co. withdrew as a petitioner. On June 7, 1990, the petition was amended to include Suncook Tanning Corp., United Tanners Inc., Bob-Kat Leather Co., Inc., and Paul Flagg, Inc. as petitioners. Bob-Kat Leather Co., Inc., withdrew as a petitioner on June 20, 1990.

On April 11, 1990, respondents alleged that petitioners lack standing. During the months of April and May, 1990, we received letters from U.S. firms opposing the petition, and sent out questionnaires to these firms as their letters came in. The standing issue is addressed in the Standing section, below.

On April 12, 1990, the petitioners filed a request that the preliminary determination be postponed. Pursuant to section 703(c)(1)(A) of the Act, we postponed the preliminary determination until July 9, 1990. *See*, Postponement of Preliminary Determination: Leather from Argentina, (55 FR 17292, April 24, 1990).

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number. The Department is providing both the appropriate Tariff Schedules of the United States Annotated (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions for convenience and Customs purposes. The Department's written description of the merchandise under investigation remains dispositive.

The product covered by this investigation is leather. The types of leather that are subject to this investigation include bovine (excluding upper and lining leather not exceeding

28 square feet, buffalo leather, and upholstery leather), sheep (excluding vegetable pretanned sheep and lambskin leather), swine, reptile (excluding vegetable pretanned and not fancy reptile leather), patent leather, calf and kip patent laminated, and metalized leather. Leather is an animal skin that has been subjected to certain treatment to make it serviceable and resistant to decomposition. It is used in the footwear, clothing, furniture and other industries. The types of leather included within the scope of this investigation are currently classified under HTS numbers 4104.10.60, 4104.10.80, 4104.21.00, 4104.22.00, 4104.29.50, 4104.29.90, 4104.31.50, 4104.31.60, 4104.31.80, 4104.39.50, 4104.39.60, 4104.39.80, 4105.12.00, 4105.19.00, 4105.20.30, 4105.20.60, 4107.10.00, 4107.29.60, 4107.90.30, 4107.90.60, 4109.00.30, 4109.00.40, and 4109.00.70, and were formerly classifiable under TSUSA item numbers 121.20.00, 121.40.00, 121.45.00, 121.50.00, 121.54.00, 121.61.05, 121.61.10, 121.61.20, 121.61.25, 121.61.30, 121.61.33, 121.61.36, 121.61.37, 121.61.38, 121.63.41, 121.63.43, and 121.65.00.

Standing

The Department has received a total of 62 letters from U.S. firms opposing the petition. Questionnaires were sent to each of these firms to ascertain its share of U.S. leather production. To date, we have received responses filed in proper form from 20 firms. Based on these responses, the firms opposing the petition have not demonstrated that they represent a majority of the U.S. industry

There is nothing in the statute, its legislative history, or our regulations which reguires that petitioners establish affirmatively that they have the support of a majority of their industries. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing and antidumping duty laws. Therefore, consistent with our past practice (*see*, for example, Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden (52 FR 5794, February 26, 1987); Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada (51 FR 10041, March 24, 1986); and Frozen Concentrated Orange Juice from Brazil: Final Determination of Sales at Less than Fair Value (52 FR 8324, March 17, 1987)), we have preliminarily determined that petitioners do not lack standing.

Analysis of Programs

Due to the large number of leather tanners in Argentina, we requested, in accordance with Department practice (*see*, for example, Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia (50 FR March 12, 1985) and Final Negative Countervailing Duty Determination: Certain Granite Products from Italy (53 FR July 19, 1988)), that the GOA identify those producers and exporters which account for at least 60 percent of the value of the leather exported to the United States. We then asked the GOA to forward questionnaires to those producers and exporters.

We received responses from nine producers and exporters (CF, Meiners, CIDEC, Ultrahide, Esposito, Coplinco, Grunbaum, Gibaut, and Neira), and three related companies (SADESA and CLC, "sister" companies to Meiners, and CIDEC La Rioja, a subsidiary of CIDEC). According to the May 7, 1990 response, two of these related companies, CLC and CIDEC La Rioja, did not export any products to the United States during the review period. Based on the response to our supplemental questionnaire of June 13, 1990, we are excluding all three related companies from our analysis because the questionnaire responses indicate that the companies to whom they are related cannot transfer production and/or export functions to these related companies. *See, Armco Inc.* v. *U.S.*, slip op. 90–32 (CIT 1990).

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1989, which corresponds to the most recently completed fiscal year of the majority of the respondent companies. The other respondent companies each have different fiscal years which overlap this period. In accordance with our practice in such situations, we have chosen the most recently completed calendar year as our review period.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of leather under the following programs:

A. Circular RF–153: Pre-Export Financing

Circular RF–153 allows exporters to receive pre-export financing in the form of dollar-indexed loans under a program administered by the Central Bank of Argentina. The amount of the loan can equal up to 65 percent of the f.o.b. export value if the merchandise to be exported is produced solely from domestically-produced inputs. If the exporter uses imported materials, the level of financing is reduced according to the imported content of the merchandise to be exported. Loans under this program are made to individual corporate borrowers by commercial banks which, in turn, are reimbursed by the Central Bank. According to the responses, the loans are extended to exporters of leather for a maximum period of 150 days.

The principal and interest payments under this program are indexed to the austral/dollar exchange rate. The loans are given in australes but are tied to a fixed dollar amount based on the exchange rate prevailing on the date of the loan. At the time of repayment, the fixed dollar amount is reconverted to australes based on the exchange rate prevailing on that date, and the borrower must repay the new austral amount. In addition, the borrower must make quarterly interest payments in australes, in most cases applying an eight percent annual interest rate to the fixed dollar amount reconverted to australes at the exchange rate prevailing at the end of each quarter. Effective October 1, 1989, the eight percent interest rate was increased to ten percent.

Communication A–1205 of June 3, 1988, set up a mechanism for Argentine commercial banks to source export financing directly from international banks instead of through the Central Bank. According to the responses, the rates charged exporters by the commercial banks on this financing are freely-negotiated. During the review period, this alternative source of export

financing was available to exporters along with the RF–153 financing sourced through the Central Bank. After January 1, 1990, Central Bank lines of credit under Circular RF–153 were closed and export financing by Argentine banks was conducted only with foreign bank funds. RF–153 loans received before January 1, 1990, continued on their normal payment schedules. According to the responses, however, all of this financing must have been paid off before June 1, 1990, because the maximum term of each loan was 150 days.

The responses state the following companies received RF–153 loans on which interest was paid during the review period: CF, Meiners, CIDEC, Ultrahide, Esposito, Grunbaum, and Gibaut. Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term (less than one-year) loans, it is our practice to use the average interest rate for an alternative source of short-term financing in the country in question. In determining this benchmark, we will normally rely upon the predominant source of short-term financing. In the absence of a single, predominant source of such financing, we may use a benchmark composed of the interest rates for two or more sources of short-term financing, weighted, wherever possible, according to the value of financing from each source. Accordingly, in past cases involving imports from Argentina, we have used a weighted-average of regulated and unregulated austral interest rates as our benchmark for the short-term export financing offered under RF–153. (*See*, Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders; Certain Welded Carbon Steel Pipe and Tube Products from Argentina (53 FR 37619, September 27, 1988).)

For purposes of this preliminary determination, however, we have decided to use as a benchmark the interest rate on dollar-indexed loans offered by commercial banks in Argentina as a result of Communication A–1205. In this way, we are comparing dollar-indexed financing to dollar-indexed financing. We have done so because, although dollar-indexed financing may not be the predominant form of financing in Argentina, a comparison of the austral benchmark used in past cases with the dollar-indexed benchmark during the review period indicates that these two forms of financing involved significantly different interest rates. Due to the erratic and extreme exchange rate changes during the review period, there was no relationship between the financing costs of dollar-indexed loans and austral-denominated loans. This has led us to conclude that austral financing is not comparable to dollar-indexed financing during the review period. Moreover, use of a dollar-indexed benchmark is consistent with our past practice, in that it is an alternative available in Argentina. According to the responses, this alternative is being used more and more frequently. Thus, we preliminarily determine that it is appropriate to use a dollar-indexed benchmark when examining the degree to which RF–153 loans provide a benefit to Argentine exporters.

Comparing the benchmark rate to the rates charged on RF–153 loans during the review period, we find that the RF–153 loans are preferential and, therefore, confer a bounty or grant on exports of leather.

To calculate the benefit from RF–153 loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations and which is described in more detail in the Subsidies Appendix attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 49 FR 18006, April 26, 1984; *see also, Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985). Accordingly, we compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate.

Because the responses indicate that individual RF–153 loans can cover several export shipments to different destinations, we divided the total interest savings by the value of respondents' total exports of all products to all markets during the review period to obtain an estimated net bounty or grant of 1.37 percent *ad valorem*.

It is the Department's policy to take into account program-wide changes which (1) occur after the review period but before our preliminary determination and (2) can be measured. A "program-wide" change is defined as a change which is (1) not limited to an individual firm or firms and (2) effectuated by an official act. The termination of RF–153 financing meets all of the above criteria. Therefore, there is no duty deposit rate for this program.

B. Discounts of Foreign Currency Accounts Receivable Under Circular RF–21

Administered by the Central Bank, this program provides financing for up to 80 percent of the f.o.b. value of export shipments. Operations under this program are documented through bills of exchange in U.S. dollars which are discounted in the same currency by local banks. RF–21 loans can be given for a maximum term of one year, with equal repayments of principal at periods not exceeding six months. Interest is paid on June 30 and December 31 (or at the maturity of the loan). In order to obtain export financing under this program, the exporter must show documented evidence of an export transaction to be completed within 30 days.

Communication A–1205 preserved this program in its same form from the exporter's point of view but allowed commercial banks to source funds directly from international banks as well as from the Central Bank. However, unlike RF–153 financing, Central Bank-sourced RF–21 financing was not completely disallowed after January 1, 1990.

According to the responses, CIDEC and Meiners received RF–21 loans on which interest was paid during the review period. Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates.

We used as our benchmark the same interest rate described above in reference to RF–153 financing. Because RF–21 loans are tied to individual shipments, we calculated the amount of interest that would have been paid at the benchmark rate on loans covering shipments to the United States and subtracted the amount of interest that was actually paid. We then divided the result by the value of respondents' exports of all products to the United States during the review period to obtain an estimated net bounty or grant of 0.19 percent *ad valorem*.

C. Tax Deduction Under Decree 173/85

Decree 173 provides a deduction from taxable income equal to ten percent of export earnings. It is administered by the General Director of Taxation.

Because only exporters are eligible to claim this deduction, we preliminarily determine that it is countervailable. According to the responses, all the respondent companies claimed this deduction on their tax returns filed during the review period.

In order to calculate the benefit under this program, we divided respondents' tax savings from the program by their total exports of all products to all markets to obtain an estimated net bounty or grant of 0.01 percent *ad valorem*.

This program was indefinitely suspended by Decree 553/89 of May 2, 1989. We are treating the suspension as a program-wide change for purposes of our preliminary determination because the suspension meets the program-wide change criteria described above in section I. B. Accordingly, there is no duty deposit rate for this program. We will examine any possible residual benefits at verification.

II. Program Preliminarily Determined Not to Confer a Bounty or Grant

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Argentina of leather under the following program:

Resolution 321: Embargo on Cattle Hide Exports

Since 1972, the GOA has implemented two different types of restrictions on the export of cattle hides: export embargoes and export taxes. In 1972, the GOA implemented an embargo on the export of cattle hides under Decree 2861. This embargo was lifted in 1979 and was replaced by an export tax under Resolution 909. In September 1985, the GOA again instituted an embargo under Resolution 321.

According to the responses, the 1972 embargo was instituted to promote the development of a domestic leather tanning industry pursuant to a general policy of import substitution. Cattle production increased in the late 1970's and reached its highest point in the years 1977–1978. Therefore, the supply of hides also was at a high point.

In 1979, the GOA and the United States reached an agreement during the course of a 301 investigation to replace the embargo with an export tax. This tax was to be phased out completely in three years. However, by 1980, Argentina had not met the terms of the agreement. Although Argentina made the scheduled tariff reductions in 1979–1980, it implemented another measure which effectively negated part of the concession. This measure instituted a minimum export price on cattle hides which was used instead of the transaction price in determining the amount of tax to be charged on exports. Since the minimum export price was higher than the transaction price, the effective tax was higher than that which had been agreed. Moreover, in 1981, Argentina failed to implement the scheduled tariff reduction called for in the agreement.

In October 1981, another section 301 petition was filed regarding Argentina's breach of the 1979 Agreement. Although the United States Trade Representative (USTR) initiated a 301 investigation, it was dropped shortly thereafter with the consent of the U.S. leather industry. The USTR decided that the issue was more appropriately pursued under section 125 of the Trade Act, which gave the President the authority to terminate the 1979 U.S.-Argentina Agreement. In 1982, the U.S. and Argentina exchanged diplomatic notes terminating the agreement.

By 1985, Argentina was in the midst of a severe economic and political crisis. The GOA was facing acute levels of inflation, labor strikes, and social unrest. As a result, the government instituted a "cheap beef policy." According to the responses, this policy led to the imposition of the current embargo, as described below. Beef is one of the major components of the Argentine economy. Any increase in the price of beef has a significant impact on consumer prices and, thus, the country's inflation rate. Argentina, therefore, has a history of instituting ceilings on the price of beef in order to prevent the need for further wage increases and the resulting inflationary spiral higher wages could induce. As a result of this policy, the slaughter of cattle fell, creating an artificially low supply of hides. According to the responses, the GOA imposed the current embargo in order to keep the hide supply from further degenerating and prices from increasing.

Because the embargo applies only to cattle hides, which are sold primarily, if not exclusively, to leather tanners, we preliminarily determine that the embargo is limited to a specific industry. However, regarding the question of whether the embargo bestows a benefit, we preliminarily determine that the evidence currently before the Department is inconclusive as to whether the embargo causes hide prices to be lower than they would have been absent the embargo.

In an attempt to determine what the prices for hides in Argentina would be in the absence of the embargo, we compared Argentine hide prices to world hide prices during the review period. The comparison indicates that Argentine hides are cheaper than hides traded by the six largest exporting nations. However, the evidence on the record does not support the conclusion that the disparity between Argentine and world hide prices is a consequence of the current embargo. Prices in Argentina are determined by a complicated set of factors, including government economic policies, hyperinflation, currency devaluation, fluctuations in the slaughter of cattle which affect supply, and hide quality. Based on the information currently available to the Department, we are not able to distill the effect of the embargo from other variables which affect hide prices.

Furthermore, when analyzing hide prices during the period in which the 1985 embargo was imposed, we found no identifiable consequences of the embargo. In fact, there is evidence to suggest that prices actually rose after the embargo was imposed. Although the petition indicates that Argentine hide prices prior to the imposition of the first export restriction in 1972 (specifically, in the years 1960, 1965 and 1970) were slightly higher than prices for similar U.S. and British hides, the Argentine currency prior to 1972 may have been overvalued, thus artificially raising the price in terms of U.S. dollars. Moreover, price comparisons from over two decades ago are not necessarily indicative of what prices would have been during the review period had export restrictions first been imposed at that time. This point is particularly relevant, given the fact that the Argentine economy has experienced dramatic change since 1972.

Therefore, for the reasons discussed above, we cannot establish a link between the embargo under Resolution 321 and any differential between Argentine and world hide prices. Nor are we able to determine that the embargo causes hide prices to be lower than they would have been in the absence of the embargo. Thus, we preliminarily determine that the embargo does not bestow a bounty or grant on manufacturers, producers or exporters of leather in Argentina.

III Programs Preliminarily Determined Not To Be Used

Based on the responses, we preliminarily determine that manufacturers, producers, or exporters in Argentina of leather did not apply for, claim or receive benefits during the review period for exports of leather to the United States under the following programs:

A. Export Payments Under Decree 176: Programa Especial de Exportaciones (PEEX)

In February 1986, the government established Decree 176 to provide "special incentives to producer and exporter companies of promotional

goods and services" which participate in the Reembolso program under Decree 1555/86 and fulfill requirements of the Special Export Program. The PEEX program provides a payment of 15 percent of the increase in a company's export sales above a base amount. An additional payment equal to five percent of the increase is available if the export sales are made to new markets or previously lost markets. The PEEX program was repealed on August 4, 1988, by Decree 963.

B. Post-Export Financing: OPRAC 1–9

Under this program the Central Bank provides low-interest post-export financing to exporters for up to 30 percent of foreign currency earnings from exports.

C. Reembolso

The Reembolso program was established in 1971. It authorizes a cash refund, upon export, of taxes "that bear, directly or indirectly" on exported products and/or their component raw materials, for the purpose of promoting exports. In October 1986, the GOA revised the Reembolso program through Decree 1555/86 by making it "exclusively a refund of indirect taxes physically included in the incorporated costs of the exported goods," independent of other "macro-economic functions."

D. Financing Investments for Exports (FIDEX)

The FIDEX program was created under Communication A–980. It allows exporters to use their export earnings to repay external financing directly, without having to sell the earnings to the Central Bank first. To be eligible, an exporter must present a proposal for a new investment project or expansion of current capacity which will generate additional exports. The minimum investment required is one million dollars. According to the responses, the FIDEX program was never implemented due to fiscal and monetary restraints in Argentina and the need for foreign reserves.

E. Corrientes Regional Tax Incentives

Under National Law 20560, Corrientes Law 5751/74, and Decrees 2633/75, 9641/81, and 32031/76, companies located in the Corrientes Province are eligible for certain tax benefits such as exemption from income, capital, value-added, real estate, stamp, and municipal taxes.

F. Industrial Parks

Firms which operate in designated industrial parks receive special credit from local banks, tax exemptions, and infrastructure benefits.

G. Low-Cost Loans for Projects Outside Buenos Aires

The 1977 Industrial Promotion Law for Projects Outside Buenos Aires provides government-mandated, low-cost loans to eligible companies.

H. Exemption From Stamp Tax Under Decree 186/76

Under Decree 186/76, certain Argentine industries are eligible to receive an exemption from paying stamp taxes.

I. Government Trade Promotion Programs

This program is designed to increase the participation of Argentine companies in international trade fairs and missions. The program also provides technical assistance.

J. Incentives for Export From Southern Ports

This program provides a payment upon export of goods shipped through southern ports. The payments range from eight to thirteen percent, depending on the port.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

Due to the fact that the bounty or grant rate for all non-excluded manufacturers, producers, or exporters in Argentina of leather, as adjusted for the above-described program-wide changes, is *de minimis*, we are not directing the U.S. Customs Service to suspend liquidation on entries of leather from Argentina at this time.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on Monday, September 10, 1990, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than August 31, 1990. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than September 7, 1990. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with section 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: July 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–16495 Filed 7–13–90; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: New Brunswick, NJ

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $173,400 in Federal Funds and a minimum of $30,600 in non-Federal contributions for the budget period December 1, 1990 to November 30, 1991. Cost-sharing contributioins may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the New Brunswick SMSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour. MBDC will charge clients fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to oprate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

• Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.

• Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

• Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

• Awards under this program shall be subject to all Federal land Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

• Applicants should be reminded that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Closing Date: The closing date for applications is August 17, 1990. Applications must be postmarked on or before August 17, 1990.

ADDRESSES: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, 3720 New York, New York 10278, Area Code/ Telephone Number: (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: William R. Fuller, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (catalog of Federal Domestic Assistance)

Dated: July 6, 1990.

William R. Fuller,

Regional Director (Acting), New York Regional Office.

[FR Doc. 90–16509 Filed 7–13–90; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Anti-Submarine Warfare; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Anti-Submarine Warfare will meet in closed session on 22 and 23 August, 1990, at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive briefings on current anti-submarine warfare programs, plans, and projected funding levels.

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

Dated: July 11, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–16516 Filed 7–13–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: Interested persons are invited to submit comments on or before August 15, 1990.

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

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

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that

the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: July 10, 1990.

George P. Sotos,

Acting Director for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Revision.
Title: Application for grants under the Student Literacy Corps Program.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
Responses: 350.
Burden Hours: 1,225.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by institutions of higher education to apply for grants under the Student Literacy Corps Program. The Department uses this information to make grant awards to those institutions that are eligible.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Application for Grant under the College Assistance Migrant Program (CAMP).
Frequency: Annually.
Affected Public: State or local governments; non-profit institutions.
Reporting Burden:
Responses: 35.
Burden Hours: 700.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This application for grants under the College Assistance Migrant Program (CAMP) will enable participants to meet the cost of attending participating institutions of higher education. The Department uses this information to make grant awards to eligible respondents.

[FR Doc. 90–16497 Filed 7–13–90; 8:45 am]
BILLING CODE 4000–1–M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent To Award a Grant to Alascan, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE–FG01–90CE15480 to Alascan Inc., for development of a compost and gray water treatment system at a cost of $90,000 to be provided by DOE.

SCOPE: The grant will provide funding for Alascan, Inc. to develop, produce and test a compost and grey water treatment system.

Mr. Clinton Elston, President and CEO of Alascan, Inc., has invented a unique device for composting and disposing of domestic sewage and kitchenwaste in an environmentally sound and cost efficient manner. This device has potential for use in low populated areas which lack conventional alternatives for sewage treatment, and should also be suitable for use in water restricted areas and recreational vehicles.

ELIGIBILITY: Based on receipt of an unsolicited proposal, eligibility for this award is being limited to Alascan, Inc. It has been determined that this project has high technical merit, representing an innovative and novel idea which has strong possibility of allowing for future reductions in the Nation's Energy consumption.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operation, Attn: Nick Graham, PR–541, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90–16538 Filed 7–13–90; 8:45 am]
BILLING CODE 6450–01–M

Financial Assistance Award Intent To Award Grant to Kumm Industries, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE–FG01–90CE15470 to Kumm Industries, Inc., for development of a continuously variable high speed flat belt drive at a cost of $90,875 to be provided by DOE.

SCOPE: The grant will provide funding to build and test a continuously variable transmission (CVT) which permits an engine transmission to operate near its optional point over a wide range of operating conditions. The most significant application is expected to be its incorporation into the next generation of turbo compound truck diesel engines.

ELIGIBILITY: Based on receipt of an unsolicited proposal, eligibility for this award is being limited to Kumm Industries, Inc. The key personnel of Kumm Industries, Inc. are highly qualified in this field of technology. It has been determined that this project has high technical merit representing an innovative and novel idea which has strong possibility of allowing for future reductions in the nations energy consumption. The term of the grant shall be eight months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operation, Attn: Nick Graham, PR–541, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Divison "B", Office of Procurement Operations.

[FR Doc. 90–16539 Filed 7–13–90; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the implementation of procedures for the

disbursement of $580,457.11, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Lantern Petroleum Corporation and John Mills (Case No. LEF–0016). The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for Refund submitted pursuant to this Decision must be filed in duplicate, postmarked no later than March 31, 1991, and should be addressed to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Any party that has prevoiusly submitted a refund application in crude oil proceedings should not file another application; that application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $580,457.11 that has been remitted by Lantern Petroleum Corporation and John Mills to the DOE. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Refunds to the states will be in proportion to each state's consumption of petroleum products during the period of crude oil price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products that they purchased and the extent to which they can demonstrate injury.

As the Decision and Order indicates, Applications for Refund may now be filed by injured purchasers of crude oil and refined petroleum products. Applications must be filed in duplicate and postmarked no later than March 31, 1991. The specific information required in an Application for Refund is indicated in the Decision and Order. Any party that has previously submitted a refund application in crude oil refund proceedings should not file another application; that application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: July 10, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

DECISION AND ORDER OF THE DEPARTMENT OF ENERGY; IMPLEMENTATION OF SPECIAL REFUND PROCEDURES

Names of Firms: Lantern Petrolum Corporation and John Mills
Date of Filing: April 3, 1990
Case Number: LEF–0016

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

On April 3, 1990, the ERA filed a Petition for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from Lantern Petroleum Corporation and John Mills (hereinafter collectively referred to as Lantern). On December 19, 1989, the DOE and Lantern entered into a Settlement Agreement in order to resolve the dispute between the two parties concerning Lantern's compliance with the DOE's crude oil layering regulation, 10 CFR 212.186, in 26 transactions during the period August 1978 through March 1979. The Settlement Agreement was approved by the United States District Court for the District of Columbia on March 5, 1990. Lantern remitted a total of $580,457.11 to the DOE in accordance with the Settlement Agreement. This Decision and Order establishes procedures for distributing those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the funds received from Lantern, and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in In re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings, involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., New York Petroleum, Inc., 18 DOE ¶ 85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (Shell); Ernest A. Allerkamp, 17 DOE ¶ 85,079 (1988) (Allerkamp), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case In re: The Department of Energy Stripper Well Exemption Litigation, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions

of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In re: The Department of Energy Stripper Well Exemption Litigation, 671 F. Supp. 1318 (D. Kan. 1987), aff'd, 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Decision and Order

On April 24, 1990, the OHA issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from Lantern. 55 FR 18380 (May 2, 1990). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the states and federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PDO, the OHA proposed to required applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PDO stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PDO provided a period of 30 days from the date of publication in the Federal Register in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the Lantern settlement fund. Consequently, the procedures will be adopted as proposed.

III. The Refund Procedures

A. Refund Claims

The OHA has concluded that the $580,457.11 remitted by Lantern, plus the interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. As noted above, we have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $116,091.42, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. E.g., Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel). As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of the alleged violations. Following subpart V precedent, reasonable estimates of purchase volumes may be submitted. E.g., Greater Richmond Transit Co., 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. E.g., A. Tarricone, Inc., 15 DOE ¶ 85,495 at 88,693–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. E.g., Berry Holding Co., 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. E.g., NYP, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-America Dairyman, Inc.* v. *Herrington,* 878 F. 2d 1448 (Temp. Emerg. Ct. App. 1989); accord, Boise Cascade Corp., 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($580,457.11) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Mountain Fuel, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.000000287 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. E.g., Allerkamp, 17 DOE at 88,176. Any part that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. A deadline of June 30, 1988 was established for the first pool of crude oil funds. The first pool was funded by crude oil refund proceedings, implemented pursuant to the MSRP, up to and including Shell. a deadline of October 31, 1989 was established for applications for refunds from the second pool of crude oil funds. The second pool was funded by those crude oil proceedings beginning with World Oil Co., 17 DOE ¶ 85,568, corrected, 17 DOE ¶ 85,669 (1988), and ending with Texaco Inc., 19 DOE ¶ 85,200, corrected, 19 DOE ¶ 85,236 (1989). The deadline for filing an application for refund from the third pool of funds was established as March 31, 1991 by Bi-Petro, Inc., 20 DOE ¶ 85,071 (1990). THe volumetric refund amount for the third pool of funds will be increased as additional crude oil violation amounts are received in the

future. Notice of any additional amounts available in the future will be published in the **Federal Register.**

To apply for a refund, a claimant should submit an Application for Refund. Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to:

Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Each crude oil refund application should contain the type of information specified by the OHA in past decisions. See Texaco Inc., 19 DOE ¶ 85,200 at 88,374, corrected, 19 DOE ¶ 85,236 (1989); Hood Goldsberry, 18 DOE ¶ 85,902 at 89,477–78 (1989); Wickett Refining Co., 18 DOE ¶ 85,659 at 89,081–82 (1989).

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $464,365.69, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $464,365.69, plus interest, available for disbursement to the states and federal government and transfer one-half of that amount, or $232,182.84, plus interest, into an interest-bearing subaccount for the states, and one-half, or $232,182.84, plus interest, to an interest bearing subaccount for the federal government. At an appropriate time in the future, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual states. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is therefore ordered that:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by Lantern Petroleum Corporation and John Mills may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than March 31, 1991.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $580,457.11 (plus interest) from The Lantern Petroleum Corporation and John Mills subaccount, Account Number 6AOX00280Z, pursuant to Paragraphs (4), (5), and (6) below.

(4) The Director of Special Accounts and Payroll shall transfer $232,182.84 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $232,182.84 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $116,091.42 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 3," Number 999DOE009Z.

Dated: July 10, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals

[FR Doc. 90–16540 Filed 7–13–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3810–5]

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 August 15, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Research and Development Great Lakes National Program Office

Title: Beach Closing Survey Report on the Great Lakes. (EPA ICR #0994.04; OMB #2090–0003). This request extends the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: The Regional Administrator, U.S. EPA Region V, is asking county or city public health officials in U.S. counties bordering the Great Lakes to complete the questionnaire, "1989 Great Lakes Bathing Beach Survey." There are twelve questions related to the water quality of the U.S. beaches on the Great Lakes, including the nature of the local water quality monitoring programs and the number of beach closings because of pollution. Region V uses this information to provide general purpose statistics which are reported to the International Joint Commission and to the agencies responsible for monitoring the water quality of the Great Lakes beaches.

Burden Statement: The public reporting burden for this collection of information is estimated to average thirty minutes per respondent. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: County or City Public Health Officials.

Estimated Number of Respondents: 104.

Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 52.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspects of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW., Washington, D.C. 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: July 9, 1990.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 90–16526 Filed 07–13–90; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-00104; FRL-3774-8]

Biotechnology Science Advisory Committee Subcommittee on Good Developmental Practices; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1-day meeting of the Biotechnology Science Advisory Committee's Subcommittee for the review of the draft document "Good Developmental Practices for Small-Scale Field Research with Genetically Modified Plants and Microorganisms." This draft document has been released by the Organization for Economic Cooperation and Development (OECD). The Subcommittee will discuss the OECD document in light of its intended purpose: to describe scientific principles and practices, and provide guidance, for conducting small-scale field research with genetically modified plants and microorganisms. The principles described are intended as scientific guides for the performance of low or negligible risk small-scale field research. The meeting will be open to the public.

DATES: The meeting will be held on Friday, August 3, 1990, starting at 9 a.m. and ending at approximately 5 p.m.

ADDRESSES: The meeting will be held at: The Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Attendance by the public will be limited to available space. The Environmental Assistance Division will provide summaries of the meeting at a later date.

Dated: July 6, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 90-16512 Filed 7-13-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59285; FRL 3774-9]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES:

Written comments by:

T 90-15, July 21, 1990.

ADDRESSES: Written comments, identified by the document control number "(OPTS-59284)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., room L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, room E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 90-15

Close of Review Period. August 4, 1990.

Manufacturer. Confidential.

Chemical. (G) Basin acids and rosin acids, tall oil, esters with triethylene glycol.

Use/Production. (S) Tracking resin, water-based emulsions, and hot melt based adhesives. Prod. range: Confidential.

Dated: July 9, 1990.

Steve Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-16514 Filed 7-13-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-140135; FRL-3768-2]

Access to Confidential Business Information by Certain Contractors and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized the following contractors and subcontractors information which has been submitted to EPA under the Toxic Substances Control Act (TSCA): (1) Arthur D. Little, Incorporated (ADL), of Cambridge, Massachusetts, has been authorized access to information which has been submitted to EPA under sections 5 and 6 of TSCA, (2) ICF, Incorporated (ICF), of Fairfax, Virginia, and its subcontractor Hampshire Research Associates (HRA), of Alexandria, Virginia, have been authorized access to information which has been submitted to EPA under section 5 of TSCA, (3) ICF and its subcontractor The Bruce Company (BRU), of Washington, DC, have been authorized access to information which has been submitted to EPA under sections 4, 5, and 8 of TSCA, and (4) Labat-Anderson, Incorporated (LAI), of Arlington, Virginia, has been authorized access to information which has been submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be confidential business information (CBI). This document also amends a contract authorized to Battelle, Columbus Division that was published in the Federal Register of April 25, 1990.

