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November 8, 1990

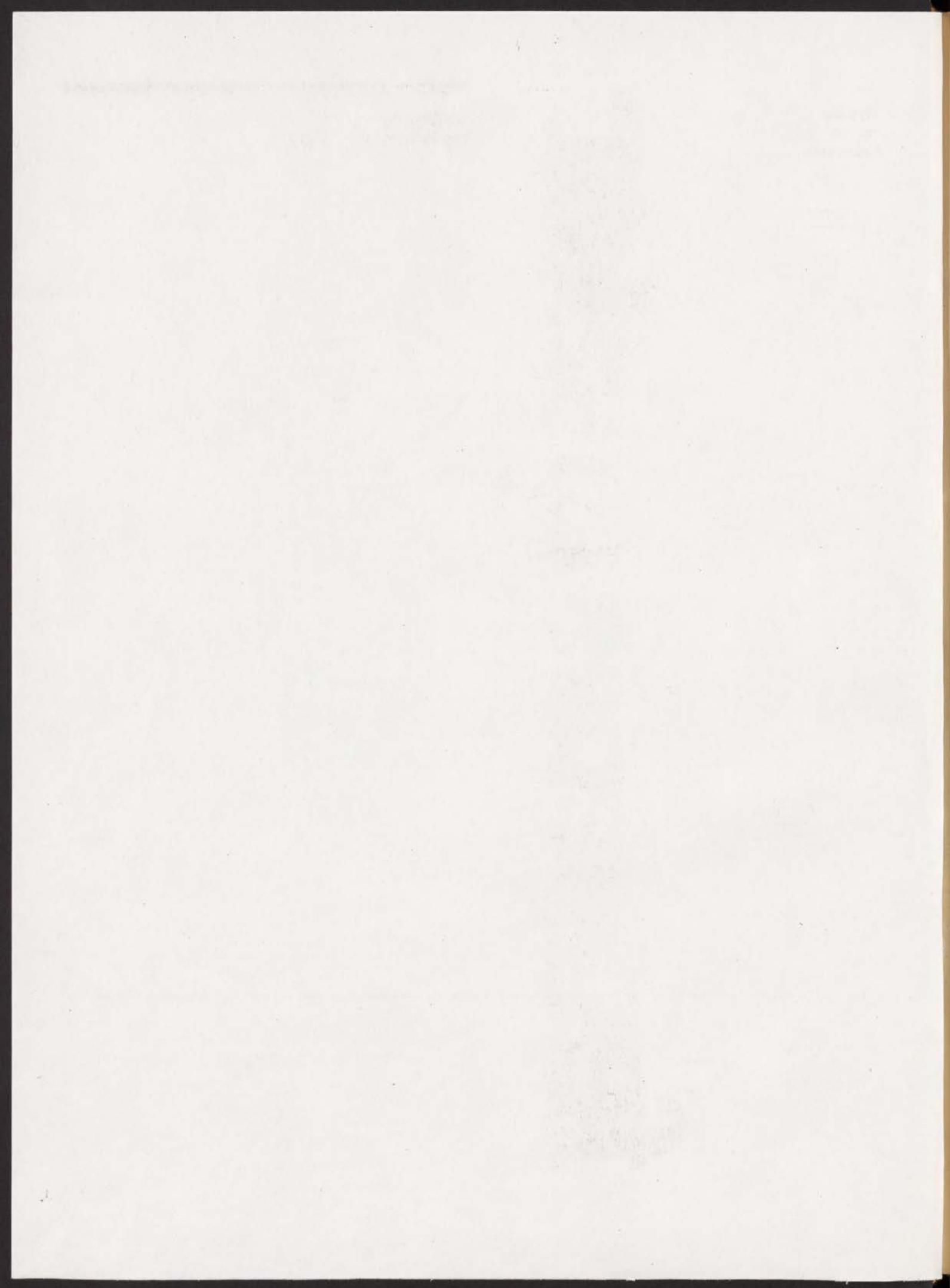
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Title 3—

Presidential Determination No. 91-2 of October 10, 1990

The President

Continued Implementation of Embassy Agreement With the Soviet Union

Memorandum for the Secretary of State

Section 151 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, Public Law 100-204, states that the United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless I have made certain specified factual determinations. In signing this provision into law, President Reagan expressed reservations as to the provision's constitutionality, *see* Statement on Signing H.R. 1777 Into Law, 23 Weekly Compilation of Presidential Documents 1547, 1548 (December 22, 1987), and I share his concerns.

Nevertheless, in order to prevent disagreements between the executive and legislative branches of our Government from complicating U.S.-Soviet relations at this vital moment in history, and because the facts permit me to make the determinations that section 151 contemplates, I have decided to avoid the constitutional questions raised by that section by acting consistently with it. In particular, I have determined that:

(A) it is vital to the national security of the United States that the United States not withdraw from the Agreement (and related agreements, notes, and understandings) referred to above;

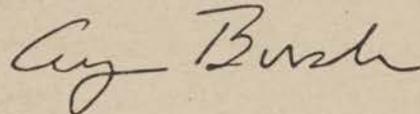
(B) steps have been and will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

(C) steps have been and will be taken to eliminate, no later than 2 years after October 1, 1989, the damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto.

Accordingly, I have determined that the United States will not withdraw from the Agreement (and related agreements, notes, and understandings) referred to above, and I hereby waive section 151(b).

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

THE WHITE HOUSE,
Washington, October 10, 1990.



Presidential Documents

Presidential Determination No. 91-4 of October 25, 1990

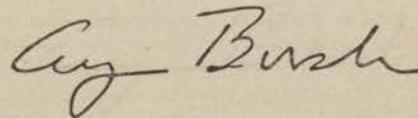
Eligibility of Namibia To Be Furnished Defense Articles and Services under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 503 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2311), and Section 3(a)(1) of the Arms Export Control Act (22 U.S.C. 2753(a)(1)), I hereby find that the furnishing of defense articles and services to the Government of Namibia will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, October 25, 1990.



[FR Doc. 90-26554

Filed 11-6-90; 11:27 am]

Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 91-5 of October 25, 1990

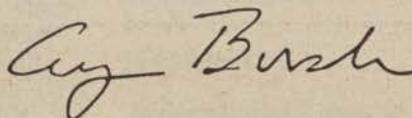
Eligibility of the Kingdom of Lesotho To Be Furnished Defense Articles and Services under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 503 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2311), and Section 3(a)(1) of the Arms Export Control Act (22 U.S.C. 2753(a)(1)), I hereby find that the furnishing of defense articles and services to the Government of the Kingdom of Lesotho will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, October 25, 1990.



[FR Doc. 90-26555

Filed 11-6-90; 11:28 am]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 55, No. 217

Thursday, November 8, 1990

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Number 90-ACE-10]

Alteration of Control Zone; Davenport, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone description for the Davenport Municipal Airport, Davenport, Iowa. The Cody Radiobeacon (RBN) has been decommissioned. Accordingly, reference to the RBN is being deleted from the control zone description. A minor correction is also being made in the geographic position coordinates of the Davenport Municipal Airport.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On August 21, 1990, the FAA published a Notice of Proposed Rulemaking which would amend § 71.171 of part 71 of the Federal Aviation Regulations so as to alter the control zone description for Davenport Municipal Airport, Davenport, Iowa (55 FR 34024). A minor correction is also being made in the geographic coordinates of the airport. Interested persons were invited to participate in this rulemaking proceeding by

submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the control zone description for the Davenport Municipal Airport, Davenport, Iowa. This action deletes reference in the control zone description to the Cody RBN, since this navigational aid has been removed from service. This action also corrects the geographic coordinates of the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Davenport, Iowa [Revised]

Within a 5-mile radius of Davenport Municipal Airport (lat. 41°36'42" N., long. 90°35'21" W.); within 2 miles each side of the Davenport VORTAC 220° radial, extending from the 5-mile radius zone to 1 mile southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Kansas City, Missouri, on October 25, 1990.

William Behan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 90-26386 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 90-ACE-08]

Alteration of Control Zone—North Platte, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the control zone description for Lee Bird Field, North Platte, Nebraska. The Big Nell Radio beacon (RBN) has been decommissioned. Accordingly, reference to the Big Nell RBN is being deleted from the control zone description. A minor correction is also being made in the geographic position coordinates of Lee Bird Field, North Platte, Nebraska.

EFFECTIVE DATE: 0901 u.t.c., December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

On August 21, 1990, the FAA published a Notice of Proposed Rulemaking which would amend § 71.171 of part 71 of the Federal

Aviation Regulations so as to alter the control zone description for Lee Bird Field, North Platte, Nebraska (55 FR 34025). A minor correction is also being made in the geographic position coordinates of the airport. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking, Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the control zone description for Lee Bird Field, North Platte, Nebraska. This action deletes reference in the control zone description to the big Nell RBN, since this navigational aid has been removed from service. This action also corrects the geographic position coordinates of the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

North Platte, Nebraska [Revised]

Within a 6-mile radius of Lee Bird Field (lat. 41°07'34"N., long. 100°41'13"W.); within 3 miles each side of the 125° bearing from the Lee Bird RBN, extending from the 6-mile radius zone to 10 miles southeast of the RBN.

Issued in Kansas City, Missouri, on October 25, 1990.

William Behan,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 90-26387 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 90-AWA-4]

Establishment of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction and delay of effective date.

SUMMARY: This action corrects the airspace designation for several new jet routes established in the northwest portion of the United States and delays the effective date for Airspace Docket No. 90-AWA-4 from December 13, 1990, to February 7, 1991. Due to an administrative oversight the identification of these jet routes, which are a part of changes in the Canadian airspace structure, are a duplication of existing jet routes in Canada. This action will prevent that duplication. This action also delays the effective date to coincide with the charting of this change.

EFFECTIVE DATE: 0901 u.t.c., February 7, 1991.

FOR FURTHER INFORMATION CONTACT:

Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 90-24786, published on October 19, 1990, established new Jet Routes J-571, J-572, J-574, J-576, and J-577 located in the northwest portion of the United States. Due to an administrative oversight the identification of these jet routes, which are a part of changes in the Canadian

airspace structure, are a duplication of existing jet routes in Canada. This action corrects that mistake. The effective date for charting must be delayed from December 13, 1990, to February 7, 1991, to coincide with this change.

Correction to Final Rule; Delay of Effective Date

Accordingly, pursuant to the authority delegated to me, Federal Register Document 90-24786, as published in the Federal Register on October 19, 1990, (55 FR 42364) is amended by delaying the effective date from December 13, 1990, to February 7, 1991, and is corrected as follows:

J-571 [Corrected]

By removing the title "J-571" and substituting "J-549"

J-572 [Corrected]

By removing the title "J-572" and substituting "J-539"

J-574 [Corrected]

By removing the title "J-574" and substituting "J-478"

J-576 [Corrected]

By removing the title "J-576" and substituting "J-477"

J-577 [Corrected]

By removing the title "J-577" and substituting "J-483"

Issued in Washington, DC, on October 30, 1990.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 90-26388 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26367; Amdt. No. 1438]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational

facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION:

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4,

and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on October 26, 1990.

Thomas C. Accardi,
Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

... *Effective December 13, 1990*

Gambell, AK—Gambell, NDB-A, Amdt. 1, CANCELLED
Gambell, AK—Gambell, NDB-B, Amdt. 1, CANCELLED
Gambell, AK—Gambell, NDB/DME RWY 16, Orig., CANCELLED
Gambell, AK—Gambell, NDB RWY 16, Orig.
Gambell, AK—Gambell, NDB/DME RWY 34, Amdt. 1
Selawik, AK—Selawik, VOR RWY 9, Orig., CANCELLED
Selawik, AK—Selawik, VOR RWY 27, Orig., CANCELLED
Selawik, AK—Selawik, VOR/DME RWY 9, Orig., CANCELLED
Paragould, AR—Kirk Field, VOR RWY 4, Amdt. 2
Orland, CA—Haigh Field, VOR-A, Amdt. 4
Leesburg, FL—Leesburg Muni, NDB RWY 31, Orig., CANCELLED

Pinckneyville, IL—Pinckneyville-Duquoin, NDB RWY 18, Amdt. 2
 Clinton, IA—Clinton Muni, ILS RWY 3, Amdt. 3
 Davenport, IA—Davenport Muni, VOR RWY 3, Amdt. 8
 Davenport, IA—Davenport Muni, VOR RWY 21, Amdt. 7
 Davenport, IA—Davenport Muni, LOC RWY 15, Amdt. 3
 Clare, MI—Clare Muni, VOR-A, Orig.
 Sault STE Marie, MI—Sault STE Marie Muni/Sanderson Field, VOR RWY 32, Orig.
 Fulton, MS—Fulton-Itawamba County, VOR/DME-A, Orig.
 Jackson, MS—Jackson International, VOR or TACAN RWY 15L, Amdt. 2, CANCELLED
 Jackson, MS—Jackson International, VOR or TACAN RWY 15R, Amdt. 6, CANCELLED
 Jackson, MS—Jackson International, VOR/DME or TACAN RWY 33L, Amdt. 10, CANCELLED
 Jackson, MS—Jackson International, VOR/DME or TACAN RWY 33R, Amdt. 3, CANCELLED
 Jackson, MS—Jackson International, LOC BC RWY 15R, Amdt. 4
 Jackson, MS—Jackson International, NDB RWY 15L, Amdt. 4
 Jackson, MS—Jackson International, ILS RWY 15L, Amdt. 7
 Jackson, MS—Jackson International, ILS RWY 33L, Amdt. 4
 Jackson, MS—Jackson International, RADAR-1, Amdt. 11
 Tupelo, MS—Tupelo Municipal-C. D. Lemons, VOR/DME RWY 18, Orig.
 Cape Girardeau, MO—Cape Girardeau Municipal, VOR RWY 20, Amdt. 1, CANCELLED
 Missoula, MT—Missoula International, VOR-C, Amdt. 2
 Missoula, MT—Missoula International, VOR/DME-A, Amdt. 11
 Missoula, MT—Missoula International, VOR/DME-B, Amdt. 4
 Missoula, MT—Missoula International, NDB-D, Amdt. 2
 Missoula, MT—Missoula International, ILS RWY 11, Amdt. 9
 Missoula, MT—Missoula International, ILS-3 RWY 11, Amdt. 4, CANCELLED
 Delaware, OH—Delaware Muni, VOR RWY 28, Amdt. 4
 Delaware, OH—Delaware Muni, NDB RWY 10, Amdt. 3
 West Union, OH—Alexander Salamon, NDB RWY 23, Amdt. 2
 Portland, OR—Portland Intl, VOR-B, Amdt. 2, CANCELLED
 Salem, OR—McNary Field, LOC BC RWY 13, Amdt. 5
 Connellsville, PA—Connellsville, LOC RWY 5, Amdt. 2
 Perkasio, PA—Pennridge, VOR RWY 8, Amdt. 1
 Perkasio, PA—Pennridge, NDB-A, Amdt. 2
 Columbia, SC—Columbia Metropolitan, RNAV RWY 5, Orig.
 Arlington, TN—Arlington Muni, LOC RWY 15, Orig.
 Arlington, TN—Arlington Muni, NDB RWY 33, Amdt. 7
 Knoxville, TN—Knoxville Downtown Island, VOR/DME-B, Amdt. 6
 Knoxville, TN—Knoxville Downtown Island, LOC RWY 26, Amdt. 3

Petersburg, WV—Grant County, LDA/DME-B, Orig.

... Effective November 15, 1990

Orlando, FL—Orlando Executive, LORAN RNAV RWY 7, Orig.
 Orlando, FL—Orlando Executive, LORAN RNAV RWY 25, Orig.
 New Orleans, LA—Lakefront, LORAN RNAV RWY 18R, Orig.
 Venice, LA—Point in Space, Copter LORAN RNAV 087, Orig.
 Sault STE Marie, MI—Chippewa County Intl, ILS RWY 16, Amdt. 6
 Columbus, OH—Ohio State University, LORAN RNAV RWY 27L, Orig.
 Columbus, OH—Ohio State University, LORAN RNAV RWY 9R, Orig.
 Portland, OR—Portland Intl, LORAN RNAV RWY 10R, Orig.
 Portland, OR—Portland Intl, LORAN RNAV RWY 28R, Orig.
 Burlington, VT—Burlington Intl, LORAN RNAV-A, Orig.
 Burlington, VT—Burlington Intl, LORAN RNAV RWY 15, Orig.

... Effective October 22, 1990

Minot, ND—Minot Intl, VOR RWY 26, Amdt. 12

... Effective October 18, 1990

Montgomery, AL—Dannelly Field, NDB RWY 9, Amdt. 18
 Montgomery, AL—Dannelly Field, ILS RWY 9, Amdt. 23
 Montgomery, AL—Dannelly Field, ILS RWY 27, Amdt. 8
 Greenville, NC—Pitt-Greenville, NDB RWY 19, Amdt. 14
 Seattle, WA—Seattle-Tacoma Intl, ILS RWY 34L, Amdt. 1
 La Crosse, WI—La Crosse Muni, NDB RWY 18, Amdt. 16

... Effective October 12, 1990

Fort Worth, TX—Fort Worth Spinks, RNAV RWY 35, Amdt. 1

... Effective August 24, 1990

Nashua, NH—Boire Field, RNAV RWY 32, Amdt. 5

[FR Doc. 90-26389 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 556

Animal Drugs, Feeds, and Related Products; Oxfendazole Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Syntex

Animal Health, Inc. The NADA provides for use of oxfendazole suspension as an anthelmintic for beef cattle. The regulations are also amended to provide for a tolerance for oxfendazole residues in edible cattle tissues.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Syntex Animal Health, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, submitted NADA 140-854 for oxfendazole suspension. The NADA provides for the over-the-counter oral use of the 9.06 percent suspension and the prescription use of the 22.5 percent oral intraruminal suspension as an anthelmintic for beef cattle for removal and control of lungworms, stomach worms, and intestinal worms. The drug has been previously approved for equine use. The NADA is approved as of September 17, 1990, and the regulations are amended by revising 21 CFR 520.1630 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, the agency is amending 21 CFR part 556 to establish a tolerance for residues of oxfendazole in edible cattle tissues by adding new § 556.495. As discussed in the freedom of information summary, fenbendazole was selected as the marker substance for oxfendazole residues.