DATES: Access to the confidential data submitted to EPA will occur no sooner than July 26, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA is issuing this notice to inform all submitters of information under TSCA that EPA may provide the following contractors and subcontractors access

to these materials on a need-to-know basis.

Under contract number 68–C9–0037, contractor ADL, of Acorn Park, Cambridge, MA, will assist the Office of Toxic Substances (OTS) in evaluating and testing the procedures used by OTS to estimate protective clothing effectiveness in reducing dermal exposures during Premanufacture Notice (PMN) and existing chemical reviews, as mandated by sections 5 and 6 of TSCA. ADL personnel will be given access to information submitted under sections 5 and 6 of TSCA. All access to TSCA CBI under this contract will take place at EPA Headquarters. Clearance for access to TSCA CBI under contract number 68–C9–0037 is scheduled to expire on September 30, 1993.

Under contract number 68–D8–0116, contractor ICF, of 9300 Lee Highway, Fairfax, VA, and its subcontractor HRA, of 1600 Cameron St., Suite l00, Alexandria, VA, will assist OTS in assessing potential and existing economies and efficiences of OTS mainframe and personal computer data bases used to support the PMN review process. ICF and HRA personnel will be given access to information submitted under section 5 of TSCA. All access to TSCA CBI under this contract work assignment will take place at EPA Headquarters only. In a previous notice published in the **Federal Register** of January 12, 1990 (55 FR 1261), ICF and HRA were authorized for access to CBI submitted to EPA under section 5 of TSCA under contract number 68–D8–0116 until May 30, l990. Clearance for access to TSCA CBI under this work assignment is now scheduled to expire on September 30, 1990.

Under contract number 68–D9–0068, contractor ICF, of 409 12th St., SW., Suite 700, Washington, DC, and its subcontractor BRU, of 1100 6th St., SW., Suite 215, Washington, DC, will assist (OTS) and the Office of Air and Radiation (OAR) in assessing potential health and environmental impacts of proposed commercial substitutes for chlorofluorocarbons (CFCs). ICF and BRU personnel will be given access to information submitted under sections 4, 5, and 8 of TCSA. ICF and its subcontractor BRU have been authorized access to TSCA CBI under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. All access to TSCA CBI under this contract will take place at EPA Headquarters and ICF's 409 12th St. facility. EPA has approved ICF's security plan and has performed the required inspection of its facility and has found the facility to be in compliance with the manual. Clearance for access to TSCA CBI under contract number 68–D9–0068 is scheduled to expire on September 30, 1992.

Under contract number 68–W9–0052, contractor LAI, of 2200 Clarendon Boulevard, Suite 900, Arlington, VA will assist the Environmental Criteria and Assessment office (ECAO), in maintaining the Technical Information Unit (TIU) of the ECAO. LAI personnel will be given access to information submitted under alll sections of TSCA. All access to TSCA CBI under this contract will take place of EPA's ECAO, Cincinnati, OH facility. Clearance for access to TCSA CBI under contract number 68–W9–0052 is scheduled to expire on September 30, 1990.

In addendum to a **Federal Register** notice of April 25, 1990 (55 FR 17490), concerning contract number 68–02–4294, EPA is amending BCD's contract to include BCD's facility at 2101 Wilson Boulevard, Suite 800, Arlington, VA. All other aspects of the contract will remain the same.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract numbers 68–C9–0037, 68–D8–0016, 68–D9–0068, 68–W9–0052, and 68–02–4294, the aforementioned contractors and subcontractor will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the respective contracts.

ADL, ICF and its subcontractors, and LAI personnel, will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: June 27, 1990.

Linda A. Traves,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90–16513 Filed 7–13–90; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL LABOR RELATIONS AUTHORITY

Scope of the Term "Applicable Laws" in 5 U.S.C. 7106(a)(2); Negotiability of Collective Bargaining Proposals Permitting Greviences of Alleged Violations Relating to OMB Circular A–76 ("Contracting Out" of Work)

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of opportunity to file amicus briefs in certain proceedings in which Federal agencies have asserted the nonnegotiability of labor organization collective bargaining proposals providing for use of a negotiated grievance and arbitration procedure to resolve a claim by an employee or a labor organization that an agency has failed to comply with Office of Management and Budget (OMB) Circular A–76, relating to the "contracting out" of work.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested agencies, labor organizations, and other interested persons to file amicus briefs on significant issues of law common to a number of cases pending before the Authority. These cases, which raise issues of law concerning the scope of the term "applicable laws" in 5 U.S.C. 7106(a)(2), involve allegations of nonnegotiability by agency management concerning proposed contract provisions subjecting claims, that an agency has failed to comply with an OMB circular relating to the "contracting out" of work, to grievance and arbitration procedures negotiated under 5 U.S.C. 7121.

DATES: Amicus briefs submitted in response to this notice will be considered if received by August 10, 1990. Requests for extension of time will not be granted absent extraordinary circumstances.

ADDRESSES: Mail briefs to Alicia N. Columna, Director, Case Control Office, Federal Labor Relations Authority, Attn: "Applicable Laws" Cases, 500 C Street, SW., Room 213, Washington, DC 20424.

FORMAT: All briefs shall be captioned "Amicus Brief Concerning Contracting-Out Cases and the Scope of the Term 'Applicable Laws' in 5 U.S.C. 7106(a)(2)" and shall contain separate, numbered headings for each issue discussed. An original and four (4) copies of each amicus brief, with any enclosures, on 8½ × 11 inch paper.

FOR FURTHER INFORMATION CONTACT: Alicia N. Columna, Director, Case Control Office, Federal Labor Relations Authority, 500 C Street, SW., Room 213, Washington, DC 20424, Telephone: (202) 382–0748.

SUPPLEMENTARY INFORMATION: On June 30, 1987, the Federal Labor Relations Authority issued an order requiring the Internal Revenue Service (IRS) to bargain with the National Treasury Employees Union over a proposed contract provision allowing the parties' negotiated grievance procedure to be used to challenge alleged failures of the agency to comply with an Office of Management and Budget Circular concerning the "contracting out" of work. *National Treasury Employees Union and Department of the Treasury,*

Internal Revenue Service, 27 FLRA 976 (1987). The United States Court of Appeals for the District of Columbia Circuit affirmed the Authority's decision. *Department of the Treasury, Internal Revenue Service* v. *Federal Labor Relations Authority*, 862 F.2d 880 (D.C. Cir. 1988).

On writ of certiorari, the United States Supreme Court reversed the decision of the Court of Appeals and remanded. *Department of the Treasury, Internal Revenue Service* v. *Federal Labor Relations Authority*, 110 S. Ct. 1623 (1990). The Court held that the Authority's decision contradicts the text of 5 U.S.C. 7106(a), which provides that "nothing in this chapter" shall affect the authority of agency officials to make contracting-out determinations in accordance with applicable laws. However, the Court found that the Authority's decision could be sustained under a "permissible (though not an inevitable) construction of the [S]tatue that the term 'applicable laws' in § 7106(a) extends to some, but not all, rules and regulations[.]" *Id.* at 1629 (footnote omitted). Because that issue had not been decided either by the District of Columbia Circuit or the Authority, the Court remanded the decision to the District of Columbia Circuit. The Court stated that the District of Columbia Circuit, on remand, may wish to resolve the issue, "or await [the Authority's] specification, on remand, of the particular permissible interpretation of 'applicable laws' (if any) it believes embraces the Circular." *Id.* at 1630.

On May 11, 1990, the District of Columbia Circuit remanded the case to the Authority for further proceedings to determine whether the OMB Circular is an "applicable law" and for such other consideration consistent with the decision of the Supreme Court. The court stated that it was "poorly situated to evaluate the interpretations of 'applicable laws' that the [Authority] might permissibly adopt, and whether such interpretations might encompass the OMB Circular, until the [Authority] has formulated a concrete construction of [5 U.S.C.] 7106(a)(2)(B)." *Department of the Treasury, Internal Revenue Service* v. *Federal Labor Relations Authority*, No. 87-1439 (D.C. Cir. May 11, 1990) (order), slip op. at 2.

In addition to the case on remand in *National Treasury Employees Union and Department of the Treasury, Internal Revenue Service*, 27 FLRA 976 (1987), other cases are pending in the District of Columbia Circuit that address significant issues of law common to the range of matters involving the "contracting out" of work. *For example, Department of the Treasury, Bureau of Public Debt* v. *FLRA*, No. 88-1753 (D.C. Cir. filed Oct. 21, 1988); *Department of Justice, Justice Management Division* v. *FLRA*, No. 88-1316 (D.C. Cir. filed Apr. 22, 1988). The Authority has requested the court to remand those cases so that they may be considered along with National Treasury Employees Union and Department of the Treasury, Internal Revenue Service, on remand. In addition, there are several cases pending before the Authority presenting similar issues relating to the "contracting out" of work and/or the meaning of the term "applicable laws" in § 7106(a)(2) of the Statute. Because these matters are likely to be of concern to agencies, labor organizations, and other interested parties, the Authority finds it appropriate to provide for the filing of amicus briefs addressing these issues.

The Authority believes that argument on the following questions will be helpful in addressing the issues presented in National Treasury Employees Union and Department of the Treasury, Internal Revenue Service, on remand, and other cases pending before the Authority:

1. What is the scope of the term "applicable laws" in § 7106(a)(2) of the Statute? Specifically, should the Authority adopt an interpretation of the term that encompasses rules and regulations having the force and effect of law?

2. Is OMB Circular No. A-76 an "applicable law" within the meaning of § 7106(a)(2) of the Statute?

Dated: July 10, 1990.

For the Authority.

Alicia N. Columna,

Director, Case Control Office.

[FR Doc. 90-16519 Filed 7-13-90; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-200255-004.

Title: City of Los Angeles/California Stevedore & Ballast Company Marine Terminal Agreement.

Parties:

City of Los Angeles
California Stevedore & Ballast Company.

Filing Party: Raymond P. Bender, Assistant City Attorney, Harbor Division, 425 S. Palos Verdes Street, San Pedro, CA 90733-0151.

Synopsis: The Agreement extends the term of Agreement No. 224-200255 from June 30, 1990 until August 15, 1990.

By Order of the Federal Maritime Commission.

Dated: July 10, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-16458 Filed 7-13-90; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

American Freight Forwarders & Custom House Brokers Inc., 226 East Bay Street, Savannah, GA 31401. Officers: Thomas W. Harrelson, President, JoBeth H. Allen, Vice President, Patrice A. Kiley, Asst. Vice President.

N.L. Cargo, Inc., 2150 NW. 70th Avenue, Miami, FL 33126. Officer: Nury Lewis.

Helm Freight Forwarders Corp., 66-00 Long Island Expressway, Maspeth, NY 11378. Officers: Joseph M. Pellettiers,

President, Thomas Falotico, Vice President.

J.H. Bachmann California Inc., 811 Arbor Vitae Street, Inglewood, CA 90301. Officers: Horst Rehling, President, Eduard Dubbers-Albrecht, Exec. Vice President, Hans H. Meyer, Secretary/Treasury/Director.

Mark V Customs House Brokers, Inc., dba Mark V International, 155-11 146th Avenue, Jamaica, NY 11434. Officers: Norman Isacoff, President, Irving Boxer, Secretary, Itamar Waolfman, Vice President.

Simmons International Express, Inc., 101 E. Clarendon, Prospect Hts, IL 60070. Officer: Dawn S. Simmons, President.

Safa Shipping Company, 6406 Standing Oaks, Houston, TX 77050. Officers: Ahmed Meslhy, Qadir Ali Wakkiluddin.

Special Cargo Services International, 2510 Peel Ave., Orlando, FL 32808. Officer: Daniel Philip Stephens, Sole Proprietor.

Leyda S. Orellana, 11903 NW. 12th St., Pembroke Pines, FL 33026. Officer: Sole Proprietor.

U.R.M. Cargo Services, Inc., 3716 SW. 92nd Ave., Miami, FL 33165. Officers: Rolando Fernandez, President/Treasurer, Mayra Fernandez Ameneiro, Vice President/Secretary.

Honeybee & Hammond International Forwarding, 5680 Ayala Ave., Irwindale, CA 91706. Officer: Samih Salim Abushousheh, President/Director.

Dated: July 10, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-16459 Filed 7-13-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Announcement No. 043]

Environmental Health Education Activities for Educating Physicians and Health Professionals Concerned With Human Exposure to Hazardous Substances in the Environment

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces availability of funds in Fiscal Year 1990 for cooperative agreements with state departments of health and/or state departments of environment to build state capacity for educating health professionals on how to deal with health issues related to non-workplace hazardous substances in the environment.

Authority

This program is authorized under sections 104(i)(14) and (15) of the Comprehensive Environmental Response, Compensation, and Liabililty Act of 1980 (CERCLA) (42 U.S.C. 9601 et seq) and title 31 U.S.C. 6305.

Eligible Applicants

Eligible applicants include the following:

1. The official department of health and/or department of environment of states, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau.

2. Competition will be limited to only those entities specified above due to the legislative requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. 9601 et seq).

Availability of Funds

Approximately $190,000 will be available in Fiscal Year 1990 to fund one to seven awards. The awards will range from approximately $25,000 to $35,000, with the average award being approximately $30,000. The awards will begin on or about September 30, 1990, and will be made for 12-month budget periods within a project period of one to two years. Continuation awards within the project period are made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of these awards is to assist state health and/or environment departments to identify, develop, disseminate, and evaluate appropriate educational materials (including short courses) on the medical surveillance, screening, and methods of diagnosis and treatment of injury or disease related to exposure to hazardous substances found in the non-workplace environment. Emphasis is to be placed on those substances identified and ranked as most hazardous by ATSDR and the Environmental Protection Agency.

Program Requirements

To satisfy the above requirement, the recipient shall be responsible for conducting activities under 1. below and ATSDR will be responsible for conducting activities under 2. below.

1. Recipient Activities

a. Enhance the development, implementation, and evaluation of educational materials or methods to improve the skills and knowledge of health care providers concerning exposure to hazardous substances.

b. Promote the development of promising new educational activities and instructional methods to educate health care providers so as to demonstrate their effectiveness in other settings.

c. Develop promising new materials and/or methods utilized by the health care providers in communicating and counseling their patients with regard to health risks concerning exposure to hazardous substances.

d. Promote the development of methods or materials to improve the knowledge and skills of health care providers in taking an "environmental exposure history" as an integral part of their patient workup.

e. Promote the demonstration of successful informational resources to furnish health care providers needed information concerning hazardous substances.

2. ATSDR Activities

a. Collaborate with the recipient in generalizing the demonstrated effectiveness of the program to other appropriate settings.

b. Collaborate with the recipient regarding the best and most important mechanisms to enhance essential skill and knowledge components concerning medical surveillance, screening, treating, and preventing injury or disease related to exposure to hazardous substances.

c. Collaborate with the recipient in identifying new approaches to health communications for health care practitioners in counseling their patients concerned about the exposure to hazardous substances.

d. Participate in state-based workshops, conferences and seminars to exchange current information, opinions, and findings concerning the diagnosis, treatment and prevention of illness or injury associated with exposure to hazardous substances.

e. Assist in the development of promising new materials and/or methods utilized by the health care providers in communicating and counseling their patients with regard to health risks concerning exposure to hazardous substances.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Proposed Project—45%

The adequacy of the proposal relative to:

a. The project purpose, objectives, and rationale;

b. The quality of project objectives in terms of specificity, measurability, and feasibility;

c. The specificity and feasibility of the applicant timetable for implementing project activities;

d. The likelihood of the applicant completing proposed project activities and attaining proposed objectives based on the thoroughness and clarity of the overall project;

e. The appropriateness and thoroughness of the methods used to evaluate the project.

2. Appropriateness of Project Design—30%

a. The applicant's understanding of the need or problem to be addressed and the purpose of this cooperative agreement.

b. The identification of a target group and its needs.

3. Applicant Capability and Coordination Efforts—25%

a. The ability of the applicant to provide staff, knowledge, financial and other resources required to perform the applicant's responsibilities in the project.

b. The thoroughness and appropriateness of the approach to be used in carrying out the responsibilities of the project.

c. The suitability of facilities and equipment available for the project.

d. Evidence provided by the applicant that contact has been made with other entities/programs (federal, national, state, local) which have developed similar training programs to assure that the proposed project will not be redundant of other programs that may be available.

4. Project Budget (Not scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of funds. The budget should be detailed enough to (a) Anticipate costs for personnel, travel, communications, postage, and supplies, and (b) identify all non-ATSDR sources of funds that will be used to meet the needs of the project.

Executive Order 12372 Review

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations in 45 CFR Part 100, are applicable to this program. Through this process, states are provided the opportunity to review and comment on applications for federal financial assistance within their respective states. Applicants should contact the state's single point of contact (SPOC) as early as possible to determine the applicable procedure. A current listing of all SPOC's will be included with the application kit. Applicants should note that comments received from the state will be considered as a factor in the review of their applications.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number assigned to this program is 13.161.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Rev. 3/89) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Mailstop E–14, Atlanta, Georgia 30305 on or before August 3, 1990. By formal agreement, the CDC Grants Management Branch will act on behalf of and for ATSDR on this matter.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications:* Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Carole J. Tully, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Mailstop E–14, Atlanta, Georgia 30305, or by calling (404) 842–6630 or FTS 236–6630.

Announcement Number 043 "Environmental Health Education Activities for Educating Physicians and Health Professionals Concerned With Human Exposure to Hazardous Substances in the Environment" must be referenced in all requests for information pertaining to this program and on the application.

Technical assistance may be obtained from Donna Orti, M.S., Division of Health Education, Agency for Toxic Substances and Disease Registry, Mail Stop E–33, 1600 Clifton Road, Atlanta, Georgia 30333, (404) 639–0607 or FTS 236–0607.

Dated: July 9, 1990.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90–16508 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–70–M

Alcohol, Drug Abuse, and Mental Health Administration

Model Projects

OFFICE: Office for Substance Abuse Prevention.

ACTION: Request for applications.

The Office for Substance Abuse Prevention (OSAP) is reannouncing two grant programs: Model Projects for Pregnant and Postpartum Women and their Infants; and Demonstration Grants for the Prevention, Treatment and Rehabilitation of Drug and Alcohol Abuse Among High Risk Youth for FY 1991. Applications for both announcements will be accepted for a single receipt date of November 15, 1990.

Model Projects for Pregnant and Postpartum Women and Their Infants

Under the authority of sections 509F and 509G of the Public Health Service Act, OSAP will accept applications from public and private profit and nonprofit entities to demonstrate model projects for substance abuse prevention and treatment services for pregnant and postpartum women and their infants. Approximately $4 million will be available to support approximately 15–20 grants at an average award amount of $200,000. The Catalog of Federal Domestic Assistance number for this program is 13.169.

The Office of Maternal and Child Health (OMCH), Health Resources and Services Administration (HRSA), is joining OSAP in providing funds for the collaborative, interagency grant program to support these demonstration projects.

Application kits including a copy of the complete Request for Applications and guidance for submission are available from:

National Clearinghouse for Alcohol and Drug Information (NCADI) P.O. Box 2345, Rockville, MD 20852, (301) 468–2600.

For additional information regarding the program and/or application procedures, contact:

Division of Demonstrations and Evaluation, Office for Substance Abuse Prevention, ADAMHA, Rockwall II Building, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4564

or

Office of Maternal and Child Health, HRSA, Parklawn Building, Room 6–37, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–5720

Demonstration Grants for the Prevention, Treatment, and Rehabilitation of Drug and Alcohol Abuse Among High Risk Youth

Under the authority of Section 509A of the Public Health Service Act, OSAP will accept applications from public and nonprofit private entities for projects to demonstrate effective models for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse among high risk youth. Proposals to demonstrate effective comprehensive service systems, particularly model service systems directed at primary prevention and early intervention, are a priority focus of this announcement. Approximately $4 million will be availabe to support approximately 15–20 grants at an average award amount of $200,000. The Catalog of Federal Domestic Assistance number for this program is 13.144.

Application kits including a copy of the complete Request for Applications and guidance for submission are available from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20852, (301) 468–2600.

For additional information regarding the program and/or application procedures, contact: Division of Demonstrations and Evaluation, Office for Substance Abuse Prevention, ADAMHA, Rockwall II Building, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0356.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90–16549 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

[Announcement No. 040]

National Institute for Occupational Safety and Health; Farm Family Health and Hazard Surveillance Cooperative Agreement Program; Correction

A notice announcing the availability of Fiscal Year 1990 funds for cooperative agreements to conduct population-based farm family health and hazard studies was published in the Federal Register on Wednesday, June 13, 1990, (55 FR 23982). The notice is corrected as follows:

On page 23984, third column, the information regarding the telephone number at the end of the first paragraph under the heading "*Where To Obtain Additional Information,*" is corrected as follows: The telephone number is corrected from (404) 842–1630 and FTS 236–1630 to (404) 842–6630 and FTS 236–6630.

All other information and requirements in the notice remain the same.

Dated: July 9, 1990.

J. Brian Dugan,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control.

[FR Doc. 90–16482 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–19–M

Technical Advisory Committee for Diabetes Translation and Community Control Programs: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following committee meeting:

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Time and Date: 8 a.m.–4:30 p.m., Monday, August 20, 1990.

Place: Lenox Inn, 3387 Lenox Road, NE, Atlanta, Georgia 30326.

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

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters to be Discussed: The Committee will discuss scientific findings and mechanisms, and the transfer of these findings into practice. Updates on major projects and initiatives currently underway within the Division of Diabetes Translation (DDT) will be presented. Events and recommendations from the American Diabetes Association's 50th Annual Conference will be summarized.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Frederick G. Murphy, Program Analyst, DDT, Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE, Mailstop F–48, Atlanta, Georgia 30333, telephone 404/639–1771, (FTS) 236–1771.

Dated: July 9, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 90–16504 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–18–M

Availability of Document and Request for Comments on "Results of a Workshop Meeting to Discuss Protection of Public Health and Safety During Reentry Into Areas Potentially Contaminated With a Lethal Chemical Agent (GB, VX, or Mustard Agent)"

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Announcement of Availability and Request for Comments on "Results of a Workshop Meeting to Discuss Protection of Public Health and Safety During Reentry into Areas Potentially Contaminated with a Lethal Chemical Agent (GB, VX, or Mustard Agent)."

SUMMARY: CDC has prepared a report on a workshop meeting to discuss protection of public health and safety during reentry into areas potentially contaminated with a lethal chemical agent (GB, VX, or Mustard Agent). Copies may be obtained from the address below. Public review and comment is invited.

DATES: Comments on "Results of a Workshop Meeting to Discuss Protection of Public Health and Safety During Reentry into Areas Potentially Contaminated with a Lethal Chemical Agent (GB, VX, or Mustard Agent)" must be received on or before August 30, 1990.

ADDRESSES: Copies of the Results of the Workshop Meeting may be obtained by writing to: Linda Anderson, Chief,

Special Programs Group, Center for Environmental Health and Injury Control (F29), CDC, 1600 Clifton Road NE, Atlanta, Georgia 30333. Comments should be mailed to Director, Center for Environmental Health and Injury Control (F29), CDC, 1600 Clifton Road NE., Atlanta, Georgia 30333. Telephone: FTS: 236–4595, Commerical: (404) 488–4595.

SUPPLEMENTARY INFORMATION:

Purpose and Background

An interagency steering committee, co-chaired by the Department of the Army and the Federal Emergency Management Agency, relying in part on a manual, "Reentry Planning: The Technical Basis for Offsite Recovery Following Warfare Agent Contamination" (ORNL–6628; Oak Ridge National Laboratory, Oak Ridge, TN 37831–6101) describing the technical bases for reentry decisions, prepared guidelines to assist emergency managers in developing plans for returning citizens to their homes after an evacuation caused by an unplanned release of a lethal chemical agent (GB; VX; or Mustard Agents: H, HD, HT).

On March 5 and 6, 1990, CDC hosted a workshop for a group of scientists and public officials to discuss issues related to reentry into areas potentially contaminated with lethal chemical agents. As a result of these efforts, a document titled "Results of a Workshop Meeting to Discuss Protection of Public Health and Safety During Reentry into Areas Potentially Contaminated with a Lethal Chemical Agent (GB, VX, or Mustard Agent)" has been developed.

The CDC announces the availability of the document and requests comments from interested parties prior to finalizing the document. A 45-day comment period will be established for review and comments; all comments received within the 45-day period will be considered.

Dated: July 10, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90–16507 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–18–M

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Control of Ammonia Releases in Agricultural Applications; Meeting

Name: Control of Ammonia Releases in Agricultural Applications

Time and Date: 1 p.m.–5 p.m., July 31, 1990

Place: Ohio Department of Agriculture, Division of Plant Industry, Building 1 Conference Room, 8995 E. Main Street, Reynoldsburg, Ohio 43068–3399

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

Purpose: To conduct an open meeting for the review of a NIOSH project entitled "Control of Ammonia Releases in Agricultural Applications." This project concerns the safety of agricultural anhydrous ammonia equipment and storage.

Contact Person for Additional Information: Amy A. Beasley, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R5, Cincinnati, Ohio 45226, telephone 513/841–4221 or FTS 684–4221.

Dated: July 9, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–16503 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–19–M

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), Analytical Method for Total Isocyanate in Air; Meeting

Name: Analytical Method for Total Isocyanate in Air

Time and Date: 1 p.m.–5 p.m., August 9, 1990

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

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

Purpose: To conduct an open meeting for the review of a NIOSH project entitled "Analytical Method for Total Isocyanate in Air." This project involves the development of an analytical method for total isocyanate group (monomeric isocyanate, prepolymeric isocyanate, polyurethane-bound isocyanate, etc.) based on the reaction of isocyanate groups with a bifunctional nucleophile.

Contact Person for Additional Information: Robert P. Streicher, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R–7, Cincinnati, Ohio 45213, telephone 513/841–4296 or FTS 684–4296.

Dated: July 9, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–16502 Filed 7–13–90; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 90N–0163]

Health Care Plasma Center, Inc., and Medical Plasma, Inc.; Opportunity for Hearings on Proposals To Revoke U.S. License Nos. 1039 and 995

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for hearings on proposals to revoke the establishment licenses (U.S. Licenses No. 1039 and 995) and the product licenses issued to Health Care Plasma Center, Inc., and Medical Plasma, Inc., respectively, for the manufacture of Source Plasma. The proposed revocations are based on the inability of authorized FDA employees to conduct inspections of these facilities, which are no longer in operation.

DATES: The firms may submit written requests for hearings to the Dockets Management Branch by August 15, 1990. The firms must submit any data justifying hearings by September 14, 1990. Other interested persons may submit written comments on the proposed revocations by September 14, 1990.

ADDRESSES: Submit written requests for hearings, any data justifying hearings, and any written comments on the proposed revocations to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the establishment license (U.S. License No. 1039) and the product license issued to Health Care Plasma Center, Inc., with facilities at 634 Whitehall Street SW., Atlanta, GA 30310, and 2124 West Pratt St., Baltimore, MD 21223; and the establishment license (U.S. License No. 995) and the product license issued to Medical Plasma, Inc., with facilities at 171 Simpson St., Atlanta, GA 30313; and 702 South Sixth Ave., Tucson, AZ 85701; for the manufacture of Source Plasma. Proceedings to revoke the licenses issued to Health Care Plasma Center, Inc., and Medical Plasma, Inc., are being initiated because on-site inspections by FDA employees in the respective locations revealed that the facilities

were not in operation. The Health Care Plasma Center, Inc., facility in Atlanta ceased operations on November 16, 1987, and was verified by FDA on-site inspection to be vacated in September 1989. The establishment and product licenses for the Health Care Plasma Center, Inc., Baltimore facility were suspended on May 2, 1988, due to numerous deviations from Federal regulations which represented a danger to health. As of November 1989, the Baltimore facility was occupied by a separately licensed and unrelated Source Plasma firm. The Medical Plasma, Inc., facilities in Atlanta and Tucson ceased operations on February 5, 1988, and on or about February 29, 1988, respectively. These two facilities were verified by FDA on-site inspections to be vacated in September 1989.

As provided in 21 CFR 601.5(b), FDA issued a letter, dated November 21, 1989, to the Responsible Head at the Cartersville, GA, address of record. The letter served notice of FDA's intent to revoke the above establishment and product licenses and offered an opportunity for a hearing on the proposed revocation. The letter was unclaimed at that address and was forwarded by the Postal Service to a Tucson address of record, where it was also unclaimed. The letter was returned to FDA on January 9, 1990. A second, certified letter dated December 21, 1989, was issued to the Responsible Head at the Atlanta address of record. Two attempts to deliver the letter, on December 23, 1989, and January 9, 1990, respectively, were unsuccessful and were documented on the return receipt form. The unclaimed letter was returned to FDA on January 24, 1990. No telephone number listings were available for either the Atlanta or Tucson addresses of record. Because FDA took all reasonable efforts to notify the Responsible Head of the proposed revocation and because the Responsible Head did not respond within the time frame prescribed in the above letter, FDA is proceeding pursuant to 21 CFR 12.21(b) and publishing a notice of opportunity for hearing on proposals to revoke the licenses of the above establishments.

FDA has placed copies of the following four items of correspondence on file with the Dockets Management Branch, filed under the docket number found in brackets in the heading of this notice. First is a memorandum of a May 2, 1988, telephone conversation between the Responsible Head of both firms and representatives of the Center for Biologics Evaluation and Research, FDA, in which the Responsible Head stated that she did not intend to request voluntary revocation of the then suspended license for the Health Care Plasma Center, Inc., Baltimore facility. Second is a memorandum between FDA's Atlanta district office employees, dated September 7, 1989, which states that on-site inspections of both the Health Care Plasma Center, Inc., and the Medical Plasma, Inc., facilities in Atlanta revealed that neither was in operation. Third is a record of a September 8, 1989, telephone conversation between FDA employees at the Tucson Resident Post and the Center for Biologics Evaluation and Research, in which the Tucson employee confirmed that the Medical Plasma, Inc., Tucson facility was likewise not in operation. Fourth is a certified letter from the FDA Acting Associate Commissioner for Regulatory Affairs to the Responsible Head of both firms, dated November 21, 1989, which was returned undelivered to FDA. In that letter, FDA advised the Responsible Head of FDA's intent to initiate proceedings to revoke the above licenses because no meaningful inspection could be conducted at these facilities. The above documents are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner of Food and Drugs is offering opportunity for hearings under § 12.21(a) on the proposed revocation of the establishment licenses (U.S. License No. 1039 and 995) and product licenses issued to Health Care Plasma Center, Inc., and Medical Plasma, Inc., respectively, for the manufacture of Source Plasma. The firms may submit written requests for hearings to the Dockets Management Branch by August 15, 1990. The failure of licensees to file timely written requests for hearings constitutes an election by the licensees not to avail themselves of the opportunity for hearings concerning the proposed license revocations. Any data justifying hearings must be submitted to the Dockets Management Branch by September 14, 1990. Other interested persons may submit comments on the proposed license revocations to the Dockets Management Branch by September 14, 1990.