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

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning September 17, 1990, because new clinical, field, and human food safety studies were required for the approval.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an

environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.1630 is revised to read as follows:

§ 520.1630 Oxfendazole suspension.

(a) **Specifications.** Each milliliter contains 90.6 or 225.0 milligrams oxfendazole (9.06 or 22.5 percent).

(b) **Sponsor.** See 000033 in § 510.600(c) of this chapter.

(c) **Related tolerances.** See § 556.495 of this chapter.

(d) **Conditions of use—(1) Horses** (9.06 percent suspension only).

(i) **Amount.** 10 milligrams per kilogram (2.2 pounds) of body weight.

(ii) **Indications for use.** For removal of large roundworms (*Parascaris equorum*), mature and 4th stage larvae pinworms (*Oxyuris equi*), large strongyles (*Strongylus edentatus*, *S. vulgaris*, and *S. equinus*), and small strongyles.

(iii) **Limitations.** Administer 9.06 percent suspension by stomach tube or dose syringe. Horses maintained on premises where reinfection is likely to occur should be retreated in 6 to 8 weeks. Withholding feed or water prior to use is unnecessary. Administer drug with caution to sick or debilitated horses. Do not use in horses intended for food. If administered by stomach tube: Federal law restricts this drug to use by or on the order of a licensed veterinarian. If administered by dose syringe only: Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(2) **Beef cattle.** (9.06 or 22.5 percent suspension). (i) **Amount.** 4.5 milligrams

per kilogram of body weight (2.05 milligrams per pound).

(ii) **Indications for use.** For the removal and control of: lungworms (*Dictyocaulus viviparus*—adult, L4); stomach worms: barberpole worms (*Haemonchus contortus* and *H. placei*—adult), small stomach worms (*Trichostrongylus axei*—adult), brown stomach worms (*Ostertagia ostertagi*—adult, L4, inhibited L4); intestinal worms; nodular worms (*Oesophagostomum radiatum*—adult), hookworms (*Bunostomum phlebotomum*—adult), small intestinal worms (*Cooperia punctata*, *C. oncophora*, and *C. mcmasteri*—adult, L4), and tapeworms (*Moniezia benedeni*—adult).

(iii) **Limitations.** For use in beef cattle only. Administer 9.06 percent suspension orally only with a dose syringe, and 22.5 percent suspension either orally with a dose syringe or intraruminally with a rumen injector. Treatment may be repeated in 4 to 6 weeks. Cattle must not be slaughtered until 7 days after treatment. Do not use in lactating dairy cattle. For use of 9.06 percent suspension orally: Consult a veterinarian for assistance in the diagnosis, treatment, and control of parasitism. For use of 22.5 percent suspension orally or intraruminally: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Sections 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. New § 556.495 is added to read as follows:

§ 556.495 Oxfendazole.

Cattle: A tolerance is established for total oxfendazole residues in edible cattle tissues based on a marker residue concentration of 0.8 part per million (ppm) fenbendazole in the target liver tissue. A fenbendazole concentration of 0.8 ppm in liver corresponds to a total safe concentration of oxfendazole residues of 1.7 ppm in liver. The safe concentrations of total oxfendazole residues in other uncooked edible cattle tissues are: muscle, 0.84 ppm; kidney, 2.5 ppm; and fat, 3.3 ppm. A tolerance refers to the concentration of marker residue in the target tissue selected to monitor for total drug residue in the target animal. A safe concentration is the total residue considered safe in edible tissue.

Dated: October 31, 1990.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 90-26395 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 3]

Citizenship of Responsible Officers and Sponsors, Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: On May 29, 1987, the Agency published a notice of proposed rulemaking at 52 FR 20097 to provide that Responsible Officers of designated sponsors be citizens of the United States and that designated sponsors be United States organizations and corporations. Subsequently, on August 11, 1989, the Agency published a final rule at 54 FR 32964 (corrected at 54 FR 34503, August 21, 1989, and amended at 54 FR 40386, October 2, 1989) wherein the requirement of citizenship was further defined. The final rule was made effective August 11, 1989.

On November 20, 1989, the Agency postponed the compliance date of the final rule and sought further public comment as to the scope and impact of the rule, with a view to possible redefining it. (54 FR 47976, November 20, 1989). In response to public comment received by the Agency, the Agency has decided to revise the rule and set forth minimum requirements regarding the citizenship of sponsors and responsible officers.

By this notice the rule has been redefined and a final rule is adopted which requires that Responsible Officers and Alternate Responsible Officers of designated sponsors be United States citizens or permanent resident aliens and that sponsors be United States citizens, as that term is defined in the rule.

DATES: Effective Date: This final rule shall become effective November 8, 1990.

Compliance Date: By February 6, 1991, all designated sponsors and responsible officers must certify that they are in compliance with the final rule.

ADDRESSES: Merry Lynn, Assistant General Counsel, Office of the General Counsel, United States Information

Agency, room 700, 301 Fourth Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lynn, Assistant General Counsel, Office of the General Counsel, United States Information Agency, room 700, 301 Fourth Street, SW., Washington, DC 20547, (202) 619-6829.

SUPPLEMENTARY INFORMATION: On August 11, 1989, the Agency published a final rule, effective that date requiring Sponsors and Responsible Officers to be U.S. citizens, as that term was defined in the rule (54 FR 32964). On November 20, 1989, the Agency postponed the compliance date of the final rule and sought further public comment, with a view to redefining the term (54 FR 47976). Upon consideration of the various comments filed with the Agency, the definition of "Citizen of the United States" has been modified. By this notice, the final rule is adopted.

It is noted that the Agency may request supporting documentation as to the citizenship of the designated sponsor or responsible officer at any time and that the designated sponsor or responsible officer must supply such documentation when and as requested by the Agency. It is further noted that the inability of a designated sponsor or responsible officer to substantiate the required citizenship will result in the immediate withdrawal of its designation and the immediate return of or accounting for all IAP-66 forms transferred to it.

Upon a showing of exceptional hardship, a designated sponsor may be granted an extension of time of up to one year from the effective date of the final rule in order to comply with said rule. Requests for extensions of time for compliance shall be made in writing to the Agency, no later than 90 days from the publication of this rule in the *Federal Register*, and the decision on whether or not to grant such an extension shall be in the sole discretion of the Agency.

The Comments

The Agency timely received sixty-four comments in response to the August 11, 1989 and November 20, 1990 *Federal Register* notices. Four additional comments were received by the Agency after the January 19, 1990 deadline for submitting comments. No objections were filed to the admission of the late-filed comments. Therefore, all of the comments have been reviewed and considered, although not all of the comments are specifically discussed herein. A list of the parties submitting comments appears in appendix A hereto.

In addition to the parties listed in appendix A, the Agency also received comments from the Department of State, the Department of Labor, and the Immigration and Naturalization Service, all of which supported the final rule as set forth in the August 11, 1989 *Federal Register* notice.

With respect to the requirement that a Responsible Officer or an Alternate Responsible Officer be a United States citizen, for the most part, those opposing the requirement argued that there has been no showing that the duties of a Responsible Officer can only be fulfilled by a U.S. citizen, and further, that such a requirement would unreasonably detract from a sponsor's ability to conduct its business. A number of parties suggested that if the U.S. citizenship requirement is adopted it should at least be amended to authorize a permanent resident alien to serve as a Responsible Officer or Alternate Responsible Officer.

Several Land Grant and State universities stated that they should not have to prove their citizenship or the citizenship of their officers and directors in order to serve as a sponsor. Upon consideration, the Agency has modified the final rule to provide that accredited colleges, universities or other institutions of higher education which are created or organized under the laws of the United States, or of a State or political subdivision thereof, are, by definition, citizens of the United States. [See subsection "(e)"].

A number of parties objected to the August 11, 1989 final rule's requirement that each partner of a partnership must be a U.S. citizen before the partnership could be designated a sponsor. It was pointed out that today's multinational partnerships, such as large public accounting firms, have offices in many countries and partners of many nationalities. These comments argued that a showing that a majority of the partners are U.S. citizens should be sufficient to meet the Agency's objectives. Upon consideration, the Agency has modified the final rule to permit partnerships, a majority of whose partners are U.S. citizens, to be sponsors of designated Exchange-Visitor Programs.

A number of parties suggested that the Agency's requirement that 75 percent of the voting interests in corporations be U.S. citizens would eliminate many closely-held corporations and non-profit corporations as sponsors. Upon consideration, the Agency has modified the definition of citizenship to avoid that result. Under the modified definition provision is made for corporations whose stock is

publicly traded on United States stock exchanges, for corporations whose stock is not publicly traded, and for non-profit corporations (which typically do not have stock). [See subsections "(c)(ii)" and "(d)"].

The final rule published in the August 11, 1989 *Federal Register* also included in its definition of "Citizen of the United States" the following language: "* * * (c) a corporation or association created under the laws of the United States * * *" Several comments correctly pointed out that most corporations are created or organized, not under the laws of the United States, but under the laws of a particular State. The definition adopted by the Agency in this Notice recognizes that fact by providing for corporations and partnerships which are created or organized "* * *" under the laws of the United States, or of a State, territory or possession of the United States * * *" Similarly, the final rule adopted herein recognizes that colleges, universities or other institutions of higher education may be created or organized under the laws of the United States, a State, a county or a municipality or other political subdivision.

A number of parties stated that the Agency has cited no actual examples of abuses or problems which have arisen because a Responsible Officer or Sponsor was not a U.S. citizen, that the Exchange-Visitor Program has worked so well for so many years that a change in the rules is not warranted, and that the final rule may well be unconstitutional. These comments will be discussed below.

Comments were also received from the United States Departments of State and Labor and the Immigration and Naturalization Service (INS). All three agencies support the final rule requiring that sponsors be United States citizens. The Department of Labor and the INS also supported the final rule requiring that Responsible Officers be United States citizens. The Department of State questioned whether a permanent resident alien should be prohibited from serving as a Responsible Officer. As noted above, the Agency has modified the August 11, 1989 final rule to allow permanent resident aliens, as well as U.S. citizens, to serve as Responsible Officers.

Discussion

The statutory basis under which the United States Information Agency can designate programs as sponsors for a J-visa classification is found in 8 U.S.C. 1101 (a)(15)(J). That subsection was added to the Immigration and

Nationality Act in 1961 by section 109 of the Mutual Educational and Cultural Exchange Act of 1961. By placing that provision in the Immigration and Nationality Act, Congress intended to make it part of the overall scheme. Consequently, any interpretation of that section must harmonize with that statute as a whole. No interpretation or application can be given which would undermine or circumvent the Immigration and Nationality Act, taken as a totality.

According to the legislative history (1961 U.S. Code Cong. & Admin. News 2774), the new subsection [8 U.S.C. 1101 (a)(15)(J)] "creates and incorporates into the basic law a special new nonimmigrant visa designed to serve solely the purposes of the Mutual Educational and Cultural Exchange Act of 1961." The purpose of that Act is to strengthen international understanding. The exchange program is an instrument of foreign policy and decisions as to which exchange programs should be designated are, therefore, foreign policy determinations subject to the Agency's discretion. The exchange program was set up first in the Department of State and later moved to the Agency in order "to provide coordination with U.S. foreign relations." 1961 U.S. Code Cong. Admin. News 2760. That the decision regarding the designation of exchange organizations is a foreign relations decision should be obvious, since the task has been conferred upon a foreign affairs agency. As stated in the legislative history, "the Bureau of Educational and Cultural Affairs has been set up in the Department of State to provide coordination with U.S. foreign relations and general policy guidance for all agencies handling educational and cultural exchanges. In modern international relations a positive U.S. Government program promoting educational and cultural cooperation is essential to the welfare of the American people." 1961 U.S. Code Cong. & Admin. News 2760.

The importance of such exchange programs was highlighted in the testimony of Walter Laves, Chairman of the Department of Government at the University of Indiana, before the Senate Committee on Foreign Relations, in which he stated "the area which encompasses education, science, culture, knowledge, skills, technical assistance, and information * * * how significant this big area of foreign relations really is, and to what extent our welfare as a nation * * * may depend upon the effectiveness with which this aspect of our foreign relations is conducted." Hearings before

the Committee on Foreign Relations, United States Senate, on S. 1154, March 29 and April 27, 1961, p. 74.

Consequently all persons entering the United States on a J-visa must enter pursuant to a program—the purpose of which is to strengthen international understanding and cooperation—as determined by the Agency. 8 U.S.C. 1101 (a)(15)(J) merely refers to the designation function of the Agency by describing an exchange visitor as a "participant in a program designated by the Director of the United States Information Agency." No criteria are set forth requiring the Agency to designate certain programs. The criteria are left to Agency discretion. Because of the nature of foreign relations, the Agency has been given broad authority to implement the legislation. It is not an abuse of Agency discretion to promulgate regulations consistent with the Act and its legislative history.

In *Slyper v. Attorney General*, 827 F.2d. 821, 823 (DC Cir. 1987), a case involving the Exchange-Visitor program, the Court stated: "The statute contains no standard or criterion upon which to make or withhold a favorable recommendation. This broad delegation of discretionary authority 'is clear and convincing evidence' of congressional intent to restrict judicial review in cases such as those we now face." See also *Zemel v. Rusk*, 381 U.S. 1 (1965) and *Haig v. Agee*, 453 U.S. 280 (1981).

The Agency has determined that, as a matter of law, consistent with the text of the Immigration and Nationality Act, the Mutual Educational and Cultural Exchange Act, and the legislative history of those statutes, designated sponsors must be United States citizens. Congress clearly intended that United States citizens would play the key role as sponsors of educational and cultural exchange programs. Consequently the Agency is adopting a definition which comports with the legal requirements. At the same time, the definition sets forth a minimum standard of what it would take to be considered a citizen. The Agency believes that any organization in which the majority of control resides in non-citizens would not be a United States controlled organization, and accordingly, could not be considered a citizen for these purposes.

Congress envisioned that "the private resources of this country and the cooperation of United States citizens abroad" would be enlisted to assist in the educational exchange. 1948 U.S. Code Cong. & Admin News 1014—

"It is vital that the Department of State can and should cooperate with the efforts of private citizens and with profit and non-profit

organizations interested in promoting the better understanding of the United States abroad and lasting friendship. Also, the areas of cooperation, consultation, and separate activity between the Department of State and private industry (e.g., films, radio, press, magazines, books) are sufficiently great to expect fruitful and harmonious relationships. The importance of worthy private United States activities in the foreign field cannot be exaggerated."

Id. at 1015 (emphasis added).

Thus, from this legislative history it can be inferred that Congress contemplated that the assistance from the private sector would be assistance from the United States private sector. It can further be inferred that it is necessary that a designated organization may fairly be described as an "organization interested in promoting the better understanding of the United States abroad and lasting friendship".

The Mutual Educational and Cultural Exchange Act requires that the schools and institutions of learning designated to participate in educational exchange be United States "schools and institutions". Section 102 (1)(B). It is therefore necessary to define "United States schools and institutions" for educational exchanges.

It should also be noted that Congress intended that foreign governments would participate in the exchange program. However, Congress did not contemplate that these governments would be designated exchange-visitor sponsors and have direct access to United States Government controlled documents. Rather, it is clear that Congress envisioned government-to-government agreements whereby the two governments would cooperate in the field of exchange. Congress did not intend that another government would have virtual control over exchange visitors to this country, as is evidenced by section 103, which provides for agreements with foreign governments. If Congress intended that the powers of the USIA Director to determine exchange program policy and participants be vested in foreign governments, that section of the Act would be unnecessary and redundant. The rules of statutory construction preclude interpretations which would render a section of a statute either redundant or unnecessary.

With respect to responsible officers, however, the Agency has decided that a permanent resident may serve as a responsible officer. This decision was taken in part upon review of the Immigration and Naturalization Service's regulations which do not exclude a permanent resident from

signing a Form I-20 regarding the F-visa for students.

It should be noted that the Agency is under no legal requirement to seek public comment on this regulation. The Administrative Procedure Act, at 5 U.S.C. 553 (a)(1), specifically exempts from application of the Act a "foreign affairs function of the United States". There is no question that designation of exchange visitor sponsors for international exchange programs is a foreign affairs function. The operation and administration of the exchange program is an instrument of foreign policy. The J-visa was created by section 109 of the Mutual Educational and Cultural Exchange Act of 1961 to "serve solely the purposes of [that Act]". 1961 U.S. Code Cong. & Admin. News 2774. The Congressional intent behind the visa may be discerned from the statement that: "In modern international relations a positive U.S. Government program promoting educational and cultural cooperation is essential to the welfare of the American people". 1961 U.S. Code Cong. & Admin. News 2760.

Accordingly, the decision regarding the designation of an exchange-visitor organization is a foreign relations decision. Thus, although it was not required to do so, nor was it waiving the foreign affairs exemption in the Administrative Procedure Act, the Agency announced in 1987 and 1989 that it was proposing to amend the regulations, and, because it desired to preserve its valuable working relationship with program sponsors, invited comments on the proposed regulations. As is clear from the changes incorporated by the Agency, it gave a thorough review and due consideration to the comments from the public.