FDA procedures and requirements governing a notice of opportunity for hearing, notice of appearance, and request for hearing, grant or denial of hearing, and submission of data and information to justify a hearing are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth 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 submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, 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 deny the hearing request, making findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information identified pursuant to 21 CFR 10.20(j)(2)(i) and 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.

This notice was issued under the Public Health Service Act (sec. 351 (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 701 (21 U.S.C. 321, 351, 352, 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and as redelegated (21 CFR 5.67).

Dated: July 4, 1990.

Gerald V. Quinnan,

Deputy Director, Center for Biologics Evaluation and Research.

[FR Doc. 90-16490 Filed 7-13-90; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Toxicology Program; Call for Public Comments, Chemicals Proposed for Seventh Annual Report on Carcinogens

Background

The National Toxicology Program (NTP) requests comments on actions which the Program plans to take with regard to the Seventh Annual Report on Carcinogens. The report is a Congressionally-mandated listing of certain carcinogens and its preparation is delegated to The National Toxicology Program by the Secretary, Department of Health and Human Services. The pertinent provision of Public Law 95-622

requires an Annual Report which contains "a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed* * *." The law also states that the reports should provide available information on the nature of exposures, the estimated number of persons exposed and the extent to which the implementation of Federal regulations decreases the risk to public health from exposure to these chemicals.

The proposed new entries for the Seventh Report have undergone a multiphased peer review process involving a variety of federal research and regulatory agencies. All evidence of carcinogenicity of the proposed new entries was peer reviewed by scientists of either the International Agency for Research on Cancer (IARC) or the Technical Reports Review Subcommittee of the NTP Board of Scientific Counselors before the chemicals were considered for selection. All data relevant to the criteria for inclusion of candidate substances in the Annual Report have been evaluated by the two scientific review committees which develop the list of proposed additions to these reports. This notice is being published to provide for appropriate public comment to supplement these selection and review processes.

Proposed Actions

In the Seventh Annual Report on Carcinogens, the National Toxicology Program is proposing the addition of 7 substances to the existing listing, one of which is to be listed as a "known carcinogen." The six remaining chemicals are being proposed to be added as "reasonably anticipated to be carcinogens." These chemicals are listed in the appendix with their Chemical Abstract Services (CAS) Registry numbers and references. The Program seeks public comment on this action, including information and data pertaining to these substances.

Submission of Comments on the Seventh Annual Report

Comments on the actions proposed for the Seventh Annual Report on Carcinogens will be accepted for a period of 45 days from date of publication of this announcement in the Federal Register. Comments should be sent to the National Toxicology Program Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: July 10, 1990.

David P. Rall,

Director.

APPENDIX—SUBSTANCES PROPOSED FOR THE SEVENTH ANNUAL REPORT ON CARCINOGENS

CAS Nos.	Substances	NTP technical reports	IARC volume
A. Known To Be Carcinogens			
----	Radon	----	43 (1988)
B. Reasonably Anticipated To Be Carcinogens			
----	Ceramic fibers, respirable size	----	43 (1988)
----	Glass Wool	----	43 (1988)
556-52-5	Glycidol	374	----
67-72-1	Hexachloroethane	68, 361	----
509-14-8	Tetranitromethane	386	----
106-87-6	4-Vinyl-1-cyclohexene Diepoxide	362	----

[FR Doc. 90-16464 Filed 07-13-90; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Rescission of Social Security Acquiescence Ruling

AGENCY: Social Security Administration, HHS.

ACTION: Notice of rescission of social security acquiescence ruling 87-5(3).

SUMMARY: In accordance with 20 CFR 404.985(e) and 416.1485(e) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 87-5(3).

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1634.

SUPPLEMENTARY INFORMATION:

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review or is unsuccessful on further review.

As provided by 20 CFR 404.985(e)(4) and 416.1485(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete, if we subsequently clarify the regulation that was the subject of a circuit court holding that we determined conflicted with our interpretation of the regulations.

On November 9, 1987, we issued Acquiescence Ruling 87-5(3) to reflect the holding in *Velazquez* v. *Heckler*, 802 F.2d 680 (3rd Cir. 1986). This Acquiescence Ruling applied to claims for Social Security disability insurance benefits and Supplemental Security Income benefits based on disability where the claimant resided in Delaware, New Jersey, Pennsylvania, or the Virgin Islands. It provided that we would consider the vocational factors of age, education and work experience not only in deciding under the sequential evaluation process whether a claimant could do "other work" that exists in the national economy, but also in deciding whether a claimant retained the ability to do his or her past relevant work. On March 26, 1990, we published final regulations (55 FR 11009) to clarify that these vocational factors are considered only at the "other work" step of the sequential evaluation process. Because we have clarified the regulations that were the subject of the holding in *Velazquez* v. *Heckler*, 802 F.2d 680 (3d Cir. 1986), Social Security Acquiescence Ruling 87-5(3) is rescinded.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income.)

Dated: June 5, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 90-16520 Filed 7-13-90; 8:45 am]

BILLING CODE 4190-11-M

Social Security Acquiescence Ruling 90-4(4)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security acquiescence ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 90-4(4)—*Culbertson* v. *Secretary of Health and Human Services*, 859 F.2d 319 (4th Cir. 1988); *Young* v. *Bowen*, 858 F.2d 951 (4th Cir. 1988)—Waiver of Administrative

Finality in Proceedings Involving Unrepresented Claimants Who Lack the Mental Competence to Request Administrative Review.

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1634.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations after the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Fourth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 16, 1990. If we made a determination or decision on your application for benefits between October 4, 1988, the date of the earlier of the two Court of Appeals' decisions which are the subject of this Acquiescence Ruling and July 16, 1990, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim but you must first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for in 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance, 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: June 29, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Acquiescence Ruling 90–4(4)

Culbertson v. *Secretary of Health and Human Services,* 859 F.2d 319 (4th Cir. 1988); *Young* v. *Bowen,* 858 F.2d 951 (4th Cir. 1988) —Waiver of Administrative Finality in Proceedings Involving Unrepresented Claimants Who Lack the Mental Competence to Request Administrative Review—Titles II and XVI of the Social Security Act.

Issue

Whether the rules of administrative finality apply to proceedings involving unrepresented claimants who lack the mental competence to request reconsideration or request a hearing before an Administrative Law Judge.

Statute/Regulation/Ruling Citation

Sections 205(a) and 1631(d)(1) of the Social Security Act (42 U.S.C. 405(a) and 1383(d)(1)), 20 CFR 404.900(b), 404.905, 404.921, 404.987, 404.988, 416.1400(b), 416.1405, 416.1421, 416.1487, and 416.1488.

Circuit

Fourth (Maryland, North Carolina, South Carolina, Virginia, West Virginia) *Culbertson* v. *Secretary of Health and Human Services, 859 F.2d 319 (4th Cir. 1988); Young* v. *Bowen,* 858 F2d 951 (4th Cir. 1988).

Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, administrative law judge hearing and Appeals Council).

Description of Cases

Culbertson

On January 6, 1976, an application for child's insurance benefits based on disability was filed on behalf of a 30 year old claimant by her father. The application alleged that the claimant had been mentally retarded and disabled since her birth on March 12, 1945. The application was denied on February 27, 1976. The claimant herself filed a second application on October 11, 1977, again alleging that she had been mentally retarded since birth. This application was also denied initially. The claimant, who was not represented by legal counsel with regard to either the first or second application, did not seek reconsideration on either application.

The claimant filed her third and most recent application for benefits on September 22, 1980. Following an initial denial, she obtained legal counsel and filed a request for reconsideration. Upon denial of her reconsideration, she requested a hearing before an administrative law judge. After a hearing, the ALJ concluded that the claimant had proved the existence of "an overwhelming nonexertional impairment which rendered her disabled prior to age 22." The ALJ also determined that the February 27, 1976, initial determination to deny benefits should be reopened and revised to grant benefits based on her first application.

On its own motion, the Appeals Council reviewed the ALJ's decision, reversed the award based on the claimant's first application, and remanded the case for further proceedings. The Council reasoned that an administrative determination more than four years old could not be reopened. In the Council's view the first determination was final and could not be reopened under regulation 20 CFR 404.988.

Upon remand, the ALJ again concluded that the claimant was disabled as a result of a severe mental impairment and reopened the 1976 application because the claimant's mental and emotional impairments had prevented her from pursuing her appeal rights with regard to the 1976 application. The Appeals Council reviewed the decision and agreed that the claimant had been under a continuous disability which commenced prior to her twenty-second birthday. However, the Council concluded that retroactive benefits could be awarded only with regard to her second application.

The claimant then sought judicial review of the Appeals Council decision. The district court remanded the case for further administrative proceedings and on remand the ALJ again reopened the first determination. The Appeals Council overruled the ALJ's decision regarding this reopening. The district court upon reviewing the Secretary's final decision after its remand order concluded that, because the claimant's father filed the first application on her behalf, it was the mental competence of the claimant's father that controlled any due process analysis of the Secretary's decision. The court again remanded the case so that the Agency could consider the father's mental competency. The claimant appealed that order to the United States Court of Appeals for the Fourth Circuit alleging that both the district court's remand order and the Secretary's decision not to reopen her first application were contrary to Fourth Circuit law.

Young

The claimant filed applications for disability insurance benefits and Supplemental Security Income (SSI) on December 10, 1979, alleging disability due to mental illness beginning December 30, 1977. These applications were denied initially and upon reconsideration. The claimant, who was not represented by legal counsel, did not request further administrative review. She filed her second application for SSI on July 7, 1980 and was again denied initially on March 9, 1981. Still without representation, she did not appeal this determination. On March 18, 1983 she filed her third application for SSI. This application was denied initially and upon reconsideration. The claimant, then represented by counsel, filed a request for hearing. After a hearing, the ALJ issued a decision denying her application. This became the final decision of the Secretary when the Appeals Council denied her request for review. The claimant then sought judicial review.

During the time her civil action was pending, Congress enacted the Social Security Disability Benefits Reform Act of 1984. Pursuant to that legislation, the claimant's case was remanded for further administrative proceedings.

In accordance with the remand a supplemental hearing was held on December 13, 1986. The claimant submitted extensive new medical evidence and requested that her prior applications be reopened. The ALJ, in a recommended decision, found that she was disabled under § 12.05(c) of the Listing of Impairments in Appendix 1 to Subpart P of Social Security Administration Regulations No. 4, but refused to reopen her prior applications. The Appeals Council (AC) agreed that the claimant was disabled and entitled to SSI benefits, but not on the basis of § 12.05(c). The AC refused to reopen the prior applications because they found that the claimant was not disabled during the periods covered by those applications. The claimant returned to district court alleging that she had lacked the mental capacity to contest the denial of benefits based on her earlier applications and that the Secretary's refusal to reopen those applications was a violation of constitutional due process. The district court affirmed the Secretary's decision. The claimant then appealed to the United States Court of Appeals for the Fourth Circuit.

Holdings

Culbertson

The Court of Appeals for the Fourth Circuit stated that it viewed the district court's order as a final denial of claimant's appeal making it appropriate for review by the Circuit Court.

The court of appeals disagreed with the district court and held that it was the mental competency of the claimant, not the claimant's father, that was at issue. The court distinguished its earlier holding in *Robinson* v. *Heckler*, 783 F.2d 1144 (4th Cir. 1983) on the basis that in *Robinson* the claimant's mother was serving as her legal guardian, whereas in the instant case, Culbertson's father was neither her legal guardian nor her legal representative. The court described Culbertson's father as only a "willing volunteer" who merely filed the application for his daughter, without any responsibility for furthering her claim. The court prohibited the Secretary from binding a claimant to an adverse ruling when that individual lacked both the mental competence and legal assistance necessary to contest the initial determination. The court held that the Secretary may not utilize the administrative finality regulations in such a fashion as "to deny a pro se mentally impaired claimant a full and fair opportunity to establish a statutory entitlement" to benefits. The court concluded that the Secretary could not refuse to reopen the claimant's 1976 application after the claimant established a *prima facie* case of mental incompetence in 1976 unless he first refuted that showing.*

Young

The Fourth Circuit stated that "It offends fundamental fairness * * * to bind a claimant to an adverse ruling who lacks both the mental competency and the legal assistance necessary to contest the initial determination. * * * (I)t operates with equal force whether the Secretary relies upon *res judicata* or some other procedural limitation." The court went on to state that it was of no moment that more than four years had passed before the claimant who was unrepresented at the time of her previous determinations sought to have them reopened. Accordingly, the court held that once the claimant presented proof that mental illness prevented her from understanding the procedure necessary to obtain an evidentiary hearing after the denial of her prior claim, the Secretary could not decline to reconsider the previous claim because of *res judicata* or administrative finality unless he first conducted an evidentiary hearing and rebutted the *prima facie* case.

After review of the evidence of record, the Fourth Circuit found that the claimant's mental condition rendered her unable to pursue her prior applications for benefits through a full administrative appeal and that "[t]o the extent, therefore, that the Secretary has purported to refuse to reopen those claims on procedural grounds, whether designated as *res judicata* or administrative finality, the decision must be overturned."

Statement as To How Culbertson and Young Differ From Social Security Policy

SSA policy reflected in §§ 404.988 and 416.3488 of Social Security Administration Regulations No. 4 and 16 (20 CFR 404.988 and 416.1488) is that administrative determinations and decisions are final if they are not appealed to the next step in the administrative review process within 60 days. 20 CFR 404.988 and 416.1488 set out the rules for reopening and revising final determinations and decisions. These rules provide that, after four years from the date of the notice of the initial determination in title II cases and two years in title XVI cases, a final determination or decision can be reopened only for a reason listed in §§ 404.988(c) or 416.1488(c), respectively. The regulations do not provide that a final determination or decision can be reopened and revised if the claimant can establish that he or she was unrepresented and lacked the mental competence to request administrative review.

The holdings in *Culbertson* and *Young* mandate that SSA reopen an otherwise final administrative determination at any time when a claimant, who had no individual legally responsible for prosecuting the claim (e.g., a parent of a claimant who is a minor, legal guardian, attorney, or other legal representative) at the time of the prior determination, establishes a *prima facie* case that mental incompetence prevented him or her from understanding the procedure necessary to request administrative review, unless it holds an evidentiary

* A *prima facie* case of mental incompetence is one which presents evidence which, if uncontradicted, is sufficient to establish that the claimant lacked both the mental competence and the legal assistance necessary to request administrative review of the prior determination.

hearing and determines that mental incompetence did not prevent the claimant from filing a timely appeal.

Explanation of How SSA Will Apply With the Decisions Within the Circuit

This ruling applies only to cases in which the claimant resides in Maryland, North Carolina, South Carolina, Virginia, or West Virginia.

Where an initial or reconsideration determination based on an application filed by or on behalf of a claimant, who had no individual legally responsible for prosecuting the claim (e.g., a parent of a claimant who is a minor, legal guardian, attorney, or other legal representative), has become final (i.e., the 60 day time limit for requesting administrative review has expired) and the claimant presents a *prima facie* case that mental incompetence prevented him or her from understanding the procedures necessary to contest that determination, SSA will determine whether the claimant actually did not understand the procedures necessary for requesting review of the prior determination. If the adjudicator determines that a *prima facie* case is sufficiently conclusive to establish that the claimant did not have the mental competence necessary to request review of the prior determination, then he or she will not apply *res judicata* or administrative finality, but will reopen the prior determination and issue a revised determination. However, if there is a question of the sufficiency of the *prima facie* case, the adjudicator will hold an evidentiary hearing to determine the claimant's mental competence at the time of the prior determination.

If the adjudicator determines that mental incompetence prevented the claimant from understanding the procedures for requesting administrative review of a determination, he or she will not apply *res judicata* or administrative finality even if more than four years have elapsed (two years in Title XVI cases), but will consider the case on its merits and issue a determination or decision that is subject to further administrative review.

If the adjudicator determines that the claimant was capable of understanding the procedures necessary to request administrative review, he or she will apply the normal rules of *res judicata* or administrative finality and adjudicate the pending claim, as appropriate.

[FR Doc. 90-16521 Filed 7-18-90; 8:45 am]
BILLING CODE 4190-11-M

[Social Security Acquiescence Ruling 90-1(9)]

Treatment of a Dependent's Portion of Augmented Veterans Benefit Paid Directly to Veteran

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security acquiescence ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 90-1(9).

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1634.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations after the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Ninth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 16, 1990. If we made a determination or decision on your application for benefits between September 8, 1988, the date of the Court of Appeals' decision and July 16, 1990, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the Federal Register to that effect as provided for in 20 CFR 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 416.1485(c), we will publish a notice in the Federal Register stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: June 2, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Acquiescence Ruling 90-1(9)

Paxton v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988)—Treatment Of A Dependent's Portion of An Augmented Veterans Benefit Paid Directly To A Veteran—Title XVI of the Social Security Act.

Issue

Whether a dependent's portion of an augmented Department of Veterans Affairs (VA) benefit paid directly to a veteran or a veteran's surviving spouse (hereinafter called the designated beneficiary) may be counted as unearned income to the dependent in calculating the dependent's Supplemental Security Income (SSI) benefits.

Statute/Regulation/Ruling Citations

Section 1612(a)(2)(B) of the Social Security Act (42 U.S.C. 1382a (a)(2)(B)); 20 CFR 416.1100-1182; SSR 82-31, Policy Statement 1.

Circuit

Ninth (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Washington).*

Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge hearing and Appeals Council review).

This Ruling supersedes Policy Statement 1 of Social Security Ruling 82-31 (SSR 82-31) as it relates to determining eligibility and computing SSI payments for dependents, for cases arising in the Ninth Circuit only.

Description of Case

Florence Paxton receives SSI benefits as a disabled individual. Her husband receives a VA pension, based on need, and is ineligible for SSI. Mr. Paxton's VA benefit is augmented to provide

*Because Guam does not have an SSI program, individuals living in Guam are not affected by this Acquiescence Ruling.

support for his dependent spouse, Florence and their minor child.

Until 1981, the entire VA benefit was treated as Mr. Paxton's income. None of Mr. Paxton's VA benefit was counted as income to Mrs. Paxton. In 1981, the Ninth Circuit held in *Whaley* v. *Schweiker*, 663 F.2d 871, 875 (9th Cir. 1981), "* * * that the portion of increased pension benefits paid to a veteran for the support of his dependent children does not constitute income to the veteran for the purpose of computing his SSI benefits." In response to *Whaley* and other court decisions, the Commissioner changed the policy of how VA benefits are counted as income for SSI purposes, effective November 1, 1981.

The policy change, published as Policy Statement 1 of SSR 82–31, provided that a dependent's portion of an augmented VA benefit, i.e., that portion paid directly to the designated beneficiary for support of the veteran's dependent(s), (also referred to as the augmented portion) is not counted as income to the designated beneficiary but as unearned income to the dependent(s). This meant that Mrs. Paxton's SSI benefit would be reduced because she now had countable income from the VA benefit paid to her spouse. The new policy was applied to Mrs. Paxton in 1984, causing a reduction in her SSI benefit amount and creating an overpayment because of excess SSI benefits received from 1982 to 1984. Mrs. Paxton appealed this decision.

After a hearing, the Administrative Law Judge (ALJ) found that Mrs. Paxton's SSI benefits should have been reduced by the amount of the dependents' portion attributable to her from her husband's VA benefit. The Appeals Council denied Mrs. Paxton's request for review. She appealed to the United States District Court for the Eastern District of California, which affirmed the Secretary's decision. Mrs. Paxton then appealed to the United States Court of Appeals for the Ninth Circuit.

Holding

The Court of Appeals disagreed with the Secretary's interpretation of *Whaley* and found that the current policy, as stated in Policy Statement 1 of SSR 82–31, is not supported by either the *Whaley* decision or the SSI regulations. The court examined 20 CFR 416.1100–416.1182 (1988) (Subpart K—Income) and found that the current regulations "reveal that the dependent's portion of VA benefits may never be counted directly as unearned income to the dependent, and may only sometimes indirectly be deemed or counted as in-kind income to the dependent."

Specifically, the court interpreted section 416.1103, which provides that when someone other than the SSI claimant uses money to pay the claimant's bills, the money is not counted directly as unearned income to the claimant. Rather, the food, clothing, or shelter which the claimant receives as a result of the payment may be in-kind income to the claimant. The court concluded that under section 416.1103 the dependent's portion of an augmented VA benefit may not be counted as unearned income to the dependent and used to reduce the dependent's SSI benefits. Part of the court's rationale is that the designated beneficiary is the only one who received the benefit directly and therefore, it is inappropriate to count a dependent's portion as unearned income to the dependent. In addition, the court reasoned that how each designated beneficiary handles the VA payment should not affect the status of that income for SSI purposes. Therefore, how the augmented portion is treated should not depend on whether or not the designated beneficiary gives the dependent a cash allowance or income in-kind. The court's decision indicates that the regulations permit a VA dependent's portion to be counted as in-kind income to the dependent in some cases.

The court went on to state, however, that when the dependent's portion of a VA benefit, based on need, is treated as in-kind income, § 416.1142, which precludes the counting of in-kind support and maintenance between members of a public assistance household applies. Therefore, in the case of a public assistance household, a dependent's portion of a VA benefit is not countable even indirectly to the dependent.

Statement as To How Paxton Differs From Social Security Policy

Under Social Security policy expressed in SSR 82–31, Policy Statement 1, the portion of the augmented VA benefit attributable to a dependent is counted as unearned income to the dependent. Therefore, SSA treats the augmented portion of a VA benefit as if it were paid directly to the dependent(s). In *Paxton*, the Ninth Circuit held that a dependent's portion of an augmented VA benefit may not be counted directly as unearned income to the dependent.

Explanation of How SSA Will Apply the Decision Within the Circuit

This Ruling applies only to applicants or recipients residing in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, or Washington at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, Administrative Law Judge hearing or Appeals Council review.

In cases where an individual receives an augmented VA benefit, the augmented portion of the VA benefit (that is included in the VA payment made to the designated beneficiary) is not to be counted as income to the dependent(s).

However, this ruling does not apply to cases in which the designated beneficiary and dependent are members of an SSI eligible couple, (i.e., a couple in which both spouses are eligible to receive SSI) and no one member of the couple is subject to the $30 payment limit. In eligible couple cases, the couple's income is counted as a unit to determine the couple's SSI eligibility and benefit amount. It is unnecessary to determine whether income is received or attributable to one member of the couple or the other. Accordingly, the *Paxton* decision does not apply to cases involving eligible couples. Of course, when there are additional dependents on whose behalf the VA benefit is augmented, the augmented portion attributable to the additional dependents may not be counted when determining the amount attributable to the SSI couple nor may that portion be counted to the other dependents.

Social Security Acquiescence Ruling 90–2(2)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security acquiescence ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 90–2(2)—*Ruppert* v. *Bowen*, 871 F.2d 1172 (2d Cir. 1989)—Evaluation of a Rental Subsidy as In-Kind Income for Supplemental Security Income Benefit Calculation Purposes.

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1634.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Second Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 16, 1990. If we made a determination or decision on your application for benefits between March 29, 1989, the date of the Court of Appeals' decision and July 16, 1990, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b), 410.670c(b), or 416.1485(b), that application of the Ruling would change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the Federal Register to that effect as provided for in 20 CFR 404.985(e), 410.670c(e), or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), 410.670c(c), or 416.1485(c), we will publish a notice in the Federal Register stating that we will apply our interpretation of the Act or regulation involved and explain why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: June 15, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Acquiescence Ruling 90-2(2)

Ruppert v. *Bowen*, 871 F.2d 1172 (2d Cir. 1989)— Evaluation of a Rental Subsidy as In-Kind Income for Supplemental Security Income (SSI) Benefit Calculation Purposes—title XVI of the Social Security Act

Issue

Whether the Secretary may charge an SSI applicant or recipient who receives a rental subsidy with in-kind income in all cases or whether the Secretary must first determine that the applicant or recipient received an "actual economic benefit" from the rental subsidy.

Statute/Regulation/Ruling Citation

Sections 1611 and 1612(a)(2) of the Social Security Act (42 U.S.C. 1382 and 1382a); 20 CFR 416.1130, 416.1140, and 416.1141.

Circuit

Second (Connecticut, New York, Vermont) *Ruppert* v. *Bowen*, 871 F.2d 1172 (2d Cir. 1989)

Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, administrative law judge hearing and Appeals Council).

Description of Case

Multiple SSI recipients filed a joint action challenging the methods used by the Social Security Administration (SSA) to calculate their benefits. This ruling relates to the claims of Rose and Edward Faicco, Cheryl Karnett, and Alan Green, who alleged that the Secretary's treatment of the difference between the current market rental value of their housing and the rent actually paid for the housing as in-kind income was erroneous.

The facts for the pertinent claims are as follows:

Faiccos

Rose and Edward Faicco were both over age sixty-five. They rented a house from their daughter. Although the monthly expenses for the house were $951, the Faiccos paid rent of $350 per month, which was reduced to $250 per month when their daughter's variable rate mortgage decreased.

An administrative law judge (ALJ) found that each of the Faiccos was overpaid $282.20 between November 1982 and March 1983. The ALJ found that they had been overpaid either because they had received subsidized rent or, because they did not pay their *pro rata* share of household expenses and therefore lived in their daughter's household. The ALJ also found that they were not without fault in causing the overpayment and that the overpayment could not be waived. This became the final decision of the Secretary and suit was filed in the United States District Court for the Eastern District of New York. The court affirmed the Secretary's decision. The decision was appealed to the United States Court of Appeals for the Second Circuit.

Karnett

Cheryl Karnett, who is mentally retarded and autistic, lived with her parents. Her mother executed a rental agreement as both Cheryl's agent and her landlord. The rental agreement called for Ms. Karnett to pay her mother rent of $169 per month and food payments of $120 per month.

An ALJ found that Ms. Karnett had unearned income of $36 per month, $11 per month because her room's market value was $180 and $25 per month because of occasional meals provided by her parents. The ALJ's decision became the final decision of the Secretary. A civil action was filed in the United States District Court for the Eastern District of New York. The court affirmed the Secretary's decision. This decision was appealed to the United States Court of Appeals for the Second Circuit.

Green

Alan Green lived with his parents. Mr. Green and his mother had a written agreement, under which he was to pay her $100 per month in rent and $125 per month for food. There was evidence that his mother stated to SSA that she would have charged a stranger $135 for lodging. An ALJ determined that Mr. Green had received in-kind income of $35 per month, the difference between the current market rental value and the rent he agreed to pay. This became the final decision of the Secretary and a civil action was filed. The United States District Court for the Eastern District of New York affirmed the Secretary's decision. The decision was appealed to the United States Court of Appeals for the Second Circuit.

Holding

The United States Court of Appeals for the Second Circuit held that, although the statute and regulations concerning in-kind income and rental subsidies are facially valid, if the proportion of income that an SSI recipient expends on housing is "so great that it flies in the face of reality" to conclude that unearned income in the form of subsidized housing is actually available to the recipient, the unearned income should be disregarded.

The court remanded the subject cases to the district court for a determination of whether any SSI recipients had received an "actual economic benefit" from their rental subsidies. However,

the court did not state how "actual economic benefit" is to be established.

Statement as to How Ruppert Differs From Social Security Policy

Under 20 CFR 416.1130(b), SSI applicants and recipients are found not to be receiving in-kind support and maintenance in the form of subsidized rent, if they are paying the amount charged under a business arrangement. A business arrangement exists when the amount of monthly rent required to be paid equals the current market rental value. In situations where the landlord/tenant relationship is other than a parent/child relationship, we presume that the amount of monthly rent required to be paid equals the current market rental value.

When there is a parent/child relationship between landlord and tenant, SSA determines whether a rental subsidy exists. Generally, SSA views any difference between the current market rental value and the actual amount of rent paid as being in-kind income, up to the presumed maximum value established under 20 CFR 416.1140(a)(1) (one-third of the Federal benefit rate plus the $20 general income exclusion). SSA generally considers this difference to be an "actual economic benefit" to the applicant or recipient.

The Second Circuit's decision in *Ruppert* found that the difference between the current market rental value and the actual rent paid does not always constitute an "actual economic benefit" to the SSI applicant or recipient. The Court directed that a determination be made as to whether an applicant or recipient received an "actual economic benefit" from a rental subsidy, before charging the applicant or recipient with in-kind support and maintenance.

Explanation of How SSA Will Apply the Decision Within the Circuit

This Ruling applies only in cases in which the applicant or recipient resides in Connecticut, New York, or Vermont at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, administrative law judge hearing, or Appeals Council.

In cases where SSA determines that an applicant or recipient has received a rental subsidy, SSA will determine whether the applicant or recipient received an "actual economic benefit" from the rental subsidy. If SSA determines that the applicant or recipient received an "actual economic benefit", he or she will be imputed to have received in-kind support and maintenance. If SSA determines that the applicant or recipient did not receive an "actual economic benefit", the rental subsidy will be disregarded for purposes of determining eligibility for and the amount of Supplemental Security Income benefits.

Although the court required there to be a determination of "actual economic benefit" in rental subsidy cases, it did not specify the test to be used in making that determination. SSA has decided that it will determine that an applicant or recipient did not receive an "actual economic benefit" from a rental subsidy when the monthly amount of rent required to be paid equals or exceeds the presumed maximum value described in 20 CFR 416.1140(a)(1) (one-third of the Federal benefit rate plus the $20 general income exclusion). If the required amount of rent is less than the presumed maximum value, we will impute as in-kind support and maintenance the difference between the required amount of rent and either the presumed maximum value or the current market rental value, whichever is less.

[FR Doc. 90-16523 Filed 7-13-90; 8:45 am]
BILLING CODE 4190-11-M

Social Security Acquiescence Ruling 90-3(4)—Smith v. Bowen, 837 F.2d 635 (4th Cir. 1987)—Use of Vocational Expert or Other Vocational Specialist in Determining Whether a Claimant Can Perform Past Relevant Work

AGENCY: Social Security Administration, HHS.

ACTION: Notice of social security acquiescence ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 90-3(4).

EFFECTIVE DATE: July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1634.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations after the Government has decided not to seek further review of that case or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Fourth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 16, 1990. If we made a determination or decision on your application for benefits between November 27, 1987, the date of the Court of Appeals' decision and July 16, 1990, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for in 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security Survivor's Insurance; 13.806—Special Benefits for Disabled Coal Miners; 13.807—Supplemental Security Income)

Dated: June 29, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Acquiescence Ruling 90-3(4)

Smith v. *Bowen*, 837 F.2d 635 (4th Cir. 1987)—Use of Vocational Expert or Other Vocational Specialist in Determining Whether a Claimant Can Perform Past Relevant Work—Titles II and XVI * of the Social Security Act.