Findings and Conclusions

For the reasons stated above, the Agency finds that the exclusion of noncitizens from serving as sponsors is rationally related to a federal interest and that the federal interest is properly the concern of the USIA. Furthermore, the Agency has determined that such exclusion is necessary to ensure the integrity of the exchange visitor program. Accordingly, after careful consideration of the comments filed with the Agency, a definition of "Citizen of the United States" and revised definitions of "Responsible Officer" and "Sponsor" are hereby adopted and will be part of the Agency's regulations which appear in part 514 of title 22 of the Code of Federal Regulations.

This decision does not significantly affect the quality of the human environment and is not a major

regulatory action under the Energy and Conservation Act of 1975.

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

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

There are no information collection requirements in this rulemaking subject to approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (42 U.S.C. 3501, et seq.).

List of Subjects in 22 CFR Part 514

Cultural exchange programs, Reporting and recordkeeping requirements. Accordingly, 22 CFR part 514 is amended as follows:

PART 514—[AMENDED]

1. The authority citation for 22 CFR part 514 is revised to read:

Authority: U.S. Information and Educational Exchange Act of 1948, as amended, Pub. L. 80-402, as amended (22 U.S.C. 1431-1442); Mutual Educational and Cultural Exchange Act of 1961, as amended, Pub. L. 87-256, as amended, 75 Stat. 527, 534, 535, [22 U.S.C. 2451-2460 and 8 U.S.C. 1101, 1182, and 1258]; Pub. L. 97-241, 96 Stat. 291; 66 Stat. 166, 182, 184, 204 [8 U.S.C. 1101(a)(15)(j), 1182(e), 1182(j), 1258]; Pub. L. 91-225, 84 Stat. 116, 117 [8 U.S.C. 1101, 1182]; Pub. L. 97-116, 95 Stat. 1611, 1612, 1613 [8 U.S.C. 1101, 1182]; Reorg. Plan. No. 2 of 1977; E.O. 12048 of March 27, 1978; USIA Delegation Order No. 85-5 (50 FR 27393).

2. Section 514.1 is amended by revising the definitions of "Citizen of the United States," "Responsible Officer" and "Sponsor," as follows:

§ 514.1 Definitions.

Citizen of the United States means

(1) An individual who is a citizen of the United States or one of its territories or possessions; or,

(2) A general or limited partnership created or organized under the laws of the United States, or of any State, the District of Columbia, or territory or possession of the United States, of which a majority of the partners are citizens of the United States; or,

(3) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any State, the District of Columbia, or territory or possession of the United States, which

(i) Has its principal place of business in the United States, and

(ii) Whose shares or voting interests are publicly traded on a U.S. stock exchange; or, if its shares or voting interests are not publicly traded on a U.S. stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a majority of its officers, Board of Directors, and its shareholders are citizens of the United States; or,

(4) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any State, the District of Columbia, or territory or possession of the United States, and which is

(i) Qualified with the Internal Revenue Service as a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code; and,

(ii) Which has its principal place of business in the United States; and,

(iii) A majority of its officers and a majority of its Board of Directors or other body vested with its management are citizens of the United States; or,

(5) An accredited college, university or other institution of higher education created or organized under the laws of the United States, or of a State, including a county, municipality or other political subdivision thereof, the District of Columbia, or of a territory or possession of the United States; or,

(6) An agency of the United States, or of a State, the District of Columbia, or a territory or possession of the United States.

Responsible Officer means the official of an organization sponsoring an Exchange-Visitor Program who has been listed with the Agency as being responsible for administering the program and carrying out the obligations which the organization assumes in undertaking to sponsor a program. The designation of an Alternate Responsible Officer is permitted and encouraged. The Responsible Officer and any Alternate Responsible Officer must be a United States citizen or a person who has been lawfully admitted to the

United States for permanent residence. Responsible Officers must certify their citizenship to the Agency using the following language:

I hereby certify that I am the responsible officer [or alternate responsible officer, specify] for exchange visitor program [specify program number], and that I am a citizen of the United States [or a person lawfully admitted to the United States for permanent residence]. [Name of organization] agrees that my inability to substantiate my citizenship or status as a permanent resident will result in the immediate withdrawal of its designation and the immediate return of or accounting for all IAP-66 forms transferred to it.

I also understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads:

"Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Signed in ink by _____
(Name)
(Title) _____
Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

Sponsor means any reputable United States federal, State or local government agency or recognized international agency or organization of which the United States is a member and has offices in the United States or a reputable organization which is a "citizen of the United States," as that term is defined by this regulation, which makes application as prescribed to the Director of the United States Information Agency for designation of a program under its sponsorship as an Exchange-Visitor Program and whose application is approved. Other corporations or organizations which are not citizens of the United States may not be designated as sponsors must certify their citizenship to the Agency using the following language:

I hereby certify that I am an officer of [Name of organization] with the title of [specify]; that I am authorized by the [Board of Directors, Trustees, etc.] to sign this certification and bind [Name of organization]; and that a true copy certified by the [Board of Directors, Trustees, etc.] of such authorization is attached. I further certify that [Name of organization] is a citizen of the United States as that term is defined at 22 CFR 514.1. [Name of organization] agrees that its inability to substantiate its representation of citizenship made in this certification will result in the immediate withdrawal of its

destination and the immediate return of or accounting for all IAP-66 forms transferred to it. I also understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads:

"Whoever, in any matter within jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Signed in ink by _____
(Name) _____
(Title) _____
Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

* * * * *
Dated: November 1, 1990.
Alberto J. Mora,
General Counsel.

Appendix A

[Note: This Appendix will not appear in the Code of Federal Regulations]

Comments on the November 20, 1989 Federal Register Notice were received from the following parties:

- Office of International Education, Montana State University
- The International Exchange Association
- Rotary International
- International Student and Faculty Services, Ohio University
- The Experiment In International Living
- Office of International Student Services, Adelphi University
- Office of International Education and Services, University of Iowa
- UCSD International Center, University of California, San Diego
- International Center, University of Michigan
- University of Denver
- American Immigration Lawyers Association
- Kentucky Rotary Youth International Exchange, Inc.
- Vanderbilt University
- French American International School
- Grand Metropolitan, Inc.
- French-American Chamber of Commerce In The United States, Inc.
- International Students and Scholars, Cornell University
- Lankenau & Bickford
- Credit Suisse
- Office of International Education, University of Colorado at Boulder
- International Affairs Services For International Students and Scholars, University of California, Berkeley
- United States Senator John D. Rockefeller, IV
- Spanish Heritage
- Tony Cook Associates
- Association for International Practical Training

- Youth For Understanding International Exchange
- BfG: New York
- East-West Center
- International Student Center, Kansas State University
- SmithKline Beecham
- Tampa Bay Research Institute, Teiko-Showa Universities Center
- The Jesuit School of Theology at Berkeley
- Mennonite Central Committee
- The British-American Chamber of Commerce
- Harris, Barrett, Mann & Dew
- Lycee Francais de New York
- The International Exchange Association
- The French-American School of New York
- University of Wisconsin-Madison
- Coopers & Lybrand
- Council on International Educational Exchange
- The Liaison Group For International Educational Exchange
- National Association For Foreign Student Affairs
- The University of Wisconsin System
- Patterson, Belknap, Webb & Tyler
- Overseas Planning & Administration, Shell Oil Company
- Baker & McKenzie
- Haight, Gardner, Poor & Havens
- Simmons, Ungar, Helbush, DiCostanza & Steinberg
- American Council on International Personnel, Inc.
- Center of International Studies, University of North Carolina at Charlotte
- Office of International Affairs, University of Chicago
- Council for International Exchange of Scholars
- Wildes & Weinberg
- Office of International Programs, Colorado State University
- Office of International Programs, University of Pennsylvania
- International Student Office, San Diego State University
- EF Foundation
- Gibney, Anthony & Flaherty
- The American Scandanavian Foundation
- Education Foundation for Foreign Study
- Dechert Price & Rhoads
- Hoffmann-LaRoche
- Belgian American Educational Foundation, Inc.
- Peat Marwick Main & Co.
- United States Senator Daniel Patrick Moynihan
- Badger Engineers, Inc.
- Graduate School of Business, Columbia University

In addition to the above, comments were also received from the following U.S. Government agencies:

- United States Department of State
- Immigration and Naturalization Service,
- United States Department of Justice
- United States Department of Labor

[FR Doc. 90-28324 Filed 11-7-90; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AB 26

Air Contaminants

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; Grant of partial stay for nitroglycerin.

SUMMARY: OSHA reduced exposure limits for 375 air contaminants on January 19, 1989, at 54 FR 2332. The new exposure limit for nitroglycerin (NG) of 0.1 mg/m³ measured as a 15-minute Short Term Exposure Limit (STEL) was stayed for the manufacture of NG and NG-based explosives and propellants for military and space use. The Transitional (prior) limit of a ceiling of 2 mg/m³ has remained in effect. OSHA is partially extending the stay so that compliance with the new exposure limit by use of any reasonable means including respiratory protection is to be phased in between November 1, 1990 and March 1, 1992, and the requirement for compliance using engineering controls is to be phased in between December 31, 1992, and December 31, 1998.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, Office of Public Affairs, Room N-3647, Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On January 19, 1989, at 54 FR 2332, OSHA issued a final standard setting new or more protective exposure limits for 375 substances. The new limits, which include revised permissible exposure limits ("PEL") for Nitroglycerin ("NG"), consisting of a 15-minute Short Term Exposure Limit ("STEL") of 0.1 mg/cubic meter with a skin designation, were to be achieved with any reasonable combination of controls including engineering controls and respirators by September 1, 1989, and with a preference for engineering controls by December 31, 1992.

The objective of this regulatory effort was to create major improvements in occupational health by lowering the exposure of 4.5 million workers to many toxic substances.

OSHA substantially lowered exposures to nitroglycerin (NG) in the Air Contaminants rulemaking based

principally on NG's cardiovascular effect and cardiovascular disease and on its ability to cause moderate and severe headaches. OSHA continues to conclude that this lower limit is necessary to prevent these effects. See the discussion at 54 FR 2538-39. The substance is also a powerful and sensitive explosive and worker protection requires careful consideration of both health and safety aspects.

This stay is effective for DoD (at both government owned and government operated (GOGO) and government owned and contractor operated (GOCO) facilities) and the industrial sector of civilian manufacture and distribution of explosives and propellants for military and space use. Some contractors may have joint military and civilian market production, use and distribution facilities. Such contractors may choose to follow the new standard and this stay for joint facilities or they may choose to follow the new standard and stay while producing for military and space use in joint facilities and the terms of the civilian settlement when producing for civilian use in those joint use facilities. In granting this stay, OSHA concludes that it is in the best interest of protecting worker health and will not create any additional long-term adverse health effects.

The military uses NG principally as a propellant ingredient for shells, rockets and other ordnance. These propellants are manufactured by employees working for the Government, working for private contractors at government-owned facilities and for private contractors at contractor-owned facilities.

The military has already made major efforts to reduce exposure to NG in its own and GOCO facilities. The Navy has completed research which has demonstrated that air filtration respirators are effective in filtering pure NG. The military has also done extensive industrial hygiene work on safe respirator use in the context of its own facilities and has instituted medical surveillance. It has commenced engineering design work to add additional engineering controls, but because of the large scale of its facilities, this will be a lengthy and expensive process.

OSHA believes that engineering controls are available to lower exposures to NG but agrees with DoD that they must be introduced only after careful evaluation of feasibility, including the minimization of any possibility of increasing the explosion hazard. OSHA also believes that supplied air respirators may create safety hazards in explosive manufacturing operations and that half-

mask air-purifying respirators do not present a safety hazard, but that further research is needed to demonstrate fully their effectiveness for NG in mixtures.

To reduce the potential explosive hazards created by NG, to continue the improvements in industrial hygiene programs and health protection which have been occurring during production for military use, to conduct the detailed surveys of exposure, and the necessary engineering feasibility studies for enacting engineering controls, it is necessary to phase in respirator use and to provide for a more extended period of time to design and build engineering controls.

DoD and its contractors need time to evaluate the need for, and feasibility of, improved ventilation in process/production/operation buildings and to examine the technological and economic feasibility of installing engineering controls. These evaluations will include preparation of detailed surveys of employee exposures to NG in operating buildings and will identify the areas and circumstances which give rise to the highest vapor concentrations. Measurements and techniques shall be in accordance with accepted industrial hygiene practices.

OSHA recognizes that the DoD and the DoD Explosive Safety Board (DDESB) have express statutory authority to prescribe safety standards for military and government contractor operations involving explosives, pursuant to 10 U.S.C. 172. The DDESB has the final review and approval authority for any engineering changes at government owned facilities to assure that they are consistent with explosive safety standards and do not increase the explosive risk.

OSHA further recognizes that military personnel and military unique equipment, systems and operations are excluded from coverage under the Federal Agency OSHA programs and the DoD will continue its policy of using the OSHA standards as a basis for protecting military personnel.

Production for military use is large scale, involving many individual buildings and relatively large numbers of workers. Consequently, time is needed to phase in a good respiratory protection program with appropriate work practices to maintain safety. Similarly, a more extended period is needed to design engineering controls so as to maintain explosive safety and because of the large number of buildings involved a longer period will be needed to complete the installation of the controls.

Accordingly, for the manufacture, use and distribution of NG and NG-based explosives and propellants for military and space use, OSHA is staying 29 CFR 1910.1000(f)(2)(i) so that the Final Rule limit is to be achieved by any reasonable combination of controls including respirators on a schedule commencing November 1, 1990, through March 1, 1992. Of the workers exposed per facility between 2 mg/m³ and 0.1 mg/m³ as of December 15, 1990; ¼ per facility shall have their exposures reduce to 0.1 mg/m³ by July 1, 1991, an additional ¼ per facility by October 1, 1991, an additional ¼ per facility by January 1, 1992 and all by March 1, 1992. It should be noted that employees must continue to be kept below the 2 mg/m³ ceiling ("Transitional" or existing limits) by feasible engineering controls pursuant to 29 CFR 1910.1000(e).

OSHA is also partially staying 29 CFR 1910.1000(f)(2)(ii)(A). That paragraph requires that compliance be achieved with engineering controls, if feasible by December 31, 1992. OSHA is staying the requirement so that ¼ of employees per facility, who are exposed between 0.1 mg/m³ and 2 mg/m³ as of December 15, 1990, will be protected by engineering controls by December 31, 1992, an additional ¼ by December 31, 1994, an additional ¼ by December 31, 1996 and all employees are to be protected by engineering controls where feasible by December 31, 1998.

It should be noted that 29 CFR 1910.1000(e) permits all employers, including employers whose employees are exposed to NG, to utilize supplementary respiratory protection when they can demonstrate that is not feasible to achieve an exposure limit in a specific operation with engineering and work practice controls.

When DoD and its contractors demonstrate that engineering controls are not feasible based on industrial hygiene practices and explosive safety needs, DoD may use a comprehensive occupational health program, including exposure profiles, respirators, medical surveillance and sound industrial hygiene programs to meet the standard.

One of the reasons for improved health status in government-owned explosive production facilities is ongoing medical surveillance provisions for NG-exposed employees at those facilities. This surveillance should concentrate on cardiovascular conditions but does not need to include stress electrocardiograms. The Department of Defense, Army and Navy have committed to continuing to perform this medical surveillance for their civilian employees and for employees at GOCO facilities. This requirement will

be placed in appropriate Department of Defense manuals. Consequently, Government contractors supplying NG based materials will be bound by contract to institute or maintain appropriate medical surveillance programs. These medical surveillance programs are an additional factor in OSHA permitting more time for phase-in of respiratory protection and engineering controls, while maintaining explosive safety.

There may be a few unique situations where it is not safe to wear an air filtration respirator because of a potential explosion hazard. OSHA is not aware of particular circumstances, but if a certified industrial hygienist or certified safety professional confirms that such a situation exists, it may be appropriate not to place that worker on respirators. However, work practices shall be immediately devised by the industrial hygienist to minimize exposures and that operation is to have first priority in the installation of engineering controls.

The new exposure limit for NG is below the odor threshold. Generally it is preferable not to use air filtration respirators to protect below the odor threshold because there will not be an odor warning of filter breakthrough.

However, OSHA has permitted the use of air filtration respirators for use below the odor threshold in appropriate circumstances. Employers must have a program to change cartridges before exhaustion with an appropriate margin of safety, have a good respiratory protection program and of course fully meet the requirements on respiratory protection specified in 29 CFR 1910.134. See the Benzene standard (20 CFR 1910.1028(g)) and preamble (52 FR 34460, 34545, September 11, 1987) and the letter of August 23, 1989, to the International Fabricare Institute in OSHA Docket H-020. This in general would be an appropriate circumstance to use such respirators so long as the above requirements are met because other types of respirators may in some circumstances present increased hazards from explosion.

There may be a few circumstances where engineering controls are not feasible based on industrial hygiene practices and explosive safety needs or cannot be designed/installed by the date specified. OSHA will consider requests for variances or other appropriate remedies at that time for carefully defined and limited operations based on an appropriate showing which would include substantial progress in installation of engineering controls generally.

OSHA's decision as to exposure to NG for the sector of civilian manufacture of explosives for civilian use is stated at 55 FR 19258 (May 9, 1990). Some different considerations are applicable. Most civilian explosives contain ethylene glycol dinitrate (EGDN) mixed with the NG. EGDN has different chemical characteristics and respirators have not been tested for effectiveness with the mixture. This sector is also much smaller involving fewer than 1000 employees permitting more detailed provisions.