Issue

Whether the Secretary may use a vocational expert or other vocational specialist in determining at step four of the sequential evaluation process whether a claimant can perform past relevant work.

Statute/Regulation/Ruling Citation

Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act (42 U.S.C.

* Although *Smith* is a title II case, the procedures for decisions regarding disability involved in *Smith* are similar in title XVI claims. Therefore, this Ruling extends to both title II and title XVI claims in which the sequential evaluation process applies.

423(d)(2)(A) and 1382c(a)(3)(B)); 20 CFR 404.1566(e) and 416.966(e); SSR 82–61.

Circuit

Fourth (Maryland, North Carolina, South Carolina, Virginia, West Virginia) *Smith* v. *Bowen*, 837 F.2d 635 (4th Cir. 1987)

Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge hearing and Appeals Council).

To the extent inconsistent therewith, this Ruling supersedes Social Security Ruling 82–61 for cases arising in the Fourth Circuit only.

Description of Case

In January 1983, the plaintiff, Rachel T. Smith, filed an application for disability benefits under title II of the Social Security Act (Act). Following denials of her application initially and on reconsideration, the plaintiff requested and received a hearing before an administrative law judge (ALJ). At the administrative hearing, the ALJ found that the plaintiff was suffering from a severe heart impairment. He concluded that this impairment, combined with several others, limited Smith's residual functional capacity to work at the light exertional level. After considering a vocational expert's testimony that if Smith could perform light work, she could perform her past job as an assembler/packager, the ALJ found that the plaintiff was not disabled.

The plaintiff sought judicial review of the Secretary's decision. The district court remanded the case with instructions for the Secretary either to explain how he considered plaintiff's testimony that her past job was beyond her exertional ability, or to find Smith unable to perform her past relevant work and to continue the sequential analysis to determine her eligibility for disability benefits.

On remand, the ALJ adhered to his earlier conclusion that Smith could return to her past relevant work. The district court, hearing the case for the second time, found that the actions of the Secretary on remand were in "substantial compliance" with its remand instructions and affirmed the denial of benefits. Smith appealed the decision of the district court to the United States Court of Appeals for the Fourth Circuit.

Holding

The court of appeals reversed the judgment of the district court and remanded the case to the Secretary for further proceedings. Relying on 20 CFR 404.1566(e), the court of appeals concluded, among other things, that it was improper for the ALJ to rely on the vocational expert's testimony in determining that Smith could return to her past job. According to the court of appeals, "A vocational expert enters the sequential analysis for determining disability *after* a claimant is found unable to do her past relevant work. 20 CFR 404.1566(e). (Emphasis added)."

Statement as to How Smith Differs From Social Security Policy

Social Security regulations provide a sequential evaluation process for making determinations regarding disability. See 20 CFR 404.1520, 404.1594, 416.920, 416.994 and SSR 86–8. At step four of the process (step seven in Continuing Disability Review cases) we consider the individual's capacity to perform past relevant work. See also SSRs 82–61 and 82–62.

20 CFR 404.1566(e) and 416.966(e) provide that when evaluating vocational issues, adjudicators may use the services of a vocational expert or other vocational specialist to assist, in determining the transferability of work skills and the specific jobs in which an individual's work skills can be used, or when a "similarly complex issue" arises. Although vocational expert testimony is principally used at step five of the process (i.e., to determine whether a claimant who is found unable to perform past relevant work can perform other work), the Social Security Administration believes that its regulations and policies do not prohibit adjudicators from using vocational expert testimony at step four. SSR 82–61 provides, for example, "For those instances where available documentation and vocational resource material are not sufficient to determine how a particular job is usually performed, it may be necessary to utilize the services of a vocational specialist or vocational expert."

The decision of the United States Court of Appeals for the Fourth Circuit in *Smith* holds that 20 CFR 404.1566(e) authorizes use of a vocational expert or other vocational specialist only at step five of the sequential evaluation process, and therefore, that reliance on a vocational expert or other vocational specialist is improper in determining whether a claimant can return to past relevant work.

Explanation of How SSA Will Apply This Decision Within the Circuit

This Ruling applies only to cases involving an applicant for disability insurance benefits and/or Supplemental Security Income benefits based on disability who resides in Maryland, North Carolina, South Carolina, Virginia, or West Virginia. In such cases, in making a decision or determination at step four of the sequential evaluation process (step seven in Continuing Disability Review cases) about whether an individual can perform past relevant work, adjudicators may not use a vocational expert or other vocational specialist.

[FR Doc. 90–16524 Filed 7–13–90; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal of the collection of information listed has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Office of Management and Budget Interior Desk Officer at (202) 395–7340.

Title: 25 CFR, subchapter E, part 39—The Indian School Equalization Program, 25 U.S.C. 20008.

Abstract: Student transportation funds are distributed on a formula basis to all Bureau-funded Elementary and Secondary schools. Vehicle miles, transportation tickets and charter costs are used to calculate the distribution of funds. About ⅔ of the Bureau-funded schools are operated through contracts or grants with Indian tribes, and are required to submit this data to receive funding.

Frequency: Annually.

Description of Respondents: Principals, School Administrators.

Annual Response: 195.

Annual Burden Hours: 117 Hours.

Bureau Clearance Officer: Gail Sheridan, (202) 208–2685.

Dated: May 29, 1990.

Betty Walker,

Acting Deputy to the Assistant Secretary—Indian Affairs/Director (Indian Education Programs).

[FR Doc. 90–16463 Filed 7–13–90; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[WY-010-00-4212-13; W-89647]

Realty Action; Exchange; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Park County, Wyoming for private lands in Park County, Wyoming.

SUMMARY: The following public surface estate has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Sixth Principal Meridian

T. 49 N., R. 99W.,
Sec. 26, SE¼SW¼, SW¼SE¼;
Sec. 28, S½NW¼;
Sec. 34, S½NE¼, SE¼NW¼;
Sec. 35, lots 4,5,8, W½SE¼;
Sec. 36, lots 1,2,3,4,9,18, and 19.
T. 50 N., R. 100 W.,
Sec. 25, lots 1,4, NW¼NE¼, N½NW¼;
Sec. 26, S½NE¼;
Sec. 35, lot 1, NE¼NW¼, SW¼SW¼;
Sec. 36, lots 2 and 6.
T. 50 N., R. 101 W.,
Sec. 16, lot 6, SE¼SE¼;
Sec. 21, lots 1 and 2;
Sec. 29, lots 1,2,3, and 4;
Sec. 30, lot 3, NE¼NW¼, NE¼SW¼ tract 38, lots A,B,C,D,E,F,G and H.
The above land aggregates 1,600 acres.

Simultaneously a livestock driveway withdrawal under S.O. 1/31/1920 WDL44 involving 160 acres is being revoked in aid of consummating the subject land exchange. The affected lands are described as follows:

Sixth Principal Meridian

T. 50 N., R. 101 W.
Sec. 29, tract 38A, tract 38B, tract 38G, tract 38H.

In exchange, the United States proposes to acquire the following private surface estate from Webster Ranch Company.

Sixth Principal Meridian

T. 48 N., R. 98 W.
Sec. 5, NE¼SW¼.
T. 49 N., R. 98 W.
Sec. 25, N½NW¼, SW¼NW¼;
Sec. 26, tract 37, lot 3, S½NE¼, SE¼NW¼, SW¼;
Sec. 27, lot 3, tract 37, lots 4,5, S½NW¼, S½
Sec. 28, S½NE¼, S½;
Sec. 33, NW¼.
The above land aggregates 1517.43 acres.

FOR FURTHER INFORMATION CONTACT: Joseph T. Vessels, Area Manager, Grass Creek Resource Area, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401, 307-347-9871.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire private land within the Fifteen mile wild horse management area to comply with the Grass Creek Management Framework Plan Decision, and to ensure availability of permanent water in Fifteenmile Creek for wild horses and wildlife. The exchange will be for near equal value amount of Federal surface. Values will be equalized with a cash payment from Webster Ranch Company. The publication of this notice segregates the public lands described above from settlement, sale, location and entry 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.

Conveyance of the above public lands will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. The reservation to the United States of any identified mineral values on the Federal lands being transferred.

3. Existing rights of record.

4. A binding agreement to provide for protection of identified cultural sites until data recovery is completed and approved.

This exchange is consistent with Bureau of Land Management policies and resource management plan decisions. The public interest will be served by completion of the exchange.

For a period of forty-five (45) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposed realty action will become final.

Dated: July 3, 1990.

R. Gregg Berry,

Acting District Manager.

[FR Doc. 90-16460 Filed 7-13-90; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18).

Applicant Name: U.S. Fish and Wildlife Service, File No. PRT-750950, Regional Director, Region 7, Marine Mammals Management Field Office.

Type of Permit: Scientific Research.

Name of Animals: Pacific walrus (*Odobenus rosmarus divergens*).

Summary of Activity to be Authorized: Allow take (aerial survey) of Pacific walrus in the Bering and Chuckchi Seas, Alaska to determine population status and trends for the 1990 cooperative USA/USSR aerial population survey.

Period of Activity: August through October 1990.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application must be received by the Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., Room 432, Arlington, VA 22203, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) at 4401 N. Fairfax Drive, Room 430, Arlington, VA 22203.

Dated: July 10, 1990.

Karen Willson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90-16480 Filed 7-13-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at

the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, room 1100B, SA–14, Washington, DC 20523–1407.

Date Submitted: July 5, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0020.

Form Number: AID 1450–4.

Type of Submission: Renewal.

Title: Supplier's Certificate and Agreement with A.I.D. for Project Commodities/Invoice and Contract Abstract.

Purpose: When A.I.D. is not a party to a contract which it finances, it must monitor those contracts to assure adherence to A.I.D. requirements. This information collection item enables A.I.D. to keep records of commodity expenditures for program management purposes and required reports. It also allows A.I.D. to measure the extent of small and minority business participation in the commodity program. Respondents are identified as Suppliers of commodities who must submit data per each transaction. The total annual collective burden on respondents is estimated at $18,000. These costs are projected from such items as personnel, recordkeeping, reporting, and overhead costs.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: July 3, 1990.

Janet L.D. Vogel,

Planning and Evaluation Division.

[FR Doc. 90–16496 Filed 7–13–90; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–190]

Certain Softballs and Polyurethane Cores Therefor; Issuance of Limited Exclusion Order; Corrected

AGENCY: U.S. International Trade Commission.

ACTION: Correction of notice.

SUMMARY: On July 5, 1990, the U.S. International Trade Commission published notice in the Federal Register that it had issued a limited exclusion order under 19 U.S.C. 1337(d) to prevent the unauthorized importation into the United States of leather-covered softballs having polyurethane cores made or sold by Success Chemical Co., Taipei City, Taiwan, which infringe claim 3 of U.S. Letters Patent 3,976,295. That notice appeared as FR Doc. 90–15541 at 55 FR 27697. It should be corrected at page 27697, second column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, fifth line, by substituting "no" for "a".

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq. Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1092. Hearing-impaired individuals are advised that information on this matter can be obtained by the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Issued: July 10, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–16487 Filed 7–13–90; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–52 (Sub-No. 63X)]

The Atchison, Topeka and Santa Fe Railway Co.—Discontinuance of Trackage Rights Exemption—In Moore, Hutchinson, and Hansford Counties, TX; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to discontinue its trackage rights over a 30.3-mile line of Texas North Western Railway Company (TNW) between milepost 29.67 near Etter, and milepost 74.37, near Morse, in Moore, Hutchinson, and Hansford Counties, TX. TNW will continue to operate over the line.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by July 26, 1990. Petitions for reconsideration must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 9, 1990.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16429 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Nos. 25390, 26429 (Sub-No. 1)]

Official—Southwest Divisions Via Southern Freight Territory

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The orders prescribing joint rate divisions on traffic moving between Southwestern and Official Territories via Southern Freight Territory in Southwestern-Official Divisions, 216 I.C.C. 687 (1936), 219 I.C.C. 439 (1936), 234 I.C.C. 135 (1939), and 241 I.C.C. 193 (1940) are vacated.

EFFECTIVE DATE: July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services, (202) 275–1721.]

Decided: July 6, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16518 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 106X)]

Norfolk and Western Railway Company—Abandonment Exemption—In Pike County, KY

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 2.2-mile line of railroad between milepost BY–0.0, at Toler, and milepost BY–2.2, at Hardy, in Pike County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by July 26, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 2, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16424 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 100X)]

Norfolk and Western Railway Company—Discontinuance Exemption—in Buchanan County, VA

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 5.8-mile line of railroad between milepost DC–17.2, at Wyatt, and milepost DC–23.0, at Jewell Valley, in Buchanan County, VA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by July 26, 1990. Petitions for reconsideration must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 5, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16425 Filed 7–13–90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[Docket No. AB–290 (Sub-No. 98X)]

Norfolk and Western Railway Co.—Discontinuance Exemption—In Wise County, VA; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 0.9-mile line of railroad between milepost RC–0.0, at Russell Creek, and milepost RC–0.9, at Caledonia, in Wise County, VA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by July 26, 1990. Petitions for reconsideration must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 5, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16426 Filed 7–13–90; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C. 2d 164 (1987).

[Docket No. AB–290 (Sub-No. 105X)]

Norfolk and Western Railway Co.—Abandonment Exemption—In Pike County, KY; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 1.8-mile line of railroad between milepost PF–0.0, at Pinson Fork Junction, and milepost PF–1.8, at Morcoal, in Pike County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by July 26, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 2, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16427 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 104X)]

Norfolk and Western Railway Co.—Abandonment Exemption—In Pike County, KY; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 1.1-mile line of railroad between milepost BD–0.0, at Second Fork Junction, and milepost BD–1.1, at Dunlap, in Pike County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by July 26, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 2, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16428 Filed 7–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 97X)]

Norfolk and Western Railway Company—Discontinuance Exemption—In Russell County, VA

Applicant has filed a notice of exemption under 49 CFR 1152 subpart

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

F—*Exempt Abandonments and Discontinuances* to discontinue service over its 2.9-mile line of railroad between milepost CH–3.6, at Hurricane Junction, and milepost CH–6.5, at Clinchfield, in Russell County, VA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 15, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by July 26, 1990. Petitions for reconsideration must be filed by August 6, 1990, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative:

Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 20, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 5, 1990.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–16430 Filed 07–13–90; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 90–42; Exemption Application Nos. D–7814 through 7816 et al.]

General Motors Retirement Program for Salaried Employees, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person may submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

General Motors Retirement Program for Salaried Employees; General Motors Hourly-Rate Employees Pension Plan; and G.M. Special Pension Plan (Together, the Plans) Located in New York, New York

[Prohibited Transaction Exemption 90–42; Exemption Application Nos. D–7814 Through D–7816]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the acquisition by the Plans on March 4, 1988, of a limited partnership interest in the Equitable Deal Flow Fund, L.P. (the Fund), the general partner of which is a wholly-owned subsidiary of the Equitable Life Assurance Society of the United States (Equitable), a party in interest with respect to the Plans and a limited partner of the Fund, provided that the terms of the transaction were at least as favorable to the Plans as an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 13, 1989 at 54 FR 51245.

Effective Date: The effective date of this exemption is March 4, 1988.

Notice to Interested Persons: The applicant represents that it was unable to notify interested persons within the time period specified in the Federal Register notice published on December 13, 1989. The applicant states that all interested persons were notified by January 12, 1990. Interested persons were advised that they had 30 days to comment on the proposed exemption.

Written Comments: The Department received several comment letters with respect to the transaction described in the notice of proposed exemption (the Notice).

The comment letters were from participants of the Plans who are currently employed with the General Motors Corporation (GMC), the sponsor of the Plans. The commenters were concerned about the prudence of the Plans' acquisition of an interest in the Fund. The commenters noted the speculative nature of the securities held by the Fund and did not believe that the Plans should be involved in any "high risk" investment. In addition, two of the commenters noted that they believed it was inappropriate for the Plans to acquire an interest in the Fund because the Fund invests in securities which are used to finance corporate takeovers. These commenters stated that transactions involving the securities held by the Fund may adversely affect other companies and their pension funds to the detriment of their employees. Finally, some of the commenters questioned whether the valuation of the Fund's securities was accurate since direct price quotations were not available for a number of the securities held by the Fund.

The particular representations contained in the Notice which were of concern to the commenters appear as follows. Paragraph 4 of the Notice states that the Fund is a limited partnership which invests in subordinated debt securities, as well as preferred stock and other equity securities, in connection with leveraged buy-outs and other corporate restructuring transactions. Paragraph 3 of the Notice states that Equitable Capital Management Corporation (ECMC), the investment manager for the Fund, has developed preferential access to investment opportunities in such securities as well as expertise in corporate restructuring by troubled companies. Paragraph 4 of the Notice states further that when new partners are admitted into the Fund, a valuation of the Fund's current investments is made by Equitable Managed Assets, L.P., the general partner of the Fund (the General Partner), and ECMC, pursuant to a valuation methodology established by Arthur D. Little, Inc. of New York, New York (Arthur Little), the Fund's independent financial consultant. Prospective partners for the Fund are permitted to review the valuation with the General Partner, ECMC and Arthur Little. Paragraph 7 of the Notice states that Arthur Little evaluated the securities portfolio of the Fund on February 22, 1988, at the direction of ECMC and the General Partner, to establish the value of the Fund's investments for the purpose of admitting the Plans, as well as certain other investors, as new partners.

By letter dated April 6, 1990, the Plans' representatives (the Applicant) responded to the comment letters.

With respect to the comments regarding the desirability of investing a portion of the Plans' assets in the Fund, the Applicant states that the fiduciary duty to act prudently requires that all meaningful investment opportunities be considered and, in appropriate circumstances, acted upon in furtherance of the interests of a plan's participants and beneficiaries. The Applicant represents that in the case of a large pension plan, such as each of the Plans, the fiduciary duty to act prudently includes consideration of all types of securities, such as those held by the Fund. With respect to the Plans' investment in the Fund, the Pension Investment Committee (the PIC) of GMC determined that the investment of a small portion of the Plans' assets in the Fund (i.e. approximately one-half of 1% of the Plans' total assets) would enable the Plans to take advantage of an investment opportunity in private market enhanced yield securities which would provide attractive financial returns, on a risk-adjusted basis, to the Plans. The Applicant states that the small percentage of the Plans' assets invested in the Fund represents a limited exposure to the risks of such investment. The Applicant notes that the PIC's decision on behalf of the Plans to invest in the Fund was made only after a review of the private securities markets and alternative private market investments as well as thorough consideration of all available information on the Fund and the Fund's investment manager, ECMC. The Applicant states further that to date, the Fund has provided the Plans with a superior return on its investment. Therefore, the Applicant believes that the Plans' investment in the Fund is an excellent investment which will better enable the Plans to meet their obligations to provide retirement benefits to the participants and beneficiaries of the Plans over the long term.[1]

With respect to the comments concerning the impropriety of the Plans' investment in the Fund when the Fund may be involved in transactions which could adversely affect other companies employees, the Applicant states that the Fund is not expected to own a controlling equity interest in any portfolio company or to exert a controlling influence over portfolio companies and their pension funds. However, the Applicant represents that the Fund will hold and routinely exercise management rights over portfolio companies to the extent necessary to qualify as a venture capital operating company (VCOC).[2] The Applicant states that the enhanced yield securities acquired by the Fund represent long-term commitments to the portfolio companies issuing such securities. The Plans' fiduciaries have discussed with ECMC the issues relating to the management of the portfolio companies with a view toward ensuring adequate and capable management of those companies, which will be addressed on a case-by-case basis. The Applicant maintains that there is no arrangement for the Fund or ECMC to adversely affect any portfolio company

[1] As noted in the proposed exemption, the Department is not expressing any opinion as to whether the investment by the Plans in the Fund satisfied the requirements of section 404(a)(1) of the Act. Section 404(a)(1) of the Act requires, among other things, that a fiduciary of a plan must act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries, when making investment decisions on behalf of a plan. The Department notes that in order to act prudently in making investment decisions, plan fiduciaries must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Thus, a particular investment by a plan, which is selected in preference to other alternative investments, would generally not be prudent if such investment involved a greater risk to the security of plan assets than such other investments offering a similar return.

[2] See 29 CFR 2510.3-101(d). This regulation requires, as relevant herein, that a VCOC must have at least 50 percent of its assets, valued at cost, invested in venture capital investments. 29 CFR 2510.3-101(d)(3) states, in pertinent part, that a "venture capital investment" is an investment in an operating company as to which the investor has or obtains management rights that allow the investor to substantially participate in, or substantially influence the conduct of the management of the operating company. The Department expresses no opinion herein as to whether the Fund qualifies as a VCOC.

or to manage portfolio companies in any way other than in a manner which is consistent with sound business practices.

With respect to the comments regarding the absence of direct price quotations for some of the securities held by the Fund, the Applicant states that the valuation methodology used by the Fund, at the direction of Arthur Little, allowed for independent verification by the Plans' fiduciaries of the valuation of securities for which direct price quotations were not available through a review of the valuation worksheets and prices on comparable securities. The Plans' fiduciaries were allowed to make changes in the valuation methodology for valuing the Fund's investments prior to the Plans' acquisition of an interest in the Fund on March 4, 1988. The Applicant represents that the valuation methodology used by the Fund followed common and generally recognized practices for valuing such securities. In addition, the Applicant notes that direct price quotations were available for a large portion of the securities held by the Fund, which established a standard against which other such securities were reviewed and valued.

In summary, the Applicant represents that the Plans' fiduciaries have met their obligations under the Act with respect to the fiduciary duty of prudence and diversification of the Plans' assets by investing in the Fund only after a thorough investigation of available investments in private market securities and by only involving a small percentage of the Plans' assets in such investment. In addition, the Applicant states that the Plans' fiduciaries have discussed with ECMC the issues relating to the management of the portfolio companies and that ECMC will use sound business judgement in exercising any management rights over the Fund's portfolio companies. Finally, the Applicant states that the valuation of the Fund's securities was made in accordance with generally recognized practices for valuing such securities and included an analysis of comparable securities under a valuation methodology established by Arthur Little, an independent, qualified financial consultant. The Applicant concludes that the transaction was in the best interest of the Plans and their participants and beneficiaries.

Accordingly, after due consideration of the entire exemption file and record, the Department has determined to grant the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department at (202) 523–8883. (This is not a toll-free number.)

Progressive Living Structures, Inc. Profit Sharing Plan (the Plan) Located in Loveland, Colorado

[Prohibited Transaction Exemption 90–43; Exemption Application No. D–8004]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the extension of credit between the Plan and Progressive Living Structures, Inc. (the Employer), the sponsor of the Plan, which resulted from the Plan's acquisition on June 6, 1988 of a discounted promissory note (the Note) secured by a certain parcel of improved real property owned by the Employer, provided that the terms of the transaction are least as favorable to the Plan as an arm's-length transaction involving an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision not to grant this exemption refer to the notice of proposed exemption published on May 7, 1990 at 55 FR 18971.

Effective Date: The effective date of this exemption is December 26, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Ameritrust Company National Association (Ameritrust) Located in Cleveland, Ohio

[Prohibited Transaction Exemption 90–44; Exemption Application Nos. D–8118 and D–8119]

Exemption

The restrictions of section 406(b)(2) and 406(b)(3) of the Act: (1) Shall not apply to the proposed receipt of fees by Ameritrust, acting as agent for other banks affiliated with Ameritrust (the Affiliated Banks), from Financial Reserves Fund (the Fund), an open-ended investment company for which Ameritrust performs services, in connection with the investment of funds through a daily automated sweep arrangement with various voluntary employee benefit association trusts (the VEBAs); [3] and (2) the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(F) of the Code, shall not apply to the proposed receipt of fees by Ameritrust, acting as agent for the Affiliated Banks, from the Fund in connection with the investment of funds through a daily automated sweep arrangement with certain individual retirement accounts (the IRAs). [4] Ameritrust acts as an agent for the Affiliated Banks which serve as investment managers, trustees, or custodians for the VEBAs or as discretionary or directed trustees for the IRAs.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 7, 1990 at 55 FR 18963.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SPI Group Pension Plan Trust (the Pension Plan) and SPI Group Profit Sharing Plan Trust (the PS Plan, collectively, the Plans) Located in San Leandro, California

[Prohibited Transaction Exemption 90–45; Exemption Application No. D–8132]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed purchase of an installment note (the Note) by the Plans from SPI Group, the sponsor of the Plans, and as such a party in interest with respect to the Plans, provided that: (1) The purchase price will be the lesser of the outstanding principal plus unpaid, but accrued interest or the fair market value at the time of the purchase; and (2) On the date the Plans purchase the Note, the Plans will be named as the beneficiary and loss payee with respect to fire and liability insurance coverage on an industrial building, which secures the Note.

For a more complete statement of the facts and representations supporting the

[3] Because the VEBAs, are not qualified under section 401 of the Code, there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act pursuant to section 3(1) of the Act.

[4] Because the IRAs meet the conditions described in 29 CFR 2510.3–2(d), there is no jurisdiction under Title I of the Act. However, there is jurisdiction under Title II of the Act, pursuant to section 4975 of the Code.

Department's decision to grant this exemption refer to the notice of proposed exemption published on May 7, 1990 at 55 FR 18972.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Dyncorp Pension Trust (the Trust) Located in Reston, Virginia

[Prohibited Transaction Exemption 90–46; Exemption Application No. D–8176]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Trust of a parcel of improved real property located in Fort Worth, Texas (the Property) to Dyncorp, a party in interest with respect to the Trust; provided that the price paid is the greater of $765,000 or the fair market value of the Property on the date of such sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Monday, May 21, 1990 at 55 FR 20867.

Written Comments: The Department received one written comment to the proposed exemption and no requests for a hearing. The comment was submitted by Dyncorp (the Employer) to clarify the status of one of the trustees of the Trust. In the proposed exemption the trustees are described as employees and officers of the Employer. In the comment, however, the Employer states that John Schelling, one of three trustees of the Trust, is a former employee and officer of the Employer rather than a current employee and officer.

After consideration of the entire record, the Department has determined to grant the exemption as clarified by the comment.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

BancTEXAS Group Inc. and Subsidiaries Employees Retirement Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 90–47; Exemption Application No. D–8222]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the sale on October 26, 1989 by the Plan of a certain parcel of improved real property (the Property) to BancTEXAS Group, Inc., a party in interest with respect to the Plan, provided that the sale price was not less than the fair market value of the Property on the date of the sale; and (2) the payment to the Plan by BancTEXAS Dallas, N.A. (the Bank), a party in interest with respect to the Plan, of $295,553 pursuant to a guaranty agreement between the Bank and the Plan, provided that the terms of the transaction were at least as favorable to the Plan as a similar transaction between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 21, 1990 at 55 FR 20868.

Effective Date: The effective date of this exemption is October 26, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department at (202) 523–8883. (This is not a toll-free number.)

Monticello State Bank Retirement Plan and Profit Sharing Plan (the Plans) Located in Monticello, Iowa

[Prohibited Transaction Exemption 90–48; Exemption Application Nos. D–8229 and D–8230]

Exemption

The restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of certain real estate mortgages from the Plans to Monticello State Bank, a party in interest with respect to the Plans, provided the Plans receive no less that the greater of (1) the outstanding principal balance plus accrued interest and penalties on the mortgages or (2) the current fair market value of the mortgages at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 7, 1990, at 55 FR 18975.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number).

Potts and Callahan, Inc. Profit Sharing Plan (the Plan) Located in Baltimore, MD

[Prohibited Transaction Exemption 90–49; Exemption Application No. D–8276]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed sale by the Plan of certain improved real property (the Property) to Potts and Callahan, Inc. (the Employer), a party in interest with respect to the Plan; and (2) the proposed extension of credit by the Plan to the Employer in connection with the sale of such Property, provided the terms of the transactions are at least as favorable to the Plan as those obtainable in arm's length transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 21, 1990 at 55 FR 20871.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number).

Pathology Associates, Ltd. Restated Money Purchase Pension Plan (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 90–50; Exemption Application No. D–8286]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of a certain parcel of unimproved real property (the Property) by the individually directed account (the Account) of William D. Anderson, M.D. (Dr. Anderson) in the Plan to Dr. Anderson, a party in interest with respect to the Plan, provided that the sales price is the greater of either (1) the original purchase price paid by the Account for the Property, plus all additional expenses incurred by the Account in holding the Property, or (2) the fair market value of the Property on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of

proposed exemption published on May 21, 1990, at 55 FR 20872.

For Further Information Contact: Mr. E.F. Williams of the Department at (202) 523–8883. (This is not a toll-free number.)

Malcolm M. McHenry, M.D., Inc. Defined Benefit Pension Trust (the Plan) Located in Sacramento, California

[Prohibited Transaction Exemption 90–51; Exemption Application No. D–8288]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of thirty-four Indian miniature paintings, fourteen Japanese Netsuke items, two diamond rings and one silk gum rug (collectively, the Collectibles) to Malcolm M. McHenry, M.D. and Anna B. McHenry, disqualified persons with respect to the Plan; provided that the price paid is the greater of $167,475 or the fair market value of the Collectibles on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on Monday, May 21, 1990 at 55 FR 20873.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

L. Henry Lackner, M.D., P.A. Profit Sharing Plan (the Plan) Located in Albuquerque, New Mexico

[Prohibited Transaction Exemption 90–52; Exemption Application No. D–8293]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past sale on January 11, 1989 of a certain automobile by the Plan to L. Henry Lackner, M.D., P.A., the sponsor of the Plan and as such a party in interest with respect to the Plan, provided that the sales price was not less than the fair market value of the automobile on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 21, 1990 at 55 FR 20874.

Effective date: The effective date of this exemption is January 11, 1989.

For Further Information Contact: Mr. E.F. Williams of the Department at (202) 523–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 11th day of July 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–16542 Filed 7–13–90; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–7245, 7246 et al.]

Proposed Exemptions; UNUM Corporation, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5671, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the

proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

UNUM Corporation, UNUM Life Insurance Company, Located in Portland, Maine

[Application Nos. D–7245 and D–7246]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The receipt of either common stock (the Stock) of UNUM Corporation (UNUM) or cash by certain employee benefit plans, other than the Union Mutual Employees' Pension Plan and the Union Mutual Group Insurance Trust (collectively, the Union Mutual Plans), in connection with the conversion of Union Mutual Life Insurance Company (Union Mutual) into UNUM Life Insurance Company (UNUM Life), under a Plan of Capitalization and Conversion (the Conversion), dated December 14, 1984, as amended, in those situations where either UNUM or UNUM Life was a party in interest with respect to such plans at the time of the transactions; and (2) the receipt of subscription rights (the Rights) by certain employee benefit plans, pursuant to the terms of the Conversion, and the purchase of additional shares of the Stock in connection with the exercise of the Rights by such plans, where either UNUM or UNUM Life was a party in interest with respect to the plans at the time of the transactions, provided that the terms of the transactions were not less favorable to the plans than those obtainable in arm's-length transactions between unrelated parties.

Effective Date: If the proposed exemption is granted, the exemption will be effective September 19, 1986.

Summary of Facts and Representations

1. UNUM is a Delaware corporation and the owner of 100% of the outstanding stock of UNUM Life, a Maine stock life insurance company. UNUM Life is the successor corporation to Union Mutual, which was a Maine mutual life insurance company.

2. A substantial portion of UNUM Life's business consists of the issuance of various types of insurance and annuity contracts as a means of providing benefits under employee benefit plans subject to the Act. In addition to issuing insurance policies and annuity contracts, UNUM Life provides services, such as claims administration, to some of the employee benefit plans to which it has issued policies.

3. On December 14, 1984, the Board of Directors of Union Mutual proposed the Conversion which provided, among other things, that Union Mutual would convert from a mutual life insurance company to a stock life insurance company. The Maine Superintendent of Insurance approved the Conversion subject to the approval of the Union Mutual policyholders eligible to vote on the Conversion. The policyholders eligible to vote on the Conversion were those policyholders of Union Mutual who owned a life insurance policy on December 31, 1983, and who continued to own such policy on August 1, 1986 (the Policyholders). The applicant states that the terms of the Conversion were fully disclosed to the Policyholders. The Policyholders, including certain employee benefit plans, voted in favor of the Conversion on October 30, 1986, and the Conversion was effective November 14, 1986. UNUM was organized in connection with the Conversion as the parent holding company of UNUM Life.

UNUM registered the Stock with the Securities and Exchange Commission under the Securities Act of 1933. The Stock was offered to the public on November 6, 1986 and is listed for trading on the New York Stock Exchange (NYSE).

4. UNUM Life continues to insure the policyholders that were insured by Union Mutual and continues to provide services to some of the employee benefit plans to which it has issued policies. The applicant states that the Conversion had no impact upon the level of benefits or services being provided to the policyholders or contract owners, including the employee benefit plans.

5. In connection with the Conversion, certain eligible policyholders of Union Mutual and its subsidiary insurance companies (the Eligible Policyholders) received a distribution of a share of Union Mutual's adjusted surplus. The term "adjusted surplus" means the amount of surplus, as adjusted or confirmed by the Maine Superintendent of Insurance, shown on the consolidated balance sheet of Union Mutual and its subsidiaries as of December 31, 1985. Each Eligible Policyholder's share of the adjusted surplus was computed by the application of formulas which were set forth in the documents pertaining to the Conversion and were approved by the Maine Superintendent of Insurance. The Eligible Policyholders included, among others, policyholders who at any time duirng the preceding three years ending December 31, 1984, owned an individual or group policy of life, health or disability insurance or an annuity contract issued by Union Mutual. The Eligible Policyholders included certain employee benefit plans (the Plans) and persons who held policies on behalf of the Plans.

6. Under the Conversion, the distribution of the adjusted surplus to the Eligible Policyholders was generally made in the form of shares of the Stock. However, certain of the Eligible Policyholders received their shares of the adjusted surplus in cash, unless they affirmatively elected to receive their equity share in Stock (the Cash Option of Eligible Policyholders). The Cash Option Eligible Policyholders included the Eligible Policyholders whose equity share was (i) $2,500 or less; or (ii) attributable to a group annuity contract that was (a) intended to qualify as a tax sheltered annuity under section 403(b) of the Code or, (b) used to fund a retirement plan intended to qualify under section 401(a) of the Code. The applicant states that some of the Plans were Cash Option Eligible Policyholders that received cash or elected to receive he Stock.

7. Under the Conversion, all Eligible Policyholders who received or elected to receive the Stock, and who did not reside in a foreign country, also received the Rights. The Rights were non-transferable subscription rights which provided the Eligible Policyholders with a one-time election to purchase additional shares of the Stock for cash at the same price at which the Stock was offered to the public. The Rights allowed each Eligible Policyholder to acquire the same percentage of the total shares of the Stock to be issued pursuant to the Conversion as such policyholder's percentage interest in the entire adjusted surplus of Union Mutual. A number of Eligible Policyholders, including the Plans, received the Rights and purchased additional shares of the Stock by exercising the Rights. A subscription prospectus describing the Stock was mailed to each Eligible Policyholder on September 19, 1986. All Eligible Policyholders had to exercise their Rights by October 28, 1986. In addition, all Cash Option Eligible Policyholders had to exercise their

election to receive the Stock, in lieu of cash, and had to purchase any additional shares of the Stock pursuant to the Rights received with respect to the Stock, by October 28, 1988. On November 14, 1988, shares of the Stock were distributed to all Eligible Policyholders, including the Eligible Policyholders that purchased additional shares of the Stock by exercising the Rights.

The applicant states that the Stock received by the Plans, as a result of the distribution of Union Mutual's adjusted surplus and the exercise of the Rights by the Plans, did not result in the Plans paying any brokerage commissions or other expenses.

8. Neither UNUM or UNUM Life used any discretion or influence to cause the Plans to receive either the Stock and the Rights or cash, where a cash option was available, or to purchase additional shares of the Stock by exercising the Rights. The decisions made on behalf of the Plans regarding such transactions were made by Plan fiduciaries independent of UNUM and UNUM Life, after full written disclosure of the terms of the transactions.

9. UNUM Life believes that neither it nor UNUM was a party in interest under the Act as the time of the Conversion with respect to the Plans to which UNUM Life had issued insurance policies, but with respect to which it had no other relationships. However, UNUM Life believes that it or UNUM was a party in interest under the Act with respect to the Plans to which UNUM Life (or its subsidiaries) provided services on the date the subject transactions occurred. The applicant states that some of the Plans involved in the subject transactions were Plans to which UNUM Life was a service-provider at the time of the transactions. Therefore, the applicant concludes that the receipt of either the Stock or cash by those Plans, and the receipt of the Rights and the purchase of additional shares of the Stock as a result of the exercise of the Rights by those Plans, were prohibited transactions under the Act.

The applicant represents that with respect to the Union Mutual Plans, the Stock was a "qualifying employer security," as defined under section 407(d)(5) of the Act. The applicant states that the acquisition and holding of the Stock by the Union Mutual Plans satisfied the requirements for a statutory exemption under section 406(e) of the Act. None of the Union Mutual Plans exercised any Rights to purchase additional shares of the Stock.

10. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfied the statutory criteria of section 408(a) of the Act because: (a) Plan fiduciaries independent of UNUM and UNUM Life made the decision to receive either Stock and the Rights or cash, where the cash option was available, and to exercise the Rights to obtain additional shares of the Stock; (b) the Plans participated in the transactions on the same basis as all other Eligible Policyholders which were not Plans; (c) the price of the Stock received pursuant to the exercise of the Rights was no more than the fair market value of the Stock at the time of the distribution; (d) the transaction were structured so that the Stock received by the Plans did not result in the Plans paying any brokerage commissions or other expenses; and (e) the terms of the transactions and the Conversion were fully disclosed to the Policyholders, including the Plans.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

First National Bank of Anchorage Common Trust Fund (the Fund) Located in Anchorage, Alaska

[Application No. D-7936]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 [40 FR 18471, April 28, 1975]. If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to past and prospective sales of defaulted real estate mortgages (the Mortgages) by the Fund in which certain employee benefit plans invest, to the First National Bank of Anchorage (the Bank), a party in interest with respect to the Fund, provided that—

A. With regard to past transactions:

(1) The sales were one-time cash transactions;

(2) The Fund incurred no costs in connection with the sales;

(3) The Fund sold each Mortgage at each Mortgage's outstanding principal balance plus accrued, but unpaid interest, and penalty charges at the time of the sale;

(4) An independent qualified appraiser determined that the purchase price of each Mortgage was equal to the upper limit of its fair market value at the time of the purchases;

(5) All defaulted Mortgages of the Fund were always purchased by the Bank, rather than segregated, according to a determination of the Board of Directors of the Bank;

(6) The sales were determined to be in the best interest of the Fund by the Board of Directors of the Bank following a declaration of default in accordance with the Comptroller of Currency Regulations; and

(7) The borrowers of the Mortgages were independent third parties.

B. With regard to prospective transactions entered into after September 30, 1988;

(1) The sales will continue to be one-time cash transactions;

(2) The Fund will incur no costs in connection with the sales;

(3) The Fund will sell any future Mortgage at each Mortgage's outstanding principal balance plus accrued, but unpaid interest, and penalty charges at the time of the sale;

(4) An independent, qualified appraiser will determine that the purchase price of each Mortgage will be equal to the upper limit of its fair market value at the time of the purchase;

(5) Independent Fiduciaries (the Independent Fiduciaries) appointed to act on behalf of the Fund in these transactions will review and determine that a Mortgage is in default, has been properly declared in default by the Bank in accordance with the Comptroller of Currency regulations, and that the prospective sale of a Mortgage is in the best interest of the Fund;

(6) Neither of the Independent Fiduciaries will derive more than 5% of his gross annual income from the Bank for each fiscal year that he serves in an independent fiduciary capacity with respect to the transactions described herein;

(7) The Mortgages will continue to be purchased, rather than segregated, by the Bank;

(8) The Bank maintains for a period of six years from the date the grant of this exemption appears in the Federal Register the records necessary to enable persons described in subsection (9) of this Section B to determine whether the conditions of this proposed exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to the circumstances beyond the control of the Bank or its affiliates, the records are lost or destroyed prior to the end of the six-year period;

(9)(i) Except as provided in paragraph (ii) of this subsection (9) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504

of the Act, the records referred to in subsection (8) of this Section B are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in the Fund, who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in the Fund, or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in the Fund, or any duly authorized employee or representative of such participant or beneficiary.

(ii) None of the persons described in subparagraphs (B) through (D) of this subsection (9) shall be authorized to examine trade secrets of the Bank, any of its affiliates, or commercial or financial information which is privileged or confidential; and

(10) The borrowers of the Mortgages will be unrelated third parties.

Effective Date: If granted this exemption will be effective as of August 5, 1980, and will remain effective for a five year period from the date the grant of this exemption appears in the Federal Register.

Summary of Facts and Representations

1. The Fund is a common trust fund established by the Bank on November 2, 1965. The Bank is the trustee for the Fund and is responsible for investing monies received by it from employee benefit plans. Current investors include 16 defined contribution profit sharing plans. The applicant represents that the Fund is maintained in accordance with the rules and regulations of the Comptroller of Currency. As required by the regulations, the Fund performs annual internal audits. Also, annual external audits are conducted by the independent accounting firm of Coopers and Lybrand. The Fund is also subject to periodic audits by the Comptroller of Currency.

2. The Fund invests in first mortgage loans which are originated by the Fund and secured by real property. The borrowers on the Mortgages are independent third parties unrelated to the Bank and the plans investing in the Fund. The applicant represents that in the past the total dollar amount of the Mortgages which have been purchased by the Bank has been a small percentage of the total dollar value of the Fund.

3. The applicant represents that, under Comptroller of the Currency regulations, the Bank has two alternative methods to protect the Fund when a mortgage owned by the Fund goes into default. The Bank may either segregate the defaulted mortgages from the remainder of the Fund or it may purchase such mortgages thereby permitting the Fund to reinvest the proceeds. The Comptroller of Currency Regulations § 9.18(b)(7)(ii) specify that a segregated investment shall be administered separately, realizing its own separate gains and losses, pro-rata, with regard to all participants in a fund. Accordingly, the applicant represents that because each segregated account bears its own costs and realizes its own income, and, except for borrowings, cannot receive any further investment in the account, it is possible that a liquidating account for a defaulted investment would suffer significant losses and the final proceeds of the liquidating account would be significantly less than the value of assets prior to segregation. In the case of the Bank purchasing a mortgage, Comptroller of Currency Regulations § 9.18(b)(8)(ii) state that:

"Any bank administering a collective investment fund may purchase for its own account from such fund any defaulted fixed income investment held by such fund, if in the judgment of the board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the bank elects to so purchase such investment, it must do so at its market value or the sum of the costs (i.e. outstanding principal) accrued unpaid interest, and penalty charges, whichever is greater." The time period available for a decision with respect to either segregation or purchase of a mortgage is 60 days from the date when the required payment was not received.

4. The applicant represents that since August 1980, the Bank has purchased eight Mortgages from the Fund for the outstanding principal balance, plus accrued but unpaid interest and penalty charges. The Board of Directors of the Bank (the Board of Directors) determined that this practice was a superior alternative to segregation because the costs of retaining and segregating the Mortgages were substantial. If the Fund were to retain and segregate the Mortgages under the Comptroller's regulations, it would, as owner of the Mortgages, incur the costs of foreclosure in order to realize on the collateral of a mortgage loan. The Bank has been purchasing the Mortgages from the Fund thereby avoiding the costs of segregation. The last Mortgage was purchased on September 30, 1988. The aggregate amount involved in these transactions was $272,913. The purchase price in all transactions was the outstanding principal balance, plus accrued interest and penalty charges at the time of the purchase. The Board of Directors determined that this amount was greater than the fair market value of the Mortgages.

5. To substantiate the determination of the Board of Directors regarding the value of the Mortgages, the Bank obtained an opinion of legal counsel which concluded that these past purchase prices were appropriate because it was unlikely for a mortgage in default to be valued in excess of its outstanding principal balance, plus accrued interest and penalties. Specifically, the Bank obtained a legal opinion, dated March 16, 1987, from John R. Beard, a partner with the law firm of Beard and Lawer. Mr. Beard represents that he has been in general legal practice since March 1968 and that since January 1971 his practice has been confined primarily to areas of banking, finance, transactions in property, creditors' rights in bankruptcy and related litigation. Some of Mr. Beard's clients regarding foreclosure matters and creditors' claims in bankruptcy have included Seattle First National Bank, the State of Alaska and the First Interstate Bank of California. Mr. Beard concluded that in all situations the outstanding principal balance, plus accrued but unpaid interest and penalty charges on a defaulted mortgage will be greater than its fair market value.

6. The applicant represents that the Bank also obtained opinions from independent appraisers regarding the value of the eight Mortgages to assure that the purchases were appropriately priced at the time of purchase by the Bank. On March 24, 1989, Richard G. Carson, CPA, an independent, qualified appraiser with the accounting firm of Coopers and Lybrand, addressed the issue of whether the purchase prices paid by the Bank were greater than the fair market value of the Mortgages and whether the transactions were in the best interest of the Fund. Mr. Carson concluded that the purchase prices paid by the Bank (principal plus accrued and unpaid interest and penalties) were greater than the fair market value of the Mortgages, even using conservative discount assumptions.

7. A second opinion, dated March 23, 1989, was prepared by David T. McCabe, an independent, qualified real estate appraiser, who has experience as

an arbitrator and a general partner with the Alaska Mortgage Group. Mr. McCabe determined that the purchase price of the outstanding principal balance, plus accrued interest and penalty charges for the eight Mortgages was appropriate. He specified that a purchase price of a loan balance plus accrued interest for a delinquent real estate loan represents the upper limt of the fair market value for such a loan. He also concluded that purchasing the Mortgages is a superior alternative to segregation because there is no delay, no uncertainty, and no interim cost, and the funds are available for the lender to reinvest at a higher rate of return or in a safer investment.

8. The Bank further proposes that in the future it be permitted to purchase the Mortgages at their outstanding principal balance plus accrued but unpaid interest, and penalty charges. A decision as to the "default" status of a mortgage will be made by the Board of Directors in accordance with the Comptroller's Handbook for National Trust Examiners, Precedents and Opinions for Collective Investment Funds, § 9.5740. This section specifies that: "Any mortgage which is in default for a period of 60 days or more should be removed from a fund * * *. If the loan is not made current before two valuation dates occur (i.e. 60 days), it should be removed from the account. Within this limitation, the trust investment committee could properly be given discretionary authority as to the segregation or sale of such defaulted mortgages." The applicant represents that in the past the Bank has always purchased, rather than segregated, the Mortgages.

9. In support of its view that in the future the fair market value of any Mortgages will never be greater than the outstanding principal plus accrued interest and penalties, the Bank has obtained opinions of two independent appraisers. Kenneth C. Hume is an independent business advisor in the state of Alaska and a former president of the Alaska State Bank. Mr. Hume has also been employed as a senior officer with two large national banks and therefore has experience with transactions involving a bank and its trust department. Mr. Hume concluded on March 17, 1989, that under no circumstances will the fair market value of a mortgage in default ever be greater than the outstanding principal balance plus accrued interest to the date of sale. Mr. Hume represented that in such a case, the market will automatically discount a mortgage in default.

10. A second opinion, dated March 22, 1989, was prepared by Alfred Ferrara, an independent qualified appraiser, who is also the president of Alaska Valuation Services, Inc. Mr. Ferrara concluded that, in the event of foreclosure and other default circumstances, the Alaska Valuation Inc., has not encountered a single instance where full principal, delinquent interest, foreclosure, and holding costs were ever recovered by the lender or the holder of a defaulted mortgage.

11. The applicant represents that the Bank's past and prospective purchases of the Mortgages were and will continue to be desirable for the Fund. Segregation of a defaulted Mortgage is not a viable alternative because the costs of segregation by the Fund are high and are ultimately detrimental to the Fund. These costs would be imposed upon the segregated mortgage assets alone, reducing the amounts ultimately disbursed to the participating trusts in the Fund when the segregated accounts are liquidated, after foreclosure. In addition to the foreclosure costs, the Fund would sustain the loss of additonal accounting and administrative expenses incurred in the segregation of the Mortgages into "liquidating accounts" in the Fund. The likely consequence of segregation is that the final proceeds of the liquidating account available for distribution to participating trusts in the Fund will be significantly less than the value of the assets prior to segregation. Accordingly, the applicant requests exemptive relief for the past purchases of the eight Mortgages as well as for the prospective purchases of the Mortgages by the Bank. The purchase price will be the outstanding principal balance pluse accrued but unpaid interest, and penalty charges. In this regard, the applicant represents that the Mortgages will always be purchased, rather than segregated, by the Bank.

12. The applicant has appointed two Independent Fiduciaries, Mr. McCabe and Mr. Hume, to monitor prospective purchases of the Mortgages by the Bank. According to the applicant, the purpose of the two Independent Fiduciaries is to provide at least one source of independent review, in the event that one of the fiduciaries is not available at the time when a mortgage must be declared in default by the Bank. In their capacity as Independent Fiduciaries, Mr. McCabe and Mr. Hume, with respect to all future purchases, will review and determine that a Mortgage is in default, has been properly declared in default by the Bank in accordance with the Comptroller of Currency regulations, and that the prospective sale of a Mortgage is in the best interest of the Fund. Neither of the Independent Fiduciaries will derive more than 5% of his gross annual income from the Bank for each fiscal year that he serves in an independent fiduciary capacity with respect to the transactions described herein. The applicant represents that it is probable, given the nature and the scope of the Bank's business and the size of the city of Anchorage, that Mr. McCabe and Mr. Hume had a borrower/lender relationship with the Bank in the past five years. However, it is also represented that this relationship was de minimis and would not affect the independent judgement of either of the fiduciaries. The applicant also represents that neither Mr. McCabe nor Mr. Hume borrowed any money from the Fund in the last five years and that neither is serving in a fiduciary capacity for any of the qualified plans that participate in the Fund.

13. In summary, the applicant represents that the transactions satisfied and will continue to satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code as follows:

(1) Regarding past transactions:

(a) The sales were one-time cash transactions:

(b) The Fund incurred no costs in connection with the sales;

(c) The Fund was able to sell each Mortgage at each Mortgage's outstanding principal balance plus accrued, but unpaid interest, and penalty charges at the time of the sale, which amount was deemed to be the upper limit of the fair market value of the Mortgage by independent, qualified appraisers;

(d) The Mortgages were always purchased, rather than segregated, by the Bank; and

(e) The sales enabled the Fund to invest in other investment instruments with a higher yield; and

(f) The borrowers of the Mortgages were independent third parties.

(2) Regarding prospective transactions entered into after September 30, 1988:

(a) The sales will continue to be one-time cash transactions;

(b) The Fund will incur no costs in connection with the sales;

(c) The Fund will be able to sell any future Mortgage in default at each Mortgage's outstanding principal balance plus accrued, but unpaid interest, and penalty charges at the time of the sale, which amount has been deemed to be the upper limit of the fair market value of the Mortgage by independent, qualified appraisers;

(d) The Mortgages will always be purchased, rather than segregated, by the Bank;

(e) The sales will be monitored by the Independent Fiduciaries to assure that the transactions are in the best interest of the Fund;

(f) The sales will enable the Fund to invest in other investment instruments with a higher yield; and

(g) The borrowers of the Mortgages will be independent third parties.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of July, 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–16543 Filed 7–13–90; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90–50)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by August 15, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D.A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0051), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 755–1430.

Reports

Title: NASA FAR Supplement, Part 18–23, Environment, Conservation, and Occupational Safety.
OMB Number: 2700–0051.
Type of Request: Extension.
Frequency of Report: On occasion.
Type of Respondent: State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.
Number of Respondents: 375.
Responses per Respondent: 2.
Annual Responses: 750
Hours per Response: 40.
Annual Burden Hours: 30,000.
Abstract-Need/Uses: Where unique facility safety or health requirements exist, including hazardous deliverables or operations, suitable contractor's safety and health plans are required as are accident reports.

Dated: July 3, 1990.

D.A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 90–16515 Filed 7–13–90; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of the Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, dicussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of Information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency

action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* August 1, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Fellowships for University Teachers applications in Art History and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

2. *Date:* August 2, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Fellowships for University Teachers applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

3. *Date:* August 2–3, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications submitted to the Humanities Projects in Museums and Historical Organizations program, to the Division of General Programs, for projects beginning after January 1991.

4. *Date:* August 3, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Fellowships for College Teachers and Independent Scholars and Fellowships for University Teachers applications in African, Asian, and Latin American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

5. *Date:* August 3, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Fellowships for University Teachers applications in Sociology, Anthropology, Archaeology and Psychology, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

6. *Date:* August 6, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 315
   Program: This meeting will review Fellowships for University Teachers applications in American History, submitted to the Division of Fellowships and seminars, for projects beginning after January 1991.

7. *Date:* August 6, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

8. *Date:* August 7, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American History I, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

9. *Date:* August 7, 1990
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 316–2
   Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American History II, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

10. *Date:* August 7, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review Fellowships for University Teachers applications in Romance and Classical Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

11. *Date:* August 13, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review Fellowships for University Teachers applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1991.

12. *Date:* August 13, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review Fellowships for University Teachers applications in Political Science, Law and Jurisprudence, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

13. *Date:* August 13, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

14. *Date:* August 14, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review Fellowships for University Teachers applications in Comparative Literature; Germanic, Slavic; Asian Languages and Literatures; and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

15. *Date:* August 15, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 315
    Program: This meeting will review Fellowships for University Teachers applications in American Literature and Studies; and Film, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

16. *Date:* August 15, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will reivew Fellowships for Colege Teachers and Independent Scholars applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

17. *Date:* August 16, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 316–2
    Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Anthropology, Folklore, Psychology, and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

18. *Date:* August 16, 1990
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Politics, Law, Economics, and Sociology, submitted to the Division of

Fellowships and Seminars, for projects beginning after January 1991.

19. *Date:* August 16, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

20. *Date:* August 17, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for College Teachers and Independent Scholars and Fellowships for University Teachers applications in Music and Dance History Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

21. *Date:* August 20, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

22. *Date:* August 21, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Rhetoric, Communication, Theater, Film and American Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

23. *Date:* August 21, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

24. *Date:* August 21, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in British Literature II; Criticism; Theatre History; Rhetoric and Composition, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

25. *Date:* August 22, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 315
Program: This meeting will review Fellowships for University Teachers applications in British Literature I, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

26. *Date:* August 22, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 430
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Foreign Languages and Literatures I, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

27. *Date:* August 22, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Foreign Languages and Literatures II, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

28. *Date:* August 22, 1990
Time: 8:30 a.m. to 5:30 p.m.
Room: 415
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1991.

Stephen J. McCleary,
Advisory Committee, Management Officer.

[FR Doc. 90–16534 Filed 7–13–90; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Presidential Young Investigator Awards for the Nation's Most Outstanding and Promising Young Science and Engineering Faculty

The National Science Foundation (NSF) announces the competition for Presidential Young Investigator (PYI) Awards to be made in late March, 1991. The awards are established to achieve the following objectives

- Attracting and retaining outstanding young faculty in science and engineering;
- providing their research and teaching careers with a strong start and greater freedom to pursue their research interests;
- Improving the research capabilities of academic institutions;
- Fostering contact and cooperation between academia and industry.

Approximately 200 new Presidential Young Investigator Awards will be made in this competition. Awards will be made for up to five years based on the annual determination of satisfactory performance and subject to the availability of funds.

Eligibility

Any U.S. institution that awards a baccalaureate, master's or doctoral degree in a field supported by the Foundation is eligible to participate in this program. Only the department chairperson or analogous administrative official at the institution may nominate its faculty members for the awards.

Nominees must be U.S. citizens or permanent residents as of October 1, 1990. To be eligible, nominees must have tenure-track or tenured faculty position at their nominating institution or receive an appointment to such a position to begin on or before October 1, 1990.

Nominees must have begun their first tenure-track position at any college or university after April 30, 1987 and must have a Ph.D. degree, or equivalent, awarded on or after January 1, 1985.

Since PYI awards must be used to fund research activities, which normally will involve undergraduate and graduate students from the nominating institution, PYI nominees must have a clearly demonstrated ability to conduct a research program. Awardees may conduct research in any branch of science or engineering normally supported by the NSF.

Particular emphasis in the selection of awardees will be given to those fields where there are substantial needs for faculty development. NSF normally will not support clinical research such as biomedical research with disease-related goals, including work on the etiology, diagnosis, or treatment or physical or mental disease, abnormality, or malfunction in human beings or animals. Animal models of such conditions, or the development or testing of drugs or other procedures for their treatment also generally are not eligible for support. NSF does not normally support pilot plant efforts, research requiring security classification, the development of products for commercial marketing, or market research for a particular product or invention.

The PYI awards are intended to encourage the development of our future academic leaders, both in teaching and research. Presidential Young Investigators are expected to carry a normal teaching load relative to non-PYI faculty at the nominating institution.

The PYI awards are tenable only in tenure-track or tenured positions at eligible institutions. Presidential Young Investigator who transfer to an ineligible institution at any time prior to or during the period of their grants must resign their awards.

Support and Commitments

The minimum Presidential Young Investigator Award will consist of an annual base grant of $25,000 from NSF, to be used to support the research activities of the awardee. Furthermore, in accordance with the program goals of leveraging Federal funds and fostering industry-university cooperation, the Foundation will provide up to $37,500 of additional funds per year on a dollar-for-dollar matching basis to contributions from industrial sources, resulting in total annual support of up to $100,000.

Institutions are also expected to make a significant commitment to the support of their awardees by guaranteeing their full academic year salary, arranging for the outside matchable funds and providing them with the same financial assistance for the use of equipment and the cost of student help as is made available to other faculty. None of the funds, whether provided by the National Science Foundation or by outside supporters of the program as matchable funds, may be used to underwrite academic year salaries of the awardees, however, summer salaries for awardees on academic year appointments may be funded for up to two-ninths of their regular academic year salaries. Up to ten percent of the funds provided by the Foundation may be used to defray administrative expenses in lieu of indirect costs.

Application Procedures

Nominations from an institution must originate from a department chairperson or analogous administrative official. Each nomination submission must include:

- The Nomination Form provided in the PYI Program Guidelines (This form contains the Cover Sheet, Nominator's Narrative Statement, Nominee's Research and Teaching Qualifications, Nominee's Research Plan, Biographical Sketch, and Support and Commitments.)
- The Supplementary Information Form.
- The form for the Executive Office of The President, Office of Science and Technology Policy.
- Recommendations from three referees who are familiar with the research and teaching interests and the capability of the nominee. Referees must not be from the nominating institution. The referees are to return the reference forms and the self-addressed postcard provided by the nominator directly to the Foundation in the accompanying pre-addressed #10 envelopes.

Five copies of the Nomination Form and one copy of the Supplementary Nominee Information must be submitted no later than October 1, 1990. Since review of PYI nominations take place shortly after the closing date for the nominations, NSF cannot assure the inclusion in the review process of any reference letters which arrive at NSF after the nomination deadline.

Evaluation and Selection

Selection will be based on an evaluation of the nominee's ability and potential, as a researcher and teacher, for contributing to the future vitality of the Nation's scientific and engineering effort. The evaluation criteria include:

- Nominee's competence in science of engineering—as evidenced by the nominee's most outstanding achievements to date, particularly as attested to by the quality of research and publications, teaching accomplishments, educational background, and the letters of recommendation.
- Nominee's potential for continued professional growth as a research scientist or engineer—as evidenced by the quality of the nominee's research plan, the currency and significance of the research in the expressed field, the appropriateness of the research to his/her academic setting and its probable impact upon the institution's research environment.
- Nominee's potential for significant development as a teacher and academic leader in the training of future scientists and/or engineers—as evidenced by the nominee's commitment to an academic career, the narrative statements describing the nominee's qualifications for this award with regard to their bearing on the nominee's development as an academic leader and the nominee's potential impact on the institution in its teaching mission.

Other factors, such as national needs, infrastructure needs of the field, representation of women and minorities, geographical and institutional balance, will also be considered after the technical merits of the nominations have been ascertained.

The selection of individuals to receive Presidential Young Investigator Awards will be made by the National Science Foundation with the advice of panels of outstanding scientists and engineers.

After an awardee has been selected, the employing institution will be asked to prepare a first-year budget request in support of the awardee's research activities. The budget should show both the amount requested from the Foundation and the sources and amounts of industrial support. This information will be used in determining the amount of the award and other terms and conditions. Except as otherwise provided in this announcement, the terms and conditions, as well as the expected institution commitment, will be analogous to those stated in the publication, NSF 83–57 (May 1990) - Grants for Research and Education in Science and Engineering. Similar submissions will be required annually for each successive year of support under this program.

The FY 1991 PYI awardees will be announced in late March 1991 and have until June 1, 1991 to accept the offers from NSF. They will be expected to begin their research activities under this program by October 1, 1991, or sooner if they wish.

Inquiries

Inquiries regarding the awardees may be addressed to the Presidential Young Investigator Awards, National Science Foundation, Washington, DC 20550, or telephoned inquiries to (202) 357–9466.

Dated: July 11, 1990.

Edward F. Ferrand,

Director, PYI Program.

[FR Doc. 90–16550 Filed 7–13–90; 8:45 am]

BILLING CODE 7555–01–M

OVERSIGHT BOARD

Oversight Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting originally to be held on Thursday, July 12, 1990 (55 FR 26317, June 27, 1990) is rescheduled.

DATES: Wednesday July 18, 1990, 2:30 p.m.–3:30 p.m.

ADDRESSES: General Services Administration Auditorium, 1st Floor, 18th and F Streets NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Diane M. Casey, Vice President, Office of Public Affairs, Oversight Board, 1777

F Street NW., Washington, DC 20232, (202) 786–9672.

SUPPLEMENTARY INFORMATION:
Discussion Agenda:

* Enforcement efforts taken to fight fraud in thrift institutions.
* Other issues to be determined.

Dated: July 9, 1990.