If OSHA reconsiders and adopts a new permissible exposure limit for nitroglycerin that is higher than 0.1 mg/m³, the higher PEL shall apply. Any change in the PEL will be made after a full rulemaking proceeding and will be based upon substantial evidence. The DoD and the industrial sector of the civilian manufacturers, users and distributors of explosives and propellants for military and space uses shall have an opportunity to participate in any reconsideration of the PEL for nitroglycerin.

Accordingly, OSHA is partially staying the Final Rule limit NG STEL for production for military and space uses of NG and NG-based explosives. The following amendments to the effective date note to 29 CFR 1910.1000 Table Z-1-A implement this decision.

In addition, the effective date notice references several stays which had expired. This amendment also deletes those references and retains the reference to the Carbon Monoxide stay.

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued pursuant to section 6 of the Occupational Safety and Health Act of 1970 (20 U.S.C. 655), section 4 of the Administrative Procedure Act, 5 U.S.C. 553, 29 CFR part 1911 and Secretary of Labor Order 1-90 (55 FR 9033).

List of Subjects in 29 CFR 1910

Hazardous substance.

Signed at Washington, DC, this 1st day of November, 1990.

G.F. Scannell,
Assistant Secretary of Labor.

PART 1910—[AMENDED]

1. The general authority for part 1910, subpart Z, and authority for § 1910.1000 continue to read as follows:

Authority: Sections 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12-71 (36 FR

8754), 8-76 (41 FR 250590, 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655 (b) except those substances listed in the Final Rule Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under section 6(a) (29 U.S.C. 655 (a)).

Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 also issued under 5 U.S.C. 533 § 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 not issued under 29 CFR part 1911 except for arsenic, benzene, cotton dust and formaldehyde listings.

§ 1910.1000 [Amended]

2. Section 1910.1000, Table Z-1A., is amended by revising the effective date note following the footnotes to read as follows:

Note: Pursuant to administrative stays effective September 1, 1989 and published in the *Federal Register* on September 5, 1989, and extended in part by notices published in the *Federal Register* on October 6, 1989, December 6, 1989, February 5, 1990, April 6, 1990, May 9, 1990 and November 8, 1990, the September 1, 1989 start-up specified in 29 CFR 1910.1000 (f)(2)(i) is stayed as follows:

1. Until decision on the merits of the Eleventh Circuit Court of Appeals in the case of *Courtaulds Fibers Inc. v. U.S. Department of Labor*, No. 89-7073 and consolidated cases, for the Ceiling for carbon monoxide for blast furnace operations, vessel blowing at basic oxygen furnaces and sinter plants in the steel industry (SIC 33). OSHA will publish in the *Federal Register* notice of the termination of the carbon monoxide stay.

2. For employees exposed between 2 mg/m³ and 0.1 mg/m³ as a STEL for nitroglycerin as of December 15, 1990 in the manufacture of nitroglycerin and nitroglycerin based explosives and propellants for military and space use: until July 1, 1991 for all of those employees, until October 1, 1991 for ¾ of those employees per facility, until January 1, 1992 for ½ of those employees per facility, until March 1, 1992 for ¼ of those employees per facility.

In addition the December 31, 1992 start-up date for feasible engineering controls specified in 29 CFR 1910.1000 (f)(2)(ii)(A) for employees exposed between 2 mg/m³ and 0.1 mg/m³ as a STEL for nitroglycerin without regard to respirator use on December 15, 1990 in

the manufacture of nitroglycerin and nitroglycerin based explosives and propellants for military and space use is stayed until December 31, 1994 for ¾ of those employees per facility, until December 31, 1996 for ½ of those employees per facility and until December 31, 1998 for ¼ of those employees per facility.

[FR Doc. 90-26326 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7-R]

Freedom of Information Act (FOIA) Program

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule; correction.

SUMMARY: The Department of Defense published a final rule on October 26, 1990, 55 FR 43093. This document makes administrative corrections and amendments to 32 CFR part 286 for clarity.

EFFECTIVE DATE: October 3, 1990.

ADDRESSES: Office of the Assistant Secretary of Defense (Public Affairs), Washington, DC 20301-1400.

FOR FURTHER INFORMATION CONTACT: Mr. C. Talbott, telephone (703) 697-1180.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 286

Freedom of Information.

PART 286—[AMENDED]

Accordingly, 32 CFR part 286 is amended as follows:

1. The authority citation of part 286 continues to read as follows:

Authority: 5 U.S.C. 552.

§ 286.7 [Amended]

2. Section 286.7(h)(7)(iii) is amended by changing "(NSD)" to "(NSC)" and in the last sentence of the paragraph, add the words "to the" after the word "forwarded".

§ 286.9 [Amended]

3. Section 286.9(a) is amended by removing the last sentence of the paragraph.

§ 286.13 [Amended]

4. Section 286.13 is amended as follows: Paragraph (a)(1)(i) by changing the word "classifiable" to "classified";

removing paragraph (a)(1)(iii); in the last sentence of paragraph (a)(4) after the word "information;" and before the word "impair" add the phrase "impair the Government's ability to obtain necessary information in the future; or"; in the second sentence of paragraph (a)(6)(ii)(A) after the word "Government" add a comma (,) and the phrase "a privacy interest exists in its nondisclosure. The fact that the Federal Government"; in the last sentence of paragraph (a)(7)(ii)(C) after the word "and" add the words "those investigations"; first sentence in paragraph (a)(7)(v) change "exemptions" to "exemption"; and the last line in paragraph (a)(7)(v)(B) change the second word "the" to the word "to".

§ 286.27 [Amended]

5. Paragraph 286.27(b)(6), last line is amended to capitalize the first used "a" inside of the parenthesis.

§ 286.29 [Amended]

6. Redesignate the section identifier § 289.29 to § 286.29 and in the first line paragraph (f) change "Component" to "Components".

§ 286.33 [Amended]

7. The first line of § 286.33(c)(1) is amended by changing "charges" to "charged" and (d)(3)(i)(B) is amended to correct the spelling of the word "subject".

§ 286.37 [Amended]

8. The third sentence in § 286.37(a)(1) is amended by changing the word "date" to "data" and in (a)(3)(ii) change "32mm" to "35mm".

Appendix B [Amended]

9. Appendix B to part 286, paragraph 2.a. is amended by bringing "Defense Systems Management College, National Defense University, Armed Forces Staff College, and Department of Defense Dependent Schools" out to the margin and also bringing "Uniformed Services University of the Health Sciences" to the margin. This is DoD component not to be included with the Uniformed Services University of the Health Sciences.

Dated: November 5, 1990.

L.M. Bynum,

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

[FR Doc. 90-26455 Filed 11-7-90; 8:45 am]

BILLING CODE 3210-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 901080-0280]

Patent Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Omnibus Budget Reconciliation Act of 1990 imposes a 69% surcharge on fees set under 35 U.S.C. 41 (a) and (b), rounded by standard arithmetic rules, effective November 5, 1990. Under this law, the Patent and Trademark Office must charge a 69% surcharge for all fees required to be paid under 35 U.S.C. 41 (a) and (b) beginning November 5, 1990.

FEES REGULATIONS AFFECTED: Sections 1.16, 1.17, 1.18, and 1.20 of Title 37, Code of Federal Regulations, will be amended as soon as practicable to reflect the fee changes required under the law. The fees established by the following regulations are subject to the 69% surcharge.

1. 37 CFR 1.16(a)—Basic fee for filing each application for an original patent, except design or plant cases.
2. 37 CFR 1.16(b)—In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3.
3. 37 CFR 1.16(c)—In addition to the basic filing fee in an original application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20.
4. 37 CFR 1.16(d)—In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s) per application.
5. 37 CFR 1.16(f)—For filing each design application.
6. 37 CFR 1.16(g)—Basic fee for filing each application.
7. 37 CFR 1.16(h)—Basic fee for filing each plant application.
8. 37 CFR 1.16(i)—In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent.
9. 37 CFR 1.16(j)—In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim (whether independent or

dependent) in excess of the number of 20 and also in excess of the number of claims in the original patent.

10. 37 CFR 1.17(a)—Extension fee for response within first month pursuant to § 1.136(a).
11. 37 CFR 1.17(b)—Extension fee for response within second month pursuant to § 1.136(a).
12. 37 CFR 1.17(c)—Extension fee for response within third month pursuant to § 1.136(a).
13. 37 CFR 1.17(d)—Extension fee for response within fourth month pursuant to § 1.136(a).
14. 37 CFR 1.17(e)—For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences.
15. 37 CFR 1.17(f)—In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal.
16. 37 CFR 1.17(g)—For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134.
17. 37 CFR 1.17(l)—For filing a petition (1) For the revival of an unavoidably abandoned application under 35 U.S.C. sections 133 or 371, or (2) For delayed payment of the issue fee under 35 U.S.C. 151.
18. 37 CFR 1.17(m)—For filing a petition (1) For the revival of an unintentionally abandoned application, or (2) For the unintentionally delayed payment of the fee for issuing a patent.
19. 37 CFR 1.18(a)—Issue fee for issuing each original or reissue patent, except a design or plant patent.
20. 37 CFR 1.18(b)—Issue fee for issuing a design patent.
21. 37 CFR 1.18(c)—Issue fee for issuing a plant patent.
22. 37 CFR 1.20(c)—For filing each statutory disclaimer (§ 1.321).
23. 37 CFR 1.20(h)—For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond four years; the fee is due by three years and six months after the original grant.
24. 37 CFR 1.20(i)—For maintaining an original or reissue patent, except a design or plant patent, based on an application, filed on or after August 27, 1982, in force beyond eight years; the fee is due by seven years and six months after the original grant.
25. 37 CFR 1.20(j)—For maintaining an original or issue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond twelve years; the fee is due by eleven years

and six months after the original grant.