Diane M. Casey,

Vice President, Office of Public Affairs.

[FR Doc. 90–16485 Filed 7–13–90; 8:45 am]

BILLING CODE 2221–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology (PCAST)

The President's Council of Advisors on Science and Technology will meet on July 26–27, 1990. The meeting will begin at 9 a.m. in the Conference Room, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda

1. Briefing of the Council on the current activities of OSTP.
2. Briefing of the Council on current federal activities in global change.
3. Discussion of issues and topics for potential working group panels.
4. Discussion of composition of working groups.

Portions of the July 26–27 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of materials that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Sally Sherman (202) 395–3902, prior to 3 p.m. on July 25, 1990. Ms. Sherman is also available to provide specific information regarding time, place and agenda for the open session.

Dated: July 11, 1990.

Ms. Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90–16625 Filed 7–12–90; 11:37 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–28191; File No. SR–BSE–85–3]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Constitution

I. Introduction

The Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") on June 10, 1985 a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] to revise the Exchange's Constitution.

The proposed rule change was published for comment in Securities Exchange Act Release No. 22138 (June 12, 1985), 50 FR 25499 (June 19, 1985) ("Notice of Proposed Rule Change"). No comments were received on the proposed rule change.[3]

II. The Proposal

On December 20, 1984 and February 28, 1985, the BSE Board of Governors approved revisions of the Exchange's Constitution.[4] In its filing with the Commission, the Exchange stated that the purpose of the revisions is to update the Constitution and, where appropriate, eliminate outdated material. Subsequent to the Exchange's initial filing, the Exchange amended certain provisions of the proposal based in part on recommendations made by the Commission.[5]

Currently, the objectives of the Exchange's Constitution are incorporated by reference into the Constitution from the Exchange's Articles of Incorporation and no actual description of these objectives is included in the text of the Constitution. The Exchange proposes to set forth these objectives in detail in proposed new Article I, section 2 of the Constitution. In addition, the Exchange proposes certain amendments to Article I, section 3 of the Constitution, which sets forth the definitions of certain terms used in the Constitution and the Rules of the Exchange.[6] In its filing, the Exchange stated that the amendments to the definition Section will provide additional clarity as to the meaning of certain terms.[7]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] On three separate occasions the Exchange submitted to the Commission modifications to its initial proposal. *See* letter from Joseph P. Carmichael, Vice President, Market Surveillance, BSE to Sharon Itkin, Attorney, SEC, dated July 5, 1989 ("July 5, 1989 letter"); letter from Joseph P. Carmichael to Sharon Itkin, attorney, SEC, dated March 28, 1989 ("March 28, 1989 letter"); and letter from Joseph P. Carmichael to Ellen Dry, Attorney, SEC, dated December 17, 1987 ("December 17, 1987 letter"). The text of the Exchange's initial proposal as well as the subsequent changes are available at the Commission's Public Reference Section and at the principal office of the Exchange.

[4] Notice of the proposed amendments was distributed to the members of the exchange. No comments or objections were received from the members. *See* BSE Constitution, Article XXIV, Section 1.

[5] In its July 5, 1989 letter, the Exchange requested that the Commission approve those sections of the proposed Constitution which the Commission was prepared to approve at that time. The Exchange noted, however, that it was still considering amendments to sections of the Constitution regarding the composition of both the Exchange's Board of Governors and the Nominating Committeee, proposed Article II, section 1 and Article VI, section 2, respectively. The Exchange subsequently filed with the Commission a revised proposal regarding the composition of the Board of Governors, which superseded the proposal contained in File No. SR–BSE–85–3. The Commission approved that proposal in Securities Exchange Act Release No. 28001 (May 7, 1990), 55 FR 20000 (approving File No. SR–BSE–90–3). In addition, the Exchange has withdrawn its proposed amendment to the composition of the Nominating Committee, and has submitted to the Commisison a revised proposal. *See* letter from Karen Aluise, Regulatory Review Specialist, BSE, to Mary Revell, Branch Chief, Commission, dated May 22, 1990 and File No. SR–BSE–90–6.

[6] In its December 17, 1987 revisions to the proposal, the Exchange clarified that the terms defined carry the same meaning in both the Constitution and the Rules of the Exchange. *See* December 17, 1987 letter.

[7] The Exchange has proposed that this Section provide a definition of allied member which would include ". . . an employee of a member corporation who is not a member of the Exchange, and who is one of the persons elected to administer the affairs of the corporation" rather than ". . . an officer of such corporation," as originally proposed. *See* July 5, 1989 letter. This Section also will clarify the definition of member, associated person, membership, member organization, non-member, Exchange and Board of Governors, publicly held security, voting stock, nonvoting stock, and rules of the Exchange and the Board of Governors.

The Exchange proposes to restructure Article II to define the composition, role and powers of the Board of Governors of the Exchange,[8] and to incorporate into new Article II those provisions currently contained in Articles II and III. Although the Exchange proposes that the number of members required to compose the Board remain the same, it has proposed a different composition of Board members.[9] The Exchange also has proposed to amend the composition of the Nominating Committee.[10]

The Exchange also proposes to move the provisions contained in the current Article IV to new Article III, and to amend the duties of the Chairman, as set forth therein, to empower the Chairman to appoint officers and employees of the Exchange. This authority previously was vested in the President. As previously noted, the Exchange is proposing to eliminate the specific office of President. In this regard, the Exchange also proposes to eliminate completely the provisions of current Article V which set forth the powers of the President.

The Exchange also has proposed several other modifications to the Constitutional provisions regarding Exchange Committees, as currently set forth in Article IX (proposed Article VII). Section 4 of Article VII has been amended to formally change the name of the Business Conduct Committee to the Market Performance Committee. Section 4 also sets forth the requirements for the composition of this Committee,[11] and includes a detailed description of its powers.[12]

The Exchange also proposes to amend section 3 of this Article to delete the specific provisions regarding the duties and procedures of the Arbitration Committee. Instead of including these detailed provisions in its Constitution, the Exchange proposes a general provision regarding the appointment of an Arbitration Director and the appointment and composition of a Board of Arbitration. This section, however, will include a reference to chapter XXXII of the BSE Rules which contains detailed rules regarding arbitration procedures.[13]

Proposed new section 5 of Article VII sets forth guidelines for the composition of the Hearing Committee and provides that an appeal from a Hearing Committee decision may be made to the Commission.[14] Proposed Article VII, section 6 estblishes an Audit Committee [15] and describes in detail the duties of such a Committee.[16] Section 6 authorizes the Audit Committee to review and recommend to the Board the selection of independent auditors; review the scope and extent of the auditors' examination, the auditors' procedures, and the results of the independent audit; oversee the system of internal accounting controls; and supervise investigations into any matter within the scope of its duties.

The Exchange proposes modifications to the Constitution to clarify the provisions regarding membership, and to move such provisions from current Article XI to proposed Article IX. Article IX will include new Sections establishing the number of memberships at the currently authorized level of 224 seats and detailing the requirements for transfer of memberships.[17] In addition, the Exchange proposes to amend the section regarding qualification for membership to provide that any natural person who is a registered broker or dealer is qualified to be accepted for membership, and to amend the section regarding qualification of member organizations to make clear that a member organization of the Exchange is entitled to that status only by virtue of its association with an individual member.

Finally, the Exchange proposes to further amend the provisions of the Constitution by making certain clarifying modifications to the Constitutional provisions regarding insolvent members, expulsion and suspension of a member, and the obligations and eligibility of members with respect to the Exchange's gratuity fund.[18]

III. Discussion and Conclusion

The Commission has reviewed carefully the revisions to the BSE's Constitution to determine whether the proposed modifications are consistent with the Act. The Commission believes that the proposed revised Constitution is consistent with the requirements of the Act, and, in particular, with sections 6 and 19 of the Act.[19] Section 6 sets forth requirements regarding, among other things, Exchange membership, selection of directors, the administration and enforcement of Exchange rules and the imposition of disciplinary sanctions on members by the Exchange.[20]

The Commission believes that the proposed modifications to the Constitutional provisions regarding Exchange committees are consistent with the Act. In particular, the Commission believes that the proposed amendments regarding the Market Performance Committee are consistent with section 6(b) of the Act. Section

[8] Revised Article II includes the redefinition of the composition of the Board to reflect the elimination of the position of President of the Exchange; the addition of a new section that will insure that non-members of the Exchange serving on the Board of Governors must agree to uphold the Constitution; the addition of a new section that will allow the Board of Governors to delegate its authority to duly authorized committees of the Board or to Exchange officers and employees under appropriate circumstances and that sets forth the procedures for appealing acts resulting from delegated authority (*See* December 17, 1987 letter); and the addition of a new section that will permit the Board to take action without a meeting if all members of the Board unanimously consent in writing to the adoption of a resolution authorizing the action (*See* March 28, 1989 letter). Revised Article II also contains a provision stating that vacancies in the Board of Governors will be filled by the Chairman subject to the approval of the Board (*See* December 17, 19891 letter). In addition, the proposed revisions to Article II include a description of the specific powers of the Board of Governors currently contained in Article III (*See* March 28, 1989 letter).

[9] This provision of the BSE's proposal was superseded by File No. SR–BSE–90–3. *See* note 5, *supra*. Accordingly, the Commission is not considering for approval the proposed modification to the composition of the Board contained in File No. SR–BSE–85–3.

[10] This provision of the BSE's proposal has been withdrawn and was superseded by File No. SR–BSE–90–6. *See* note 5, *supra*. Accordingly, the Commisison is not considering for approval the proposed modification to the composition of the Nominating Committee contained in File No. SR–BSE–85–3.

[11] This provision states that the Market Performance Committee must consist of thirteen persons from both on and off the floor, of which no more than seven members may be from either group. Currently, the Constitution does not set forth requirements regarding the composition of the Business Conduct Committee.

[12] *See* March 28, 1989 letter.

[13] *See* July 5, 1989 letter.

[14] *See* letter dated March 28, 1989.

[15] Currently, the Constitution does not provide for an Audit Committee. The proposed provision states that the Chairman, with the approval of the Board, must appoint three persons to serve as the Audit Committee. These persons would be selected from members of the Board, Exchange members, or other persons who do not serve in a management capacity with the Exchange or any affiliate thereof and who are free of any other relationship that would interfere with the exercise of independent judgement.

[16] *See* July 5, 1989 letter.

[17] *See* proposed new section 2, Article IX. In addition, the Exchange has proposed modifications to Article XIII (proposed Article XII) to amend the requirements for transfer of membership to allow for specific provisions regarding Board approval of a transfer of membership and a fee upon transfer to be incorporated into the rules of the Exchange. Currently, there are no Exchange rules specifically regarding these matters. Accordingly, the Commission notes that any such proposed rule or rules must be submitted for Commission review pursuant to section 19(b) of the Act.

[18] *See* Notice of Proposed Rule Change.

[19] 15 U.S.C. 78f and 78s (1982).

[20] The BSE's initial proposed modifications to the Constitutional provisions with respect to the composition of the Board and the Nominating Committee, as set forth in proposed Article II, section 1 and Article VI, section 2, respectively, were superseded by subsequent proposals, and accordingly are not being approved in this order. *See supra* notes 5, 9, and 10.

6(b)(6) of the Act requires that the rules of an exchange provide that its members and persons associated with its members shall be appropriately disciplined for violation of the provisions of the Act, the rules or regulations thereunder and the rules of the Exchange by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. The powers and responsibilities proposed for the Market Performance Committee are consistent with the provisions of the Act in that the Market Performance Committee will retain the general authority of the former Business Conduct Committee to supervise members and member organizations and enforce the provisions of the Constitution, the rules of the Exchange and the stated policies adopted by the Exchange. The Commission believes that this will enable the Exchange to continue to carry out the requirement of section 6(b)(6) of the Act that the rules of the Exchange shall provide that its members be appropriately disciplined for violation of exchange rules or requirements under the Act.

The Commission believes that the proposed amendment that empowers the Hearing Committee to impose suspension or expulsion, in addition to other sanctions currently included in this section, on any member or member organization adjudged guilty in a disciplinary proceeding, is consistent with section 6(b)(6) of the Act, which expressly authorizes such sanctions for the purpose of disciplining members. The Commission also believes that the proposed amendment that provides that any person adjudged guilty in any disciplinary proceeding by the Hearing Committee shall have the right to appeal such decision to the Commission after an appeal is heard by the Board is consistent with section 6(b)(7) of the Act, which requires that the rules of the exchange provide a fair procedure for the disciplining of such persons, and section 19(d)(2) of the Act, which provides for Commission review of any final disciplinary action imposed on a member by a self-regulatory organization.

Section 6(b)(3) of the Act requires, among other things, that the rules of the Exchange assure a fair representation of its members in the administration of its affairs. The Commission believes that the Exchange's proposed modifications with respect to the composition of the Market Performance Committee will assure a fair representation of its members in the administration of that Committee's responsibilities because the Committee must consist of members from both on and off the floor, with no more than seven from either group.

The Commission believes that the proposed amendment that deletes the specific provisions regarding the duties and procedures of the Arbitration Committee and replaces them with a general provision regarding the appointment of an Arbitration Director and a Board of Arbitration is consistent with section 6(b)(5) of the Act. Because the provisions regarding the Arbitration Committee will include a reference to chapter XXXII of the BSE Rules, which contain detailed rules regarding arbitration procedures, the Commission believes that the proposal will promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of their disputes.

The Commission also believes that the proposed establishment of an Audit Committee is consistent with sections 6(b)(3) and 6(b)(5) of the Act. The creation of the Audit Committee should help prevent fraudulent and manipulative acts and practices and should protect investors and the public interest by ensuring independent oversight of the Exchange's financial procedures. In addition, because the Audit Committee may consist of members from on and off the floor, the proposal assures a fair representation of members in the administration of the affairs of the Exchange.

In addition, the Commission does not believe that the proposed changes to the Constitution will impose restrictions on the Exchange's membership greater than those restrictions permitted by the Act. The Commission notes that the Exchange's proposed modifications to Article IX (Qualification for Membership) reflect the requirement set forth in section 6(c)(1) of the Act that a national securities exchange must deny membership to any natural person who is not, or is not associated with, a registered broker dealer. In this regard, Article IX will provide that the Exchange will accept for membership any natural person who is a registered broker or dealer, or is associated with a registered broker or dealer. Similarly, the Commission believes that the addition of a provision in Article IX establishing 224 seats as the number of authorized memberships at the Exchange is consistent with section 6(c)(4) of the Act. This section of the Act provides that a national securities exchange may limit the number of members of the exchange and the number of members permitted to effect transactions on the floor of the exchange without the services of another person acting as broker provided that such limitation does not constitute a decrease in the number of memberships or members below such number in effect on May 1, 1975, or the date such exchange was registered with the Commission, whichever is later. In this regard, the Commission notes that 224 memberships is the Exchange's currently authorized level.

Finally, the Commission believes that the various clarifying modifications proposed by the Exchange with respect to the definitions of terms used in the Commission and the Rules of Exchange, the objectives of the Constitution, the duties and powers of the Board, insolvent members, expulsion and suspension of a member, and the Exchange's gratuity fund, are designed to prevent fraudulent and minipulative acts and practices, and in general to protect investors and the public interest, as required by section 6(b)(5) of the Act.

Based on the above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to section 19(b)(2) [21] of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Dated: July 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16527 Filed 7-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28169; File No. SR-MSE-90-09]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to Member Fees and Assessments

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 20, 1990, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[21] 15 U.S.C. 78s(b)(2) (1982).

[22] 17 CFR 200.30-3(a)(12) (1989).

change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend section (g) of its fee schedule as follows: [Additions are italicized; deletions are bracketed].

Membership Dues and Fees

Midwest Stock Exchange, Inc.

(g) Regulation "T" Extension $2 per extension request form for manual processing and $[1] *.50* per extension request for electronic transmission media processing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce the current fee for processing electronic transmissions of Regulation T extension requests.[1] The efficiencies of electronic transmissions of such requests have resulted in reduced costs to the MSE in processing such requests. These savings are being reflected in the reduction of the fee charged to broker-dealers.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of dues, fees, and other charges among Exchange members and issuers and other persons using the Exchange's facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR–MSE–90–09 and should be submitted by August 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16528 Filed 7–13–90; 8:45 am]

BILLING CODE 8010–01–M

[1] Regulation T, issued by the Board of Governors of the Federal Reserve System pursuant to the Act, governs the extension of credit to customers by brokers-dealers for purchasing securities. 12 CFR part 220. Rule 15c3–3 under the Act governs the extension of credit for selling securities. 17 CFR 240.15c3–3. Under Regulation T [12 CFR 220.8(d) and .4(c)(3)(ii)] and Rule 15c3–3(n), a broker-dealer may request an extension of time for payment or delivery of securities from any registered national securities exchange or a registered national securities association.

[Release No. 34–28192; File No. SR–NASD–90–30]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Short Sales

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 23, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the NASD's Board of Governors' Interpretation on Prompt Receipt and Delivery of Securities (the "Interpretation"), contained in Article III, Section 1 of the NASD's Rules of Fair Practice and proposes new Section 71 to the NASD's Uniform Practice Code (the "Code"). The proposed rule change to the Interpretation sets forth examples of "fully hedged" and "fully arbitraged" for the purposes of exemptions from various short sale requirements. Proposed Section 71 to the Code sets forth a new requirement to close out short sales in certain NASDAQ securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last several years, the NASD Board of Governors has adopted rules providing for additional regulation of short sale practices in the over-the-counter market. In addition, it has amended its Interpretation on Prompt Receipt and Delivery of Securities to establish requirements for accepting customer short sale orders, and most recently a proposed rule change was approved [1] extending the requirement of making an affirmative determination that, in the case of a short sale, the securities can be borrowed or delivered by settlement date to members effecting such short sales for their own accounts. In that proposed rule change (SR–NASD–89–5), an exemption from this new requirement has been extended in the case of transactions which result in fully hedged or arbitraged positions.

The instant proposed rule change to the Interpretation, paragraph (5), offers, by way of examples, those instances which will constitute "fully hedged" or "fully arbitraged" positions for the purposes of the exemption in the Interpretation. The Board believed, particularly in light of proposed section 71 of the Code, which affords similar exemptions, that clarifying and explanatory language would be helpful to the membership.

The proposed rule change new section 71 of the Code imposes on the short-sellers' broker a mandatory close-out.

The proposed mandatory close-out for short sales would occur if delivery has not occurred within 10 days after normal settlement date of a short sale of certain NASDAQ securities for customer accounts as well as members' proprietary accounts. The rule would apply only to NASDAQ securities with an aggregate clearing short position of 10,000 shares or more that equals or exceeds one half of one percent of the total shares outstanding.

Transactions exempted from the rule include short sales that result from bona fide market-making activity and short sales in which the resulting position is fully hedged or arbitraged.

Aimed at curbing "naked" or abusive short selling in NASDAQ securities, the proposed mandatory close-out rule specifically addresses "problem situations," e.g., where the ratio of shorts to the clearing corporation represents a significant number of shares relative to the company's total shares outstanding. These securities would be placed on a "restricted list," meaning that any subsequent short-sale transactions not completed by delivery of shares within the prescribed time frames would be subject to a mandatory close-out if a fail-to-deliver exists 10 days after the normal settlement date.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. The proposed rule change will enhance the integrity of the market and prevent abuses that harm public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received, with respect to the proposed rule change to the Interpretation. The proposed rule change to the Code was originally formulated as mandatory buy-in requirement and written comments were solicited in NASD Notice to Members 89–56. Significant negative comment was received and in response thereto, the proposal was reformulated as a close-out requirement. The revised proposal was not published for comment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by August 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: July 10, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16529 Filed 7–13–90; 8:45am]

BILLING CODE 8010–01–M

[1] *See* Securities Exchange Act Release No. 28186 (July 5, 1990).

[Rel. No. IC–17574; 811–4678]

Flag Investors Corporate Cash Trust; Notice of Deregistration

July 6, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Flag Investors Corporate Cash Trust.

RELEVANT 1940 ACT SECTION: Section 8(f) and Rule 8f–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on Form N8–F on December 28, 1989.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 31, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a

certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; on behalf of Applicants, 135 East Baltimore Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511 or Max Berueffy, Branch Chief, (202) 272–3016.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a diversified, open-end management company organized under the laws of the Commonwealth of Massachusetts. On May 23, 1986, Applicant registered under the 1940 Act by filing a registration statement pursuant to section 8(b) of the Act, concurrently registering an indefinite number of shares of beneficial interest. Applicant's registration statement became effective and its initial public offering commenced on August 1, 1986.

2. At a meeting held on July 18, 1989, the Board of Trustees approved a resolution calling for a Plan of Liquidation and Dissolution of the Applicant (the "Plan") and directing that the Plan be submitted to the shareholders for consideration. Proxy materials for the shareholder meeting were distributed to shareholders on or about September 18, 1989. At a special meeting of shareholders held on October 6, 1989, the Plan was approved by more than two-thirds of the outstanding shares.

3. As of October 9, 1989, Applicant had 748,153 shares of beneficial interest outstanding. The aggregate net asset value, net of amounts reserved for expenses as of that date, was $7,324,414.31, and the net asset value per share was $9.79. On October 11, 1989 a liquidating distribution of $9.79 per share was paid to holders of Applicant's shares of beneficial interest.

4. Applicant has reserved $37,076 for the payment of legal, accounting and state filing fees incurred in connection with its liquidation and winding up of its affairs. Total expenses are expected to amount to $12,500. Applicant intends to make an additional liquidating distribution to shareholders of the remaining amount reserved for expenses.

5. As of the time of filing of this application, Applicant had no shareholders, assets, other than amounts reserved to pay expenses described in Item 4 above, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. Applicant intends to file for dissolution under the laws of the Commonwealth of Massachusetts.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16477 Filed 7–13–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17575; 811–4566]

Olympus Equity Plus Fund; Application

July 10, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Olympus Equity Plus Fund ("Applicant").

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act .

FILING DATES: The application on Form N–8F was filed on December 15, 1989, and was amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personnally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Jeffrey L. Steele, Esq., 1500 K Street, NW., suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant represents that it filed a Notification of Registration under the 1940 Act with the SEC on January 17, 1986. The SEC declared Applicant's initial registration statement effective on May 28, 1986.

2. On June 8, 1989, Applicant's Board of Trustees took action authorizing an Agreement and Plan of Reorganization (the "Plan"). Under the Plan all of Applicant's assets and liabilities would be transferred to Olympus Funds Trust (formerly Olympus Tax-Exempt Fund), a registered investment company, on August 8, 1989. Applicant's shareholders approved the Plan at a Special Meeting of Shareholders held on July 31, 1989.

3. In accordance with the Plan, at the closing on August 8, 1989, each series of shares of beneficial interest being reorganized as a portfolio of Olympus Funds Trust (including Applicant's one series of shares, Olympus Equity Plus Fund) assigned, conveyed, transferred and delivered to its corresponding series in Olympus Funds Trust (the "New Series"), all of its then existing assets. In consideration, each respective New Series assumed all of the obligations and liabilities then existing in the reorganized series (the "Old Series") and delivered to its corresponding Old Series a number of full and fractional shares of beneficial interest of the New Shares ("New Shares"). Each Old Series distributed in complete liquidation pro rata to its shareholders of record as of August 8, 1989, the New Shares received by the Old Series. The Voting rights of the New Shares are identical to those of their respective Old Series shares.

4. No brokerage commissions were paid in connection with the Plan.

5. As of June 8, 1989, the record date for the Special Meeting of Shareholders, Applicant had 931,555 shares of beneficial interest outstanding. These shares had an aggregate net asset value

of $9,352,812.20 and a per share net asset value of $10.04. Following the implementation of the Plan on August 8, 1989, Applicant had no shareholders. Of the total reorganization expenses of $38,426.00, Applicant was allocated $2,397.00. Applicant currently has no assets and no liabilities.

6. Applicant has made all of its required N–SAR filings, and Applicant has filed its N–SAR for the period ending April 30, 1989 on July 13, 1989. The Olympus Plus Series of Olympus Funds Trust has succeeded to Applicant's reporting obligations under the 1940 Act and under the Securities Act of 1933. The N–SAR for Applicant's fiscal period that would have ended October 31, 1989 will be filed by Applicant's successor, Olympus Equity Plus Series of Olympus Funds Trust.

7. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. Except for the transaction described herein, Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are shareholders of Applicant.

9. Applicant has ceased all operations as a management investment company. By virtue of the reorganization effected under the Plan, Applicant ceased to have at least one hundred persons who are beneficial owners of its shares and is not making and does not propose to make a public offering of its securities. Therefore, Applicant does not come within the definition of "investment company" under 1940 Act.

10. Following Applicant's reorganization as a portfolio of Olympus Funds Trust, Applicant's registration as a Massachusetts business trust, was terminated by the Office of the Secretary of State, Boston, Massachusetts, as of November 3, 1989.

11. Applicant is not a party to any current or pending litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–16530 Filed 7–13–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17577; 811–4565]

Olympus Money Market Fund; Application

July 10, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Olympus Money Market Fund ("Applicant").

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATES: The application on Form N–8F was filed on December 15, 1989, and was amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Jeffrey L. Steele, Esq., 1500 K Street, NW., suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant represents that it filed a Notification of Registration under the 1940 Act with the SEC on January 17, 1986. The SEC declared Applicant's initial registration statement effective on May 28, 1986.

2. On June 8, 1989, Applicant's Board of Trustees took action authorizing an Agreement and Plan of Reorganization (the "Plan"). Under the Plan all of Applicant's assets and liabilities would be transferred to Olympus Funds Trust (formerly Olympus Tax-Exempt Fund), a registered investment company, on August 8, 1989. Applicant's shareholders approved the Plan at a Special Meeting of Shareholders held on July 31, 1989.

3. In accordance with the Plan, at the closing on August 8, 1989, each series of shares of beneficial interest being reorganized as a portfolio of Olympus Funds Trust (including Applicant's one series of shares, Olympus Money Market Fund) assigned, conveyed, transferred and delivered to its corresponding series in Olympus Funds Trust (the "New Series"), all of its then existing assets. In consideration, each respective New Series assumed all of the obligations and liabilities then existing in the reorganized series (the "Old Series") and delivered to its corresponding Old Series a number of full and fractional shares of beneficial interest of the New Shares ("New Shares"). Each Old Series distributed in complete liquidation pro rata to its shareholders of record as of August 8, 1989, the New Shares received by the Old Series. The voting rights of the New Shares are identical to those of their respective Old Series shares.

4. No brokerage commissions were paid in connection with the Plan.

5. As of June 8, 1989, the record date for the Special Meeting of Shareholders, Applicant had 3,841,015 shares of beneficial interest outstanding. These shares had an aggregate net asset value of $3,841,015 and a per share net asset value of $1.00. Following the implementation of the Plan on August 8, 1989, Applicant had no shareholders. Of the total reorganization expenses of $38,426.00, Applicant was allocated $841.00. Applicant currently has no assets and no liabilities.

6. Applicant has made all of its required N–SAR filings, and Applicant has filed its N–SAR for the period ending April 30, 1989 on July 13, 1989. The Olympus Money Market Series of Olympus Funds Trust has succeeded to Applicant's reporting obligations under the 1940 Act and under the Securities Act of 1933. The N–SAR for Applicant's fiscal period that would have ended October 31, 1989 will be filed by Applicant's successor, Olympus Money Market Series of Olympus Funds Trust.

7. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. Except for the transaction described herein, Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are shareholders of Applicant.

9. Applicant has ceased all operations as a management investment company. By virtue of the reorganization effected under the Plan, Applicant ceased to have at least one hundred persons who are beneficial owners of its shares and is not making and does not propose to make a public offering of its securities. Therefore, Applicant does not come within the definition of "investment company" under 1940 Act.

10. Following Applicant's reorganization as a portfolio of Olympus Funds Trust, Applicant's registration as a Massachusetts business trust was terminated by the Office of the Secretary of State, Boston, Massachusetts, as of November 3, 1989.

11. Applicant is not a party to any current or pending litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16530 Filed 7-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17576; 811-4569]

Olympus Option Income Plus Fund; Notice of Application

July 10, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Olympus Option Income Plus Fund ("Applicant").

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATES: The applicaiton on Form N-8F was filed on December 15, 1989, and was amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washingotn, DC 20549. Applicant, c/o Jeffrey L. Steele, Esq., 1500 K Street NW., suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant represents that it filed a Notification of Registration under the 1940 Act with the SEC on January 17, 1986. The SEC declared Applicant's initial registration statement effective on May 28, 1986.

2. On June 8, 1989, Applicant's Board of Trustees took action authorizing an Agreement and Plan of Reorganization (the "Plan"). Under the Plan all of Applicant's assets and liabilities would be transferred to Olympus Funds Trust (formerly Olympus Tax-Exempt Fund), a registered investment company, on August 8, 1989. Applicant's shareholders approved the Plan at a Special Meeting of Shareholders held on July 31, 1989.

3. In accordance with the Plan, at the closing on August 8, 1989, each series of shares of beneficial interest being reorganized as a portfolio of Olympus Funds Trust (including Applicant's one series of shares, Olympus Option Income Plus Fund) assigned, conveyed, transferred and delivered to its corresponding series in Olympus Funds Trust (the "New Series"), all of its then existing assets. In consideration, each respective New Series assumed all of the obligations and liabilities then existing in the reorganized series (the "Old Series") and delivered to its corresponding Old Series a number of full and fractional shares of beneficial interest of the New Shares ("New Shares"). Each Old Series distributed in complete liquidation pro rata to its shareholders of record as of August 8, 1989, the New Shares received by the Old Series. The voting rights of the New Shares are identical to those of their respective Old Series shares.

4. No brokerage commissions were paid in connection with the Plan.

5. As of June 8, 1989, the record date for the Special Meeting of Shareholders, Applicant had 6,144,856 shares of beneficial interest outstanding. These shares had an aggregate net asset value of $50,142,024.96 and a per share net asset value of $8.16. Following the implementation of the Plan on August 8, 1989, Applicant had no shareholders. Of the total reorganization expenses of $38,426.00, Applicant was allocated $13,519.00. Applicant currently has no assets and no liabilities.

6. Applicant has made all of its required N-SAR filings, and Applicant has filed its N-SAR for the period ending April 30, 1989 on July 13, 1989. The Olympus Premium Income Plus Series (formerly the Olympus Option Income Plus Series) of Olympus Funds Trust has succeeded to Applicant's reporting obligations under the 1940 Act and under the Securities Act of 1933. The N-SAR for Applicant's fiscal period that would have ended October 31, 1989 will be filed by Applicant's successor, Olympus Premium Income Plus Series of Olympus Funds Trust.

7. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. Except for the transaction described herein, Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are shareholders of Applicant.

9. Applicant has ceased all operations as a management investment company. By virtue of the reorganization effected under the Plan, Applicant ceased to have at least one hundred persons who are beneficial owners of its shares and is not making and does not propose to make a public offering of its securities. Therefore, Applicant does not come within the definition of "investment company" under 1940 Act.

10. Following Applicant's reorganization as a portfolio of Olympus Funds Trust, Applicant's registration as a Massachusetts business trust was terminated by the Office of the Secretary of State, Boston, Massachusetts, as of November 3, 1989.

11. Applicant is not a party to any current or pending litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16532 Filed 7-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17578; 811-4568]

Olympus U.S. Government Plus Fund; Notice of Application

July 10, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Olympus U.S. Government Plus Fund ("Applicant").

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATES: The application on Form N-8F was filed on December 15, 1989, and was amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, c/o Jeffrey L. Steele, Esq., 1500 K Street NW., suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant represents that it filed a Notification of Registration under the 1940 Act with the SEC on January 17, 1986. The SEC declared Applicant's initial registration statement effective on May 28, 1986.

2. On June 8, 1989, Applicant's Board of Trustees took action authorizing an Agreement and Plan of Reorganization (the "Plan"). Under the Plan all of Applicant's assets and liabilities would be transferred to Olympus Funds Trust (formerly Olympus Tax-Exempt Fund), a registered investment company, on August 8, 1989. Applicant's shareholders approved the Plan at a Special Meeting of Shareholders held on July 31, 1989.

3. In accordance with the Plan, at the closing on August 8, 1989, each series of shares of beneficial interest being reorganized as a portfolio of Olympus Funds Trust (including Applicant's one series of shares, Olympus U.S. Government Plus Fund) assigned, conveyed, transferred and delivered to its corresponding series in Olympus Funds Trust (the "New Series"), all of its then existing assets. In consideration, each respective New Series assumed all of the obligations and liabilities then existing in the reorganized series (the "Old Series") and delivered to its corresponding Old Series a number of full and fractional shares of beneficial interest of the New Shares ("New Shares"). Each Old Series distributed in complete liquidation pro rata to its shareholders of record as of August 8, 1989, the New Shares received by the Old Series. The voting rights of the New Shares are identical to those of their respective Old Series shares.

4. No brokerage commissions were paid in connection with the Plan.

5. As of June 8, 1989, the record date for the Special Meeting of Shareholders, Applicant had 8,844,615 shares of beneficial interest outstanding. These shares had an aggregate net asset value of $80,839,781.10 and a per share net asset value of $9.14. Following the implementatoin of the Plan on August 8, 1989, Applicant had no shareholders. Of the total reorganization expenses of $38,426.00, Applicant was allocated $21,669.00. Applicant currently has no assets and no liabilities.

6. Applicant has made all of its required N-SAR filings, and Applicant has filed its N-SAR for the period ending April 30, 1989 on July 13, 1989. The Olympus U.S. Government Plus Series of Olympus Funds Trust has succeeded to Applicant's reporting obligations under the 1940 Act and under the Securities Act of 1933. The N-SAR for Applicant's fiscal period that would have ended October 31, 1989 will be filed by Applicant's successor, Olympus U.S. Government Plus Series of Olympus Funds Trust.

7. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. Except for the transaction described herein, Applicant has not, within the past 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are shareholders of Applicant.

9. Applicant has ceased all operations as a management investment company. By virtue of the reorganization effected under the Plan, Applicant ceased to have at least one hundred persons who are beneficial owners of its shares and is not making and does not propose to make a public offering of its securities. Therefore, Applicant does not come within the definition of "investment company" under the 1940 Act.

10. Following Applicant's reorganization as a portfolio of Olympus Funds Trust, Applicant's registration as a Massachusetts business trust was terminated by the Office of the Secretary of State, Boston, Massahusetts, as of November 3, 1989.

11. Applicant is not a party to any current or pending litigation or administrative proceeding.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-16533 Filed 7-13-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended July 6, 1990

The following Agreements were fild with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47027.
Date filed: July 3, 1990.
Parties: Members of the International Air Transport Association.
Subject: 11th Meeting of PAC—Finally Adopted Resolutions.
Proposed Effective Date: October 1, 1990.

Docket Number: 47028.
Date filed: July 3, 1990.

Parties: Members of the International Air Transport Association.
Subject: Book of Finally Adopted Resolutions.
Proposed Effective Date: December 1, 1990.

Docket Number: 47029.
Date filed: July 3, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC12 Areawide (USA/US Territories) Expedited Reso 501.
Proposed Effective Date: August 1, 1990.

Docket Number: 47030.
Date filed: July 3, 1990.
Parties: Members of the International Air Transport Association.
Subject: TC12 Areawide (Except USA/US Territories Expedited. Reso 501.
Proposed Effective Date: August 1, 1990.

Docket Number: 47031.
Date filed: July 3, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 418 (General Cargo Increase From IRAQ).
Proposed Effective Date: July 15, 1990.

Docket Number: 47032.
Date filed: July 3, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 419 (General Pax Increase From Morocco.
Proposed Effective Date: July 15, 1990.

Docket Number: 47038.
Date filed: July 5, 1990.
Parties: Members of the International Air Transport Association.
Subject: USA/US Territories-Africa Expedited Reso 554a.
Proposed Effective Date: October 1, 1990.

Docket Number: 47039.
Date filed: July 5, 1990.
Parties: Members of the International Air Transport Association.
Subject: Europe to USA/US Territoris Expedited Resos.
Proposed Effective Date: August 1, 1990.

Docket Number: 47040.
Date filed: July 5, 1990.
Parties: Members of the International Air Transport Association.
Subject: South Atlantic-Middle East Expedited Resos.
Proposed Effective Date: July 1, 1990.

Docket Number: 47041.
Date filed: July 5, 1990.
Parties: Members of the International Air Transport Association.
Subject: Canada-Africa Expedited Resos R–2 TO R–6.
Proposed Effective Date: August 1, 1990.

Docket Number: 47042.
Date filed: July 5, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 421 (TC23 Fares from Hong Kong/Taiwan to Africa).
Proposed Effective Date: August 1, 1990.

Phyllis. T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 90–16535 Filed 7–13–90; 8:45 am]
BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ended July 6, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47022.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Trans World Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests an amendment of its certificate of public convenience and necessity for Route 147 so as to authorize TWA to provide scheduled air transportation services of persons, property and mail between New York, and Moscow/Leningrad, either nostop or via intermediate points in Europe it is authorized to serve pursuant to its certificate for Route 147.

Docket Number: 47023.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Federal Express Corporation, pursuant to section 401 of the Act and subpart Q of the Regulations, for issuance of amended certificates of public convenience and necessity for Routes 119 and 205–F, so as to authorize Federal Express to provide foreign air transportation of property and mail between a point or points in the United States, on the one hand, and points in the U.S.S.R., on the other hand, via intermediate points (including change-of gauge operations) in Europe.

Docket Number: 47024.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Northern Air Cargo, Inc., pursuant to section 401(b) of the Act and subpart Q of the Regulations, requests authority to engage in foreign scheduled air transportation of cargo and mail in the following markets between Anchorage, Alaska and the following points in the Soviet Union, Provideniya, Anadyr, Magadan and Khabarovsk with a technical stop in Petropavlosk.

Docket Number: 47025.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Pan American World Airways, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests an amendment to its certificate of public convenience and necessity for Route 132, Segment 4 to engage in scheduled foreign air transportation of persons, property and mail between the named coterminal points on Segment 4 and Kiev and Riga, U.S.S.R.

Docket Number: 47026.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 31, 1990.
Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity so as to authorize nonstop air service between New York and Manchester, England.

Docket Number: 47033.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Northwest Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity to authorize it to engage in foreign air transportation of persons, property and mail between points in the United States and Lenigrad and Moscow in the U.S.S.R. via intermediate points in Europe.

Docket Number: 47034.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of American Trans Air, Inc., pursuant to section 401

of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity to authorize scheduled foreign air transportation of persons, property and mail between Philadelphia, Pennsylvania and Riga, Latvian U.S.S.R., via the intermediate point of Shannon, Republic of Ireland.

Docket Number: 47035.
Date filed: July 3, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Evergreen International Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for a new or amended certificate of public convenience and necessity to engage in foreign air transportation of property and mail between Anchorage, Alaska, on the one hand, and Khabarovsk, U.S.S.R., on the other hand.

Docket Number: 47036.
Date filed: July 5, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Amerijet International, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for a certificate of public convenience and necessity to authorize it to provide schedule all-cargo service between a point or points in the United States and Magadan and Khabarovsk, U.S.S.R.

Docket Number: 47037.
Date filed: July 5, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 13, 1990.
Description: Application of Baltia Air Lines, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations requests authority to engage in scheduled foreign air transportation of persons, cargo, and mail between New York and certain cities, including Riga, Minsk, Kiev, Tbilisi, Leningrad, and Moscow, both in accordance with non-stop schedules and with intermediate stops.

Phyllis T. Kaylor,
Chief, Documentary Services Division
[FR Doc. 90-16536 Filed 7-13-90; 8:45 am]
BILLING CODE 4910-62-M

[Docket No. 46760]

Discovery Airways, Inc., and Mr. Philip Ho; Prehearing Conference

July 10, 1990.

Notice is hereby given that a prehearing conference in this preceeding is assigned to be held August 1, 1990, at 10 a.m. (local time), in Room 5332, Nassif Building, 400 Seventh Street SW., Washington, DC, before Administrative Law Judge Ronnie A. Yoder.

Dated at Washington, DC, July 10, 1990.

Ronnie A. Yoder,
Administrative Law Judge.
[FR Doc. 90-16537 Filed 7-13-90; 8:45 am]
BILLING CODE 4910-62-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become Party to Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

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

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3121-X	U.S. Department of Defense, Falls Church, VA.	3121
3330-X	Babcock and Wilcox Company, Lynchburg, VA.	3330
3630-X	J.T. Baker, Inc. Phillipsburg, NJ.	3630
3768-X	Vanchem, Inc., Lockport, NY.	3768
4453-X	Ren-Loi, Inc., Cuddy, PA.	4453
4453-X	Explo, Inc., Cuddy, PA.	4453
4453-X	Blasting Products, Inc., Cuddy, PA.	4453
4453-X	H.L. & A.G. Balsinger, Inc., Cuddy, PA.	4453
4453-X	Mountaineer Explosives, Inc., Cuddy, PA.	4453
4575-X	Linde Gases of the Midwest, Inc., Hillside, IL.	4575
4575-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	4575
4575-X	Linde Gases of the South, Inc., Houston, TX.	4575
4575-X	Linde Gases of Florida, Inc., Tampa, FL.	4575
5022-X	National Aeronautics & Space Administration (NASA), Washington, DC.	5022
5022-X	United Technologies Corporation, San Jose, CA.	5022
5022-X	Thiokol Corporation—Elkton Division, Elkton, MD.	5022
5022-X	U.S. Department of Defense, Falls Church, VA.	5022
5022-X	Atlantic Research Corporation, Gainesville, VA.	5022
5206-X	Amos L. Dolby Company, Corsica, PA.	5206
5206-X	Nelson Brothers, Inc., Parish, AL.	5206
5600-X	Air Products and Chemicals, Inc., Allentown, PA.	5600
5600-X	Solkatronic Chemicals, Inc., Fairfield, NJ.	5600
5649-X	Great Lakes Chemical Corporation, Adrian, MI.	5649
6267-X	Hydrotech Chemical Corporation, Marietta, GA.	6267
6293-X	Olin Corporation—Winchester Group, East Alton, IL.	6293
6293-X	Ireco Incorporated, Salt Lake City, UT.	6293
6369-X	E.I. du Pont de Nemours & Company, Wilmington, DE.	6369

Application No.	Applicant	Renewal of exemption
6538–X	Hanco International, Inc., Miami, FL.	6538
6538–X	Pan Products, Inc., Macedonia, OH.	6538
6614–X	Abcana Industries, El Cajon, CA.	6614
6614–X	Clearwater Chemical Corporation, Clearwater, FL.	6614
6614–X	Arco Industries, Inc., Milwaukee, WI.	6614
6614–X	GPS Industries, City of Industry, CA.	6614
6614–X	So-White Company, Inc., Plover, WI.	6614
6626–X	Messer Griesheim Industries, Inc., Valley Forge, PA.	6626
6670–X	Airco, The BOC Group, Inc., Murray Hill, NJ.	6670
6686–X	Chilton Metal Products Division, Chilton, WI.	6686
6805–X	Liquid Air Corporation, Walnut Creek, CA (See Footnote 1).	6805
6874–X	Mine Chemical Services, Inc., Winnemucca, NV.	6874
6874–X	Mitsui & Company (USA), Inc., New York, NY.	6874
6874–X	Harcros, Inc., Kansas City, KS.	6874
7046–X	J.T. Baker, Inc., Phillipsburg, NJ.	7046
7052–X	R-Con International, Salt Lake City, UT.	7052
7052–X	Southwest Electronics, Inc., Stafford, TX.	7052
7052–X	Wildlife Materials, Inc., Carbondale, IL.	7052
7268–X	Linde Gases of Southern California, Inc., Santa Ana, CA.	7268
7268–X	Linde Gases of The Southeast, Inc., Wilmington, NC.	7268
7268–X	Linde Gases of New England, Inc., West Hartford, CT.	7268
7268–X	Linde Gases of the South, Inc., Houston, TX.	7268
7268–X	UNIGAS, Inc., Mercedita, PR.	7268
7268–X	Linde Puerto Rico, Inc., Gurabo, PR.	7268
7268–X	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	7268
7275–X	Express Airways, Inc., Sanford, FL.	7275
7517–X	DPC Industries, Inc., Houston, TX.	7517
7657	Welker Engineering Co. Sugar Land, TX.	7657
7719–X	Turner Division of Cooper Group, Sycamore, IL.	7719
7835–X	Big Three Industries, Inc., Houston, TX.	7835
7846–X	UNIGAS, Inc., Mercedita, PR.	7846
7846–X	Linde Gases of the Midwest, Inc., Hillside, IL.	7846
7846 X	Linde Gases of Southern California, Inc., Santa Ana, CA.	7846
8287–X	Rohm and Haas Company, Philadelphia, PA (See Footnote 2).	8287
8308–X	Caspersen, Inc., Glencoe, IL.	8308
8431–X	Dow Chemical Company, Midland, MI.	8431
8445–X	Keegan Technology & Testing Associates, Inc., South Plainfield, NJ.	8445
8518–X	Pacific Construction & Maintenance, Inc., Ventura, CA.	8518
8518–X	Coast Vacuum Truck Service, Inc., Santa Maria, CA.	8518
8523–X	Compagnie Des Containers Reservoirs, Paris, France.	8523
8523–X	Dehon Service, Bry-sur-marne, France.	8523
8554–X	Mesabi Powder Company, Hibbing, MN.	8554
8554–X	Southwestern Explosives, Inc., Cleveland, OH.	8554
8580–X	Priority Air, Incorporated, Sanford, FL.	8580
8679–X	MicroD International, Burnsville, MN.	8679
8723–X	Ren-Loi, Inc., Cuddy, PA.	8723
8723–X	Explo, Inc., Cuddy, PA	8723
8723–X	Blasting Products, Inc., Cuddy, PA.	8723
8723–X	H.L. & A.G. Balsinger, Inc., Cuddy, PA.	8723
8723–X	Mountaineer Explosives, Inc., Cuddy, PA.	8723
8723–X	Atlas Powder Company, Dallas, TX (See Footnote 3).	8723
8787–X	Motorola, Inc.—Semiconductor Sector, Phoenix, AZ.	8787
8861–X	Hoover Group, Inc., Beatrice, NE.	8861
8878–X	Preussage Pure Metals GmbH, Langelsheim, West Germany.	8878
8943–X	BASF Corporation, Parsippany, NJ.	8943
8952–X	Trojan Corporation, Spanish Fork, UT.	8952
8958–X	Goex, Inc., Moosic, PA	8958
8970–X	WR Metals Industries, Inc., Denver, CO.	8970
9116–X	Hoover Group, Inc., Beatrice, NE (See Footnote 4).	9116
9150–X	Hoover Group, Inc., Beatrice, NE (See Footnote 5).	9150
9253–X	Wiva Verpakkingen B.V., Oosterhout, Netherlands.	9253
9265–X	Guinn Flying Service, Houston, TX.	9265
9271–X	Missouri Pacific Railroad Company, Omaha, NE.	9271
9271–X	Union Pacific Railroad Company, Omaha, NE.	9271
9271–X	CSX Transportation, Inc., Jacksonville, FL.	9271
9290–X	Mauser Packaging, Limited, Litchfield, CT.	9290
9307–X	Better Methods, Inc., Paterson, NJ.	9307
9381–X	Dominion Zinc Company, Spokane, WA.	9381
9517–X	Conroe Aviation Service, Inc., Conroe, TX.	9517
9618–X	ENPAC Corporation, Jacksonville, FL.	9618
9623–X	Explosives Technologies International, Inc. (ETI), Wilmington, DE.	9623
9637–X	Connelly Containers, Inc., Bala-Cynwyd, PA.	9637
9655–X	Chevron U.S.A., Inc., El Segundo, CA.	9655
9657–X	Noranda Sales Corporation, Toronto, Ont..	9657
9670–X	Hercules, Inc., Wilmington, DE.	9670
9676–X	EM Science, Cincinnati, OH.	9676
9676–X	J.T. Baker, Inc., Phillipsburg, NJ.	9676
9785–X	Euro-Gulf International, Inc., Houston, TX.	9785
9916–X	B.S.L. Transport, Quievrechain, France.	9916
9946–X	Linde Puerto Rico, Inc., Gurabo, PR.	9946
9946–X	Linde Gases of the Midwest, Inc., Hillside, IL.	9946
9946–X	Unigas, Inc., Mercedita, PR.	9946
9946–X	Linde Gases of Southern California, Inc., Santa Ana, CA.	9946
9964–X	United Technologies Corporation, San Jose, CA.	9964
9977–X	McDonnell Douglas Astronautics Company, Huntington Beach, CA.	9977
9991–X	Emergency Technical Services Corp. of Illinois, Schaumburg, IL.	9991
9995–X	Copps Industries, Inc., Menomonee Falls, WI.	9995
9997–X	Hodgdon Powder Company, Inc., Shawnee Mission, KS.	9997
10020–X	Allwaste, Inc., Washington, DC (See Footnote 6).	10020
10032–X	Arbel-Fauvet-Rail, Dousi, Cedex, France.	10032
10032–X	Atochem S.A., Paris, France.	10032
10090–X	Clawson Tank Company, Clarkson, MI (See Footnote 7).	10090

Application No.	Applicant	Renewal of exemption
10120–X	American Cyanamid Company, Wayne, NJ (See Footnote 8).	10120
10399–X	U.S. Department of Defense (MTSS–S), Falls Church, VA (See Footnote 9).	10399
10402–X	Astrotech Space Operations, L.P., Silver Spring, MD (See Footnote 10).	10402
10402–X	Astrotech Space Operations, L.P., Silver Spring, MD (See Footnote 11).	10402
10402	Astrotech Space Operations, L.P., Silver Spring, MD (See Footnote 12).	10402
10402–X	Astrotech Space Operations, L.P., Silver Spring, MD (See Footnote 13).	10402
10402–X	AStrotech Space Operations, L.P., Silver Spring, MD (See Footnote 14).	10402

(*1*) To authorize ethane, classed as a flammable gas as an additional commodity for shipment in DOT Specification 3AAX steel cylinders.

(*2*) To authorize alternative bung vent for 6D/2SL composite container and DOT-34 polyethylene container for shipment of corrosive liquids.

(*3*) To authorize an additional non-DOT specification polyethylene portable tank for shipment of blasting agents and oxidizers.

(*4*) To delete special test requirements for polyethylene portable tanks for shipment of certain corrosive, flammable, or oxidizer liquids.

(*5*) To delete cross-link tests and clarify certain marking requirements for polyethylene portable tanks for shipment of certain corrosive liquids, flammable liquids and hydrogen peroxide solutions.

(*6*) To authorize an additional roll-on/roll-off container for the shipment of certain solid waste corrosive materials or flammable sludge materials.

(*7*) To authorize cargo vessel as additional mode of transportation for shipment of certain corrosive or flammable liquid or hydrogen peroxide solutions in polyethylene portable tanks.

(*8*) To modify exemption to include organic phosphate mixture containing both terbufas and phorate not to exceed 21% by weight of combined active ingredients, classed as Poison B.

(*9*) To authorize cargo vessel and rail freight as additional modes of transportation for shipment of rocket ammunition with smoke projectile classed as Class B explosive instead of Class A explosives.

(*10*) To reissue exemption originally issued on an emergency basis to authorize shipment of Nitrogen tetroxide, classed as a poison A, contained in specially designed stainless steel pipe column.

(*11*) To authorize liquid samples of anhydrous hydrozine and monomethylhydrazine, classed as a flammable liquid, to be shipped in 1 liter capacity glass bottles, overpacked in specification steel drums.

(*12*) To authorize liquid samples of nitrogen tetroxide, classed as a poison A, to be shipped in sampling apparatus utilizing two 1 liter stainless steel containters.

(*13*) To authorize shipment of a specially designed propellant transfer cart, containing either monomethylhydrazine, anhydrous hydrazine, or nitrogen tetroxide.

(*14*) To authorize shipment of a flight-ready spacecraft assembly containing 1 or more of either solid propellant rocket motor, monomethylhydrazine, anhydrous hydrazine, gaseous hellium, nitrogen tetroxide.

Application No.	Applicant	Parties to exemption
6805–P	Airco, The BOC Group, Inc., Murray Hill, NJ.	6805
6874–P	Chugai Boyeki Company, Limited, Tokyo, Japan.	6874
7052–P	Chamberlain Mfg. Corporation, Waterloo, IA.	7052
7052–P	Ensco Technology Company, Houston, TX.	7052
7052–P	Sand Dollar Instruments, Inc., Pocasset, MA.	7052
7052–P	Gould Electronics, Eastlake, OH.	7052
7526–P	Schering Berling Polymers Inc., Dublin, OH.	7526
7607–P	VIC Manufacturing, Minneapolis, MN.	7607
8214–P	TG (U.S.A.) Corporation, Perryville, MO.	8214
8453–P	Mesabi Powder Company, Hibbing, MN.	8453
8516–P	Ireco Incorporated, Salt Lake City, UT.	8516
8845–P	Computalog Wireline Services, Inc., Houston, TX.	8845
8988–P	Ace Transportation, Inc., Lafayette, LA.	8988
9222–P	Heritage Remediation/ Engineering, Inc., Indianapolis, IN.	9222
9262–P	Computalog Wireline Services, Inc., Houston, TX.	9262
9346–P	IMC Fertilizer, Inc., Mundelein, IL.	9346
9929–P	McDonnell Douglas, Huntington Beach, CA.	9929
10020–P	SET Environmental, Inc., Wheeling, IL.	10020
10307–P	Olin Chemical, Stamford, CT.	10307

This notice of receipt of applications for renewal exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 10, 1990.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Transportation.

[FR Doc. 90–16491 Filed 7–13–90; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Transportation; Application for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before August 15, 1990.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulations(s) affected	Nature of exemption thereof
10405–N	Pestcon Systems, Inc., Pasadena, CA	49 CFR 172.500(f), 172.504	To authorize transportation of aluminum phosphide, classed as a flammable solid, in private-owned pest control vehicles without placards (mode 1).
10406–N	The Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.65	To authorize shipment of Class A explosives, with inner packaging consisting of nine 5.5 pound polyethylene bottles with snap on cap lids overpacked on a DOT specification two part fiberboard box fitted with dividers. (mode 1).
10407–N	TN Technologies, Inc., Round Rock, TX	49 CFR 173.302, 175.3	To authorize shipment of a radiation detection instrument containing xenon, classed as a nonflammable compressed gas. (modes 1, 2, 3, 4, 5).
10408–N	Bonar, Inc.—Plastic Molding Div. Winnipeg Plant, Winnipeg, Manitoba, CN.	49 CFR 173 subpart F, 173.119, 173.256, 173.266, 178.19, 178.241.	To manufacture, mark and sell a 105 gallon capacity non-DOT specification reusable polyethylene drum enclosed in a plastic exterior fram for shipment of certain flammable, oxidizer and corrosive liquids. (modes 1, 2, 3).
10409–N	AT Plastics, Inc., Brampton, Ontario, CN	49 CFR 173.182(b)(6)(1), 173.234(A)(2), 178.241.	To manufacture, mark and sell a duplex wall, low density polyethylene film bag conforming to the DOT 44P specification for shipment of oxidizers. (modes 1, 2, 3).
10410–N	Freeman Chemical Corporation, Heath, OH.	49 CFR 173.221	To authorize transportation of tert butyl hydroperoxide, classed as organic perioxide in a DOT specification 57 portable tank filled to 90% capacity with optional equipped gas padding not to exceed two containers per motor vehicle at one time. (mode 1).
10411–N	Janair, Inc., Dallas, TX	49 CFR 171.11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), part 107 Appendix B.	To authorize the transportation of Class A, B and C explosive by cargo-only aircraft not to exceed 2,000 pounds total net weight per aircraft. (mode 4).
10412–N	Hoechst Celanese Corporation, Dallas TX.	49 CFR 173.119(a)(3)	To authorize the none time shipment of diethylamine, classed as flammable liquid, in DOT specification 17E 20/18 gauge steel drums. (mode 1).
10413–N	Harcros Chemicals, Inc., Dallas, TX	49 CFR 173.163	To authorize shipment of sodium chlorate, classed as an oxidizer in metal drums which are comparable to a DOT specification 37A except, they are not embossed with DOT–37A. (mode 1).
10415–N	National Aeronautics and Space Administration, Washington, DC.	49 CFR 178.37–10(b), 178.37–12(c), 178.37–5(a).	To authorize use of non-DOT specification high pressure gas trailer configuration manufactured from AISI 4340 steel with service pressure of 6000 psig or greater, for transportation of nonflammable gas. (mode 1).
10416–N	Allied Universal Corporation, Miami, FL	49 CFR 173.263	To authorize the transportation of DOT–2E bottles of hydrochloric acid, classed as corrosive material, overpacked in open-head DOT–34 55 gallon drums. (mode 1).
10417–N	Ecolab, Inc., St. Paul, MN	49 CFR 173.245, 173.249, 173.263, 173.272, 173.277.	To manufacture, mark and sell an inner multylayer heat sealed plastic film bag of 2.5 to 5 gallon capacity overpacked in a corrugated box for shipment of corrosive liquids for which DOT 34 and 2U specification container. (modes 1, 2).
10418–N	Olin Chemical, Stamford, CT	49 CFR 173.245(a), 173.249(a)(5), 173.263(a)(9), 173.272(i)(22), 179.200–18(b).	To authorize the transportation of corrosive material in tank cars with a 1/2" opening in the approach channels to the safety vents. (mode 2).
10419–N	Wayne County Department of Public Services, Wyandotte, MI.	49 CFR 174.67(i)	To authorize the deletion of the provision requiring the physical presence of an unloader while the rail car is connected to the unloading device. (mode 2).
10420–N	Fore Way Express, Inc., Wausau, WI	49 CFR 177.834(L)(2)(i)	To authorize the transportation of material classed as flammable liquids, solids or gases in enclosed trailers with installed nose mounted heater and thermostat exposed inside the trailer. (mode 1).
10421–N	Sun Refining and Marketing Company, Toledo, OH.	49 CFR 172.200, 173.118	To authorize transportation of limited quantities of flammable liquids in secured racks in company owned vehicles transported by company employees. Shipments will be exempt from labeling, packaging and shipping paper requirements. (mode 1).

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 10, 1990.

Joseph T. Horning,

Cheif, Exemptions and Approvals Division, Office of Hazardous Materials Transportation.

[FR Doc. 90–16492 Filed 7–13–90; 8:45 am]

BILLING CODE 4910–60–M

Research and Special Programs Administration

[Docket No. NPDA–2, Notice 3]

City of New York; Application for Non-Preemption Determination; Invitation To Comment

SUMMARY: This is a proceeding to consider the application of the city of New York for waiver of statutory preemption of the City's ordinance that effectively bans the transportation of radioactive materials through City limits. By notice published March 28, 1989, the Department reopened the docket in this proceeding. The City has supplemented the record with an additional filing and the Department now invites public comment on the City's new submission.

DATES: Comments received on or before August 15, 1990, will be considered.

ADDRESSES: The application, past agency notices and rulings, and all related correspondence and comments may be reviewed in the RSPA Dockets Branch, Room 8421, 400 Seventh Street SW., Washington, DC 20590. Comments on the City's new filing may be submitted to the Dockets Branch at the

above address. To ensure proper handling, indicate Docket No. NPDA–2, Notice 3 on your submission. Three copies of each submission are requested.

A copy of each comment must also be sent to: Barry Schwartz, Department of Environmental Protection, City of New York, 2353 Municipal Building, New York, New York 10007. Each comment submitted to the Dockets Branch must include a certification of the fact that a copy has been sent to Mr. Schwartz (for example, "I hereby certify that a copy has been sent to Mr. Barry L. Schwartz at the address noted in the Federal Register.").

FOR FURTHER INFORMATION CONTACT: Barbara Betsock, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366–4400.

SUPPLEMENTARY INFORMATION: The City of New York adopted an ordinance in 1976 that effectively bans the transportation of certain radioactive materials, including spent nuclear fuel, through the City limits. The City's ordinance is inconsistent with the Department's regulation on highway routing and thus is preempted by section 112(a) of the Hazardous Materials Transportation Act (HMTA).

The City filed an application with the Department seeking a waiver of that preemption in accordance with section 112(b) of the HMTA. The Department denied the application and the City sought judicial review of that decision in the United States District Court for the Southern District of New York. In a decision issued December 8, 1988, the Court vacated the Department's decision and remanded the matter to the Department for a new decision.

The Department reopened the record by notice in the Federal Register on March 28, 1989 to allow the filing of comments to updated and supplement the record. 54 FR 12732. At the City's request, the Department postponed further consideration of the application to allow the City to supplement the record in response to several points raised by the Department in correspondence dated March 23, 1989.

The City has now submitted a response to that correspondence to the docket. The Department seeks comments on that response. Following the close of the comment period provided for in this notice, the City will have 30 days within which to file comments in rebuttal.

Issued in Washington, DC, on July 10, 1990.

Elaine E. Joost,

Deputy Director, Office of Hazardous Materials Transportation.

[FR Doc. 90–16493 Filed 7–13–90; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[LN–4/2]

Heritage Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Heritage Federal Savings Association, Lancaster, Pennsylvania, on July 6, 1990.

Dated: July 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16468 Filed 7–13–90; 8:45 am]

BILLING CODE 6720–01–M

[LN–4/1]

First Federal Savings Bank and Trust; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings Bank and Trust, Independence, Missouri, on July 6, 1990.

Dated: July 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16466 Filed 7–13–90; 8:45 am]

BILLING CODE 6720–01–M

[LN–4/1]

Heritage Savings Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Heritage Savings Association, Lancaster, Pennsylvania, Docket No. 7649, on July 6, 1990.

Dated: July 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16467 Filed 7–13–90; 8:45 am]

BILLING CODE 6720–01–M

[LN–4/1]

Replacement of Conservator With a Receiver; Independence Federal Bank, F.S.B.

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Independence Federal Bank, F.S.B., Batesville, Arkansas ("Association"), OTS docket No. 7255, with the Resolution Trust Corporation as sole Receiver for the Association on July 6, 1990.

Dated: July 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16470 Filed 7–13–90; 8:45 am]

BILLING CODE 6720–01–M

[LN–4/1]

United Savings Bank, F.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for United Savings Bank, F.S.B., Windom, Minnesota, on July 6, 1990.

Dated: July 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–16469 Filed 7–13–90; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Modification

SUMMARY: The United States Information Agency hereby modifies a notice found at 55 FR 27930 (July 6, 1990) regarding immunity from judicial seizure for the art objects in the exhibit "Kazimir Malevich, 1878–1935" to include additional art objects in the findings.

EFFECTIVE DATE: This modification is effective July 16, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R. Wallace Stuart, Office of the General Counsel, United States Information Agency, Room 700, 301–4th Street SW., Washington, DC 20547. The telephone number is 202/619–5078.

SUPPLEMENTARY INFORMATION: The United States Information Agency hereby modifies a notice published at 55 FR 27930 (July 6, 1990). The notice rendered immune from judicial process certain items to be included in the exhibit entitled "Kazimir Malevich, 1878–1935." This modification of notice adds additional objects. I hereby determine that the additional objects are culturally significant, and that their temporary exhibition in the United States is in the national interest. A copy of this revised list [1] may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA.

Dated: July 12, 1990.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 90–16698 Filed 7–12–90; 4:24 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 15, 1990.

Dated: July 9, 1990.

By direction of the Secretary:

B. Michael Berger,

Director, Records Management Service.

Extension

1. Veterans Benefits Administration.
2. Request for Employment Information in Connection with Claim for Disability Benefits.
3. VA Form 21–4192.
4. This form is used to request employment information fom the veteran's most recent employer. This information is used to determine disability benefits.
5. On occasion.
6. Businesses or other for-profit; Small businesses or ogranizations.
7. 65,000 responses.
8. ¼ hour.
9. Not applicable.

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 15, 1990.

Dated: July 9, 1990.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Veterans Benefits Administration.
2. Status of Loan Account—Foreclosure or other Liquidation.
3. VA Form Letter 26–567.
4. This form letter is used by VA to obtain information from holders concerning the status of a loan account at the time of foreclosure or other liquidation action.
5. On occasion.
6. Businesses or other for-profit; Small businesses or organizations.
7. 41,800 responses.
8. ½ hour.
9. Not applicable.

[FR Doc. 90–16484 Filed 7–13–90; 8:45 am]

BILLING CODE 8320–01–M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619–5078, and the address is Room 700, U.S. Information Agency, 301 Fourth Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 55, No. 136
Monday, July 16, 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 COMMUNICATIONS COMMISSION

July 11, 1990.

Deletion of Agenda Item From July 12th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the July 12, 1990, Open Meeting and previously listed in the Commission's Notice of July 5, 1990.

Item No., Bureau, and Subject

1—Mass Media—Title: Television Satellite Stations: Review of Policy and Rules. (MM Docket No. 87–8). Summary: The Commission will consider whether to adopt a Further Notice of Proposed Rulemaking regarding policies and rules concerning television "satellite" stations. "Satellite" stations are full-power terrestrial television stations that rebroadcast all, or most, of the programming of a commonly-owned parent television station.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: July 11, 1990.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–16685 Filed 7–12–90; 3:28 pm]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change 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 open meeting held at 2:21 p.m. on Tuesday, July 10, 1990, the Corporation's Board of Directors determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the contracting of consulting services.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: July 11, 1990.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 90–16590 Filed 7–12–90; 8:51 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subjection (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 3:40 p.m. on Tuesday, July 10, 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 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 a recommendation concerning an assistance agreement with a depository institution.

The Board further determined, by the same majority vote, that no earlier notice of the 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)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: July 11, 1990.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 90–16591 Filed 7–12–90; 8:51 am]

BILLING CODE 6714–01–M

DEPARTMENT OF JUSTICE

(United States Parole Commission)

Public Announcement

Pursuant To The Government In The Sunshine Act
(Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, July 24, 1990, 9:00 a.m. to 12:00 p.m., Pacific Daylight Time.

PLACE: 1301 Shoreway Road, Fourth Floor, Belmont, California 94002.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 14 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. § 2.17. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5968.

Dated: July 11, 1990.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 90–16696 Filed 7–12–90; 4:07 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

(United States Parole Commission)

Public Announcement

Pursuant To The Government In the Sunshine Act
(Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, July 24, 1990, 2:00 p.m., Pacific Daylight Time.

PLACE: 1301 Shoreway Road, First Floor, Belmont, Califorina 94002.

STATUS: Open—Meeting.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Case Operations, Program Coordinator, and Administrative Sections.
3. Presentation by Bureau of Prisons and Probation Service staff regarding Additional Electronic Monitoring Pilot Districts.
4. Report by Sterling W. O'Ran III, Staff Director, Blue Ribbon Commission on Inmate

Population Management, State of California, on the need for intermediate sanctions.

5. Report on South Central Regional Office Community Control Project.

6. Proposal to alter conditions of Parole to prohibit use of alcohol by Parolees in drug aftercare cases.

7. Discussion of FY 92 Budget Proposal.

8. Discussion of FY 91 Phase Down.

9. Discussion of proposal to modify the Procedures Manual to allow the 15 year reconsideration hearing to be treated as a parole date at interim hearings.

10. Discussion of Procedures to be followed by Regional Office Personnel in regard to Local Revocation Hearings.

11. Discussion of amending the Procedures Manual at 2.48.06(a)(1) to allow warrants to be supplemented in a mandatory release case after the 180-day date to add charges that occurred during the period of supervision.

Consent Agenda

The following matters have been placed on the consent agenda and will be considered at the open meeting only if a Parole Commissioner requests that they be discussed at the meeting:

1. Discussion of revised Transfer of Jurisdiction Form on Supervised Releasees to provide for the length of supervised release to be completed by the Commission and the date supervision began to be completed by the probation office.

2. Discussion of the Proposed changes to 28 C.F.R. § 2.62 relating to the manner in which special transferees in Transfer Treaty cases should submit their objections to the postsentence report and the time in which the Commission must conduct their special transferee hearing.

Agency Contact

Linda Wines Marble, Director, Case Operations and Progam Development, United States Parole Commission (301) 492–5952.

Dated: July 11, 1990.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 90–16697 Filed 7–12–90; 4:07 pm]

BILLING CODE 4410–01–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 at 2:54 p.m. on Tuesday, July 10, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to: (1) Recommendations regarding the selection of a contractor to design, develop, implement, and operate a Cash Management Information system; (2) recommendations regarding the selection of contractors for the review of the 1988 FSLIC Assistance Agreements; (3) the staff's request for authority to contract for rental and maintenance of copiers in the Southeast Consolidated Office, Tampa, Florida; and (4) staff recommendations regarding public disclosure of the RTC's High Yield Securities portfolio.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Chairman L. William Seidman, concurred in by Director T. Timothy Ryan Jr. (Director of the Office of Thrift Supervision), and Director Robert L. Clarke (Comptroller of the Currency), 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 closing meeting by authority of subsections (c)(2), of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550 17th Street NW., Washington, DC.

Dated: July 11, 1990.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 90–16668 Filed 7–12–90; 3:28 pm]

BILLING CODE 6714–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1431]

TIME AND DATE: 10 a.m. (EDT), July 18, 1990.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 27, 1990.

Discussion Item

1. Preliminary Rate Review.

Action Items

New Business

B—Purchase Award

B1. Integrated Computer System for Browns Ferry Nuclear Plant—Unit 3 (Contract 90BYB–19054A–01).

E—Real Property Transactions

E1. Abandonment of Easement Rights Affecting Approximately 2.8 Acres of Land in Loudon County, Tennessee.

E2. Lease Agreement Affecting Approximately 453 Acres of Land in Anderson County, Tennessee.

E3. Deed Modification Affecting Approximately .0021 Acre of Land in Hamilton County, Tennessee.

E4. Grant of Permanent Easement Affecting 7.0 Acres of Land in Colbert County, Alabama.

F—Unclassified

F1. Filing of Condemnation Cases.

F2. Personal Services Contract No. TV–81964V with Harza Engineering Company.

F3. Supplement No. 18 to Personal Services Contract No. TV–72370A with Gilbert/Commonwealth, Inc.

Information Item

1. Amendments to the Rules and Regulations of the TVA Retirement System.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager of Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

Dated: July 11, 1990.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 90–16610 Filed 7–12–90; 11:47 am]

BILLING CODE 8120–01–M

Corrections

Federal Register
Vol. 55, No. 136
Monday, July 16, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

University of Nebraska, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 90-14015 beginning on page 24601, in the issue of Monday, June 18, 1990, make the following correction:

On page 24602, in the second column, after the paragraph beginning "Docket Number: 89-226." a paragraph was omitted and should have appeared as follows:

Docket Number: 89-237. *Applicant*: Old Dominion University, Norfolk, VA 23508-0369. *Instrument*: Nitrogen Dioxide Detector, Model 2200. *Manufacturer*: Scintrex/Unisearch, Canada. *Intended Use*: See notice at 54 FR 47252, November 13, 1989. *Reasons*: The foreign instrument provides in situ measurements of NO_2 with a detection sensitivity of 5 PPT and is not affected by the presence of sulfur-containing gases. *Advice Submitted By*: National Institutes of Health, April 19, 1990.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

University of Texas, et al; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

Correction

In notice document 90-14016 beginning on page 24602, in the issue of Monday, June 18, 1990, make the following correction:

On the same page, in the third column, in the fourth paragraph, in the last line, "January 25, 1989." should read "January 25, 1990."

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES90-36-000, et al.]

Utilicorp United Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 90-15897 beginning on page 28280 in the issue of Tuesday, July 10, 1990, make the following correction:

On page 28281, in the first column in the section headed "9. Warbasse-Cogeneration Technologies Partnership L.P.", the docket number should read "QF88-438-001".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Public and Indian Housing

24 CFR Part 961

[Docket No. R-90-1442; FR-2592-F-02]

RIN 2577-AA76

Public Housing Drug Elimination Program

Correction

In rule document 90-15336 beginning on page 27598 in the issue of Tuesday, July 3, 1990, make the following correction:

On page 27609, in the first column, under the **AUTHORITY**, in the second line, insert "42" before "U.S.C.".

BILLING CODE 1505-01-D

federal register

Monday
July 16, 1990

Part II

Department of Education

34 CFR Parts 768 et al.

Library Services and Construction Act Discretionary Grant Programs; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 768, 769, 771, and 772

RIN 1850-AA36

Library Services and Construction Act Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing four discretionary grant programs authorized by the Library Services and Construction Act (LSCA): (1) LSCA Title V, Foreign Language Materials Acquisition Program; (2) LSCA Title VI, Library Literacy Program; (3) LSCA Title IV, Library Services for Indian Tribes and Hawaiian Natives Program—Basic Grants; and (4) LSCA Title IV, Library Services for Indian Tribes and Hawaiian Natives—Special Projects Grants. This action is taken to implement sections 401–406, 501, and 601 of the Library Services and Construction Act, as amended by the LSCA Amendments of 1990, and to update certain cross-references contained in current regulations.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Carol A. Cameron, Library Programs, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571, Telephone (202) 357–6321.

SUPPLEMENTARY INFORMATION: These regulations implement the LSCA Amendments of 1990 (Pub. L. 101–254, enacted March 15, 1990) for the programs referenced above. Regulations for the LSCA State-administered programs will be published in a separate document. The only changes being made in these regulations are those necessary to incorporate statutory revisions and to update certain cross-references in existing regulations. For example, new §§ 771.5 and 772.5 incorporate a new statutory requirement for determining the amount of funds available for basic grants and special project grants for Indian tribes only.

Executive Order 12991

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations are technical in nature and merely incorporate statutory changes and update certain cross-references in existing regulations.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because these regulations merely incorporate statutory changes and update cross-references, public comment could have no effect on the content of the regulations. Therefore, the Secretary has determined that publication of proposed rules is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Intergovernmental Review

The programs under LSCA Title IV for Hawaiian Natives, LSCA Title V, and LSCA Title VI are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Assessment of Education Impact

The Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 768

Education, Foreign Language—Library, Grant Programs—Education, Libraries, Reporting and recordkeeping requirements.

34 CFR Part 769

Education, Education of Disadvantaged, Grant programs—Education, Libraries, Literacy programs—Libraries, Reporting and recordkeeping requirements.

34 CFR Part 771

Education, Construction—Libraries, Grant programs—Education, Hawaiian natives—Libraries, Indian tribes—Libraries, Libraries, Reporting and recordkeeping requirements.

34 CFR Part 772

Education, Construction—Libraries, Grant programs—Education, Hawaiian natives—Libraries, Indian tribes—Libraries, Libraries, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Numbers 84.163A, The Library Services and Construction Basic Grants to Indian Tribes and Hawaiian Natives Program; 84.163B, The Library Services and Construction Act Special Projects Grants to Indian Tribes and Hawaiian Natives Program; 84.166, The Library Services and Construction Act Foreign Language Materials Acquisition Program; and 84.167, The Library Services and Construction Act Library Literacy Program)

Dated: June 22, 1990.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by amending parts 768, 769, 771, and 772 as follows:

PART 768—THE LIBRARY SERVICES AND CONSTRUCTION ACT FOREIGN LANGUAGE MATERIALS ACQUISITION PROGRAM

1. The authority citation for part 768 continues to read as follows:

Authority: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

2. Section 768.3 is amended by revising paragraph (a) to read as follows:

§ 768.3 What regulations apply to the Foreign Language Materials Program?

* * * * *

(a) The Education Department General Administrative Regulations

(EDGAR) in 34 CFR part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities) part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

* * * * *

3. A new subpart C containing § 768.20 is added to read as follows:

* * * * *

Subpart C—What Are the Special Conditions in Applying for a Grant?

§ 768.20 How do the State public libraries review applications submitted under the Foreign Language Materials Program?

An applicant shall use the State comment procedures in 34 CFR 75.156–75.160 to afford the State library administrative agency an opportunity to comment on any application for a grant. For purposes of complying with these procedures—

(a) As used in 34 CFR 75.156–75.160—

(1) *State* means the State library administrative agency; and

(2) *Appropriate State official* means the head of the State library administrative agency.

(b) Notwithstanding the provisions of § 75.159(a), the State library administrative agency may only review the application for consistency with its long-range program required under LSCA Titles I, II, and III.

(Authority: 20 U.S.C. 351d(h))

* * * * *

PART 769—THE LIBRARY SERVICES AND CONSTRUCTION ACT LIBRARY LITERACY PROGRAM

4. The authority citation for part 769 continues to read as follows:

Authority: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

5. Section 769.3 is amended by revising paragraph (a) to read as follows:

§ 769.3 What regulations apply to the Library Literacy Program?

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

* * * * *

6. A new subpart C containing § 769.20 is added to read as follows:

* * * * *

Subpart C—What Are the Special Conditions in Applying for a Grant?

An applicant shall use the State comment procedures in 34 CFR 75.156–75.160 to afford the State library administrative agency an opportunity to comment on any application for a grant. For purposes of complying with these procedures—

(a) As used in 34 CFR 75.156–75.160—

(1) *State* means the State library administrative agency; and

(2) *Appropriate State official* means the head of the State library administrative agency.

(b) Notwithstanding the provisions of § 75.159(a), the State library administrative agency may only review the application for consistency with its long-range program required under LSCA Titles I, II, and III.

(Authority: 20 U.S.C. 351d(h))

* * * * *

PART 771—THE LIBRARY SERVICES AND CONSTRUCTION ACT BASIC GRANTS TO INDIAN TRIBES AND HAWAIIAN NATIVES PROGRAM

7. The authority citation for part 771 continues to read as follows:

Authority: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

8. Section 771.2 is amended by revising paragraph (a) to read as follows:

§ 771.2 Who is eligible to apply for a grant under the Basic Grants to Indian Tribes and Hawaiian Natives Program?

(a)(1) Indian tribes, as defined in § 771.4(b); and

(2) Two or more Alaskan native villages, regional corporations, or village corporations may not receive basic grant allocations that serve the same population.

* * * * *

9. Section 771.3 is amended by revising paragraph (a)(1) to read as follows:

§ 771.3 What regulations apply to the Basic Grants to Indian Tribes and Hawaiian Natives Program?

(a) * * *

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 75 (Direct Grant Program), part 77 (Definitions that Apply to Department Regulations), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

* * * * *

10. A new § 771.5 is added to subpart A to read as follows:

§ 771.5 How does the Secretary determine the amount of funds available for basic grants for Indian tribes?

(a) For any fiscal year, the total amount of funds available for basic grants for Indian tribes is one-half of the amount set aside from the appropriations for titles I, II, and III of the Act. The remaining one-half of the set-aside is reserved for grants under section 772.

(b) Each Indian tribe that submits an approved basic grant application receives an equal allotment of funds available under § 771.5(a).

(Authority: 20 U.S.C. 351c(c))

PART 772—THE LIBRARY SERVICES AND CONSTRUCTION ACT SPECIAL PROJECTS GRANTS TO INDIAN TRIBES AND HAWAIIAN NATIVES PROGRAM

11. The authority citation for part 772 continues to read as follows:

Authority: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

12. In § 772.2 paragraph (a) is amended by adding the words "in the same fiscal year as the year of application" following the word "Program".

13. Section 772.3 is amended by revising paragraph (a)(1) to read as follows:

§ 772.3 What regulations apply to the Special Projects Grants to Indian Tribes and Hawaiian Natives Program?

(a) * * *

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

* * * * *

14. A new § 772.5 is added to read as follows:

§ 772.5 How does the Secretary determine the amount of funds available for special projects grants for Indian tribes?

For any fiscal year the total amount of funds available for special projects grants for Indian tribes is one-half of the amount set aside from the appropriations for titles I, II, and III of the Act.

(Authority: 20 U.S.C. 351c(c))

[FR Doc. 90-16498 Filed 7-13-90; 8:45 am]

BILLING CODE 4000-01-M

federal register

Monday
July 16, 1990

Part III

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

July 1, 1990.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of July 1, 1990, of 28 deferrals and eleven rescission proposals contained in seven special messages for FY 1990. These messages were transmitted to Congress on October 2, 1989, January 29, 1990, February 6, 1990, April 18, 1990, April 23, 1990, June 26, 1990 and June 28, 1990.

Rescissions (Table A and Attachment A)

As of July 1, 1990, eight rescission proposals totalling $327.4 million were pending before Congress.

Deferrals (Table B and Attachment B)

As of July 1, 1990, $4,217.4 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1990.

Information From Special Messages

The special messages containing information on deferrals and rescissions that are covered by this cumulative report are printed in the Federal Register as cited below:

54 FR 41410, Friday, October 6, 1989
55 FR 3860, Monday, February 5, 1990
55 FR 5388, Wednesday, February 14, 1990
55 FR 17364, Tuesday, April 24, 1990
55 FR 18276, Tuesday, May 1, 1990
55 FR 28584, Wednesday, July 11, 1990
55 FR 27974, Friday, July 6, 1990

Richard G. Darman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF FY 1990 RESCISSIONS

	Amounts (In millions of dollars)
Rescissions proposed by the President.....	554.3
Accepted by the Congress.....	0
Funding made available.....	-45.1
Funding never withheld.....	-181.8
Pending before the Congress.....	327.4

****

TABLE B

STATUS OF FY 1990 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President.....	11,071.5
Routine Executive releases through July 1, 1990....	-6,854.1
Overturned by the Congress.....	0
Currently before the Congress.....	4,217.4

Attachments

ATTACHMENT A
Status of FY 1990 Rescissions
(Amounts in thousands of dollars)

As of July 1, 1990 Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Buildings and facilities	R90-1	4,075		04-23-90		4,075	06-18-90	
Cooperative State Research Service								
Buildings and facilities	R90-2	41,008		04-23-90		41,008	06-18-90	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance program	R90-3	181,800		04-23-90		(See note below.)		
DEPARTMENT OF DEFENSE, MILITARY								
Military Construction, Army	R90-4		155,745	06-28-90				
Military Construction, Navy	R90-5		6,200	06-28-90				
Military Construction, Air Force	R90-6		27,290	06-28-90				
Military Construction, Defense Agencies	R90-7		68,119	06-28-90				
Family Housing, Army	R90-8		12,664	06-28-90				
Family Housing, Navy	R90-9		11,037	06-28-90				
Family Housing, Air Force	R90-10		46,020	06-28-90				
Family Housing, Defense Agencies	R90-11		300	06-28-90				
TOTAL, RESCISSIONS PROPOSED		226,883	327,375			45,083		

NOTE: The $181,000 million proposed for rescission in Rescission Proposal No. 90-3 was never withheld from obligation. Therefore, there was no need to release the funds.

ATTACHMENT B
Status of FY 1990 Deferrals - As of July 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7-1-90
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D90-1	271,000		10-02-89					
	D90-1A		1,798,079	01-29-90					
	D90-1B		19,831	04-18-90					
	D90-1C		383,950	06-26-90	1,648,324				824,536
Foreign military financing	D90-8	4,156,642		01-29-90	2,581,026				1,575,616
International military education and training	D90-9	23,293		01-29-90	23,293				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D90-2	188,680		10-02-89	52,726				135,954
Cooperative work	D90-3	410,189		10-02-89					
	D90-3A		367,148	01-29-90	322,896				454,441
DEPARTMENT OF DEFENSE - MILITARY									
Aircraft Procurement, Army	D90-10	16,000		02-06-90	16,000				0
Procurement of Ammunition, Army	D90-11	310,000		02-06-90	310,000				0
Procurement of Ammunition, Army	D90-12	90,000		02-06-90	90,000				0
Other Procurement, Army	D90-13	11,000		02-06-90	11,000				0

ATTACHMENT B
Status of FY 1990 Deferrals - As of July 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7-1-90
Aircraft Procurement, Navy.....	D90-14	200,000		02-06-90	200,000				0
Weapons Procurement, Navy.....	D90-15	13,900		02-06-90	13,900				0
Shipbuilding and Conversion, Navy..	D90-16	592,398		02-06-90	592,398				0
Shipbuilding and Conversion, Navy..	D90-17	324,800		02-06-90	324,800				0
Aircraft Procurement, Air Force.....	D90-18	181,700		02-06-90	181,700				0
Missile Procurement, Air Force.....	D90-19	131,000		02-06-90	131,000				0
Other Procurement, Air Force.....	D90-20	70,000		02-06-90	70,000				0
National Guard and Reserve Equipment, Defense.....	D90-21	40,900		02-06-90	40,900				0
Research, Development, Test and Evauation, Air Force.....	D90-22	100,000		02-06-90	100,000				0
Research, Development, Test and Evaluation, Defense Agencies.....	D90-23	21,000		02-06-90	21,000				0
Military Construction, Army.....	D90-24	3,200		02-06-90	3,200				0
Military Construction, Army	D90-25	16,150		02-06-90	16,150				0
Military Construction, Army National Guard.....	D90-26	18,301		02-06-90	18,301				0
Military Construction, Air National Guard.....	D90-27	36,841		02-06-90	36,841				0
Military Construction, Army Reserve...	D90-28	16,660		02-06-90	16,660				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense.....	D90-4	1,047		10-02-89					1,450
	D90-4A		450	04-18-90	47				

ATTACHMENT B
Status of FY 1990 Deferrals - As of July 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Amounts Transmitted: Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 7-1-90
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D90-5	7,078		10-02-89					
	D90-5A		49	04-18-90					7,127
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive....	D90-6	44		10-02-89					
	D90-6A		49,785	01-29-90					
	D90-6B		25,000	01-29-90	31,950				42,879
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D90-7	502,361		10-02-89					
	D90-7A		673,064	01-29-90					1,175,425
TOTAL, DEFERRALS.....		7,754,185	3,317,355		6,854,111	0		0	4,217,428

[FR Doc. 90-16481 Filed 7-13-90; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 55, No. 136

Monday, July 16, 1990

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, JULY

CFR PARTS AFFECTED DURING JULY

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 9, 1990

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
1–699	15.00	Jan. 1, 1990
700–1199	13.00	Jan. 1, 1990
1200–End, 6 (6 Reserved)	17.00	Jan. 1, 1990
7 Parts:		
0–26	15.00	Jan. 1, 1990
27–45	12.00	Jan. 1, 1990
46–51	17.00	Jan. 1, 1990
52	24.00	Jan. 1, 1990
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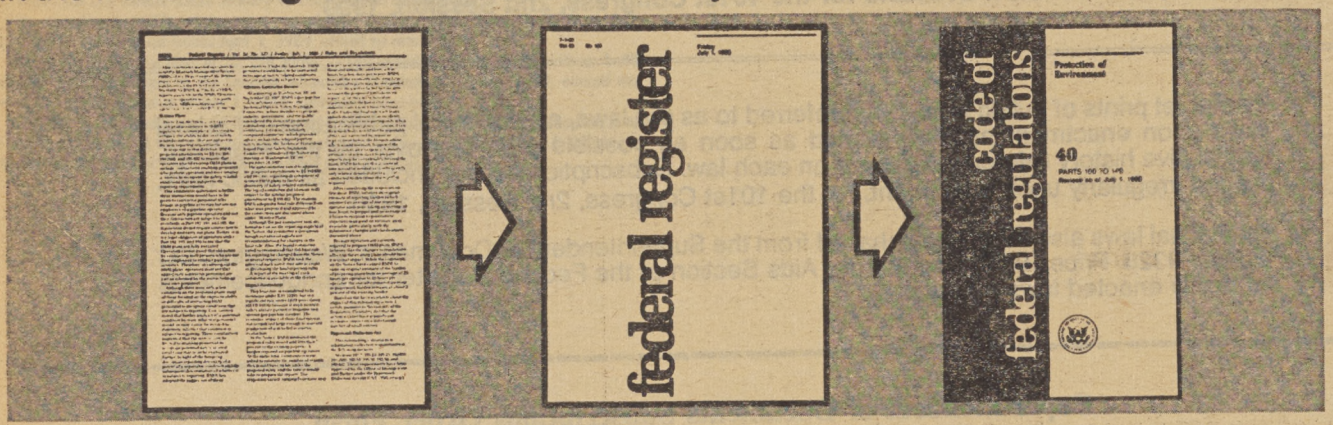

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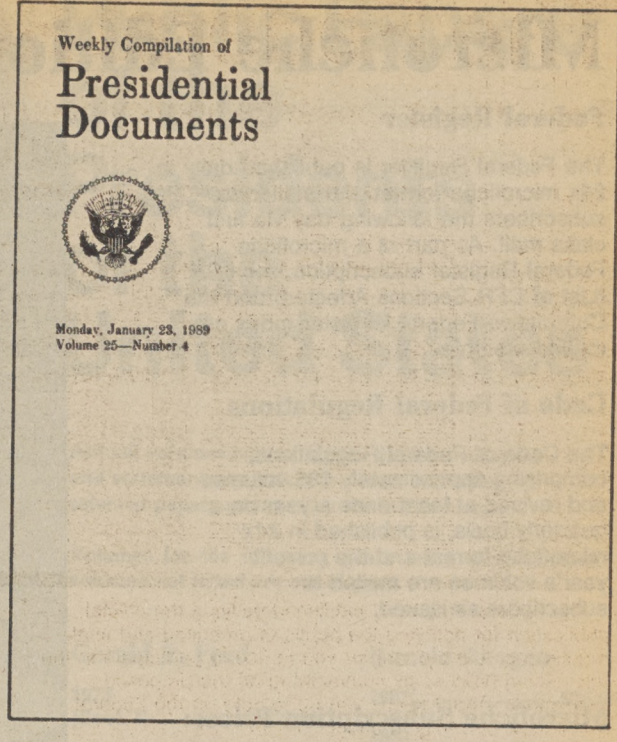

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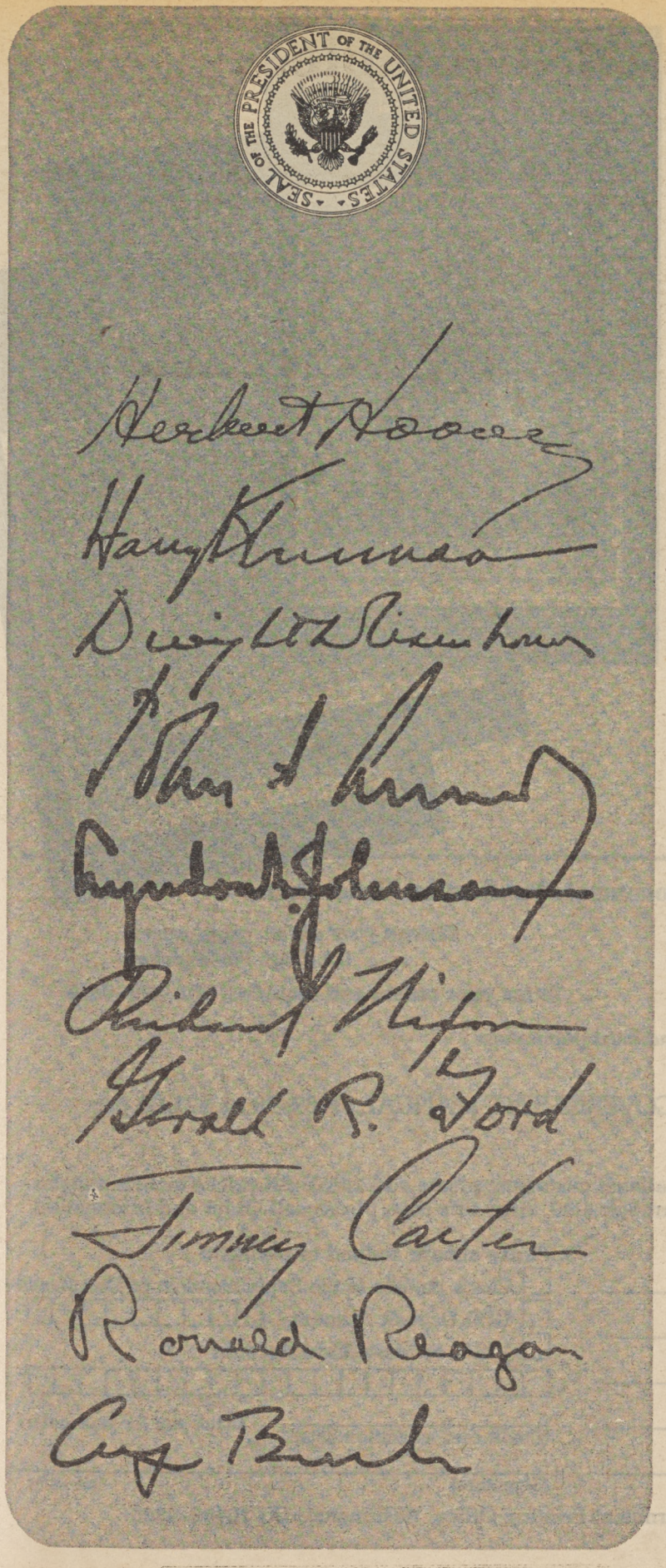

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