Dated: November 5, 1990.

Harry F. Manbeck, Jr.,
Assistant Secretary and Commissioner of
Patents and Trademarks.

[FR Doc. 90-26589 Filed 11-6-90; 2:31 pm]

BILLING CODE 3510-16-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

RIN 2133-AA86

Merchant Marine Training

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is amending its merchant marine training regulations at 46 CFR part 310 to permit the United States Merchant Marine Academy (USMMA) to consider medical waivers for applicants and enrolled students who need such a waiver to qualify for admission and/or retention. A commission in the United States Navy, or any other branch of the Armed Forces, is a requirement for graduation from the USMMA. Consideration of medical waivers will parallel U.S. Navy guidelines and regulations for waiver consideration for admission to the U.S. Naval Academy. Affected individuals must be found qualified for commissioning as an inactive reserve officer in the U.S. Navy, in at least a restricted service category.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce J. Carlton, Director, Office of Maritime Labor and Training, Maritime Administration, Department of Transportation, 400 Seventh Street SW., room 7302, Washington, DC 20590, Telephone: (202) 366-5755.

SUPPLEMENTARY INFORMATION: 46 CFR 310.56 establishes general physical requirements for eligibility for admission to the United States Merchant Marine Academy. Paragraph (d) of that section currently states that no waivers of physical requirements will be granted.

When USMMA regulations were amended, effective May 20, 1982, they were conformed to the provisions of the Maritime Education and Training Act of 1980 (Pub. L. 96-453). At that time, no medical waivers were permitted, based on an expectation that all candidates for admission to USMMA should, upon

graduation from USMMA, be able to meet the physical requirement to qualify for commissioning and appointment in any "unrestricted" officer billet on active duty, in the United States Navy Reserve including the Merchant Marine Reserve (USNR-MMR), or in the reserve of any other armed force. The majority of USMMA graduates accept a commission in the USNR-MMR.

In April of this year, the USNR-MMR program was changed by the U.S. Navy from an unrestricted to a restricted line program. Thus, there is no longer a compelling justification for mandating that USMMA applicants and enrolled students meet the medical qualifications for unrestricted U.S. Navy commissioning programs. Furthermore, the tougher physical requirements necessary to meet the qualifications for an unrestricted Navy commission have disqualified a significant number of applicants to the USMMA each year who may have been able to demonstrate potential to be outstanding merchant marine officers.

Individuals who are granted medical waivers must be able to meet all other admission requirements, including the physical examination requirement for an original U.S. Coast Guard merchant marine license as a third mate and/or third assistant engineer. Acceptance of a commission as an officer in any branch of the Armed Forces, either on active duty or in a reserve status, remains a requirement for graduation.

E.O. 12291, Statutory Requirements and DOT Procedure

The Maritime Administrator has made a determination that this rulemaking meets none of the criteria in Executive Order 12291 for a major rule. This rulemaking will have minimal economic impact. This rule will affect only currently enrolled students and applicants to USMMA. Accordingly, under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979), a determination has been made that this regulation is nonsignificant and that a full regulatory evaluation is unnecessary. The regulation contains no new or amended reporting requirement within the scope of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Since this final rule will have no economic impact, the agency certifies that it will not have a significant economic impact on a substantial number of small entities. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

This rule does not affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

It is imperative that this amendment to 46 CFR part 310 be published as a final rule without opportunity for public comment. The recruitment cycle has already begun for students interested in applying to the class entering in July 1991. Publication of a proposed rule with a public comment period would create substantial confusion for Congressional nominating authorities who are responsible for initiating nominations, by December 31, 1990, of applicants who meet the eligibility requirements. Moreover, the Department of Defense Medical Examination Review Board (DODMERB), which is responsible for reviewing the medical examination results of prospective candidates, will be required to implement the new medical waiver provisions as quickly as possible so that no candidate is unduly disqualified.

MARAD views this rulemaking to be noncontroversial and in keeping with the medical requirements for the USNR-MMR program which was changed from an unrestricted to a restricted line program. We expect no meaningful public comment.

Therefore, pursuant to 5 U.S.C. 553(b)(B), good cause exists for finding that the notice and public comment procedure otherwise required by 5 U.S.C. 553(c) is impracticable and unnecessary. Additionally, because nominations of candidates to the USMMA must be initiated by December 31, 1990, and the standards for eligibility should be known well in advance, the Maritime Administration finds, pursuant to 5 U.S.C. 553(d)(3), good cause to make this regulation effective immediately.

List of Subjects in 46 CFR Part 310

Grants programs, Education, Maritime administration, Schools, Seamen.

For the reasons set forth in the preamble, 46 CFR part 310 is amended as follows:

PART 310—MERCHANT MARINE TRAINING

1. The authority citation for 46 CFR part 310, subpart C, continues to read as follows:

Authority: Secs. 204(b) and 1301-1308, Merchant Marine Act, 1936, as amended, (46 U.S.C. 1114(b) and 1295-1295g); 49 CFR 1.66 (46 FR 47458, September 28, 1981).

2. Section 310.56 paragraph (d) is revised to read as follows:

§ 310.56 Waivers.

(d) Waivers. Some medical requirements may be waived for enrolled students and applicants to the USMMA who require such a medical waiver to qualify for admission and/or retention. Since commissioning in the United States Navy, or any other branch of the Armed Forces, is a requirement for graduation, no waivers will be granted for medical conditions which would prevent commissioning in at least a restricted status in the U.S. Navy Reserve. Individuals interested in waiver consideration may request a waiver by writing to the Superintendent, USMMA. The granting of medical waivers will be based on U.S. Navy guidelines and regulations for waiver consideration for admission to the U.S. Naval Academy and the physical requirements consistent with commissioning as a reserve officer in the U.S. Navy in a restricted line program. Individuals requesting medical waivers must be able to meet all other admission requirements, including the physical examination requirement for an original U.S. Coast Guard merchant marine license as a third mate and/or third assistant engineer. The decision of the Superintendent on any requested waiver is administratively final.

Dated: November 2, 1990.

By Order of the Maritime Administration.

James E. Saari,

Secretary.

[FR Doc. 90-26364 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 88-475; FCC 90-336]

Construction Prior to Receiving Authorization for Public Mobile Service Applicants

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order was written in response to several requests for petitions for reconsideration of the *Report and Order*.

amending part 22 of the rules, 4 FCC Rcd 5960 (1989). In the *Report and Order*, the Commission amended part 22 to allow certain Public Mobile Service (PMS) applicants to begin constructing facilities after filing an application (FCC Form 401) and without receiving prior Commission authorization, as long as certain conditions are met. The Memorandum Opinion and Order revises and clarifies the adopted rules. The effect of the Order is to speed service to the public.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT:

Leila Brown, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 88-475, adopted October 11, 1990 and released October 22, 1990. The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, suite 140, Washington, DC 20037.

1. In this Memorandum Opinion and Order the Commission has amended its Report and Order, which permitted applicants in the domestic public cellular radio telecommunications service (cellular) and the public land mobile service (PLMS or non-cellular) to construct facilities after filing a Form 401 application but prior to receiving Commission authorization. The rule also contains the conditions under which an applicant may construct prior to receiving a grant of its authorization. On reconsideration, the Commission has determined that the pre-authorization construction rule should be extended to all applicants in the PMS service as defined in § 22.2 of the Commission's rules. 47 CFR 22.2. Additionally, on reconsideration, the Commission made it clear that, as with part 22 applicants, generally, applicants who propose pre-authorization construction are not required to obtain ASB clearance if the proposed antenna structures are exempted from FAA notification under § 17.14 of the Commission's rules. On reconsideration, the Commission also concluded that, for cellular licenses, allowing pre-grant construction of facilities where *de minimis* extensions are proposed would expedite service to the public and allow cellular operators and applicants to modify their system quickly in response to market demand.

Thus, the Commission amended the rule to permit pre-authorization construction where the applicant proposes a *de minimis* extension of its CGSA or 39 dBu contour.

2. Final Regulatory Flexibility Analysis. The rulemaking will enhance the efficiency of PMS operations and speed service to the public because, under certain conditions, PMS applicants will not have to wait until after receiving Commission authorization to begin construction. The Order takes into consideration the various issues raised by the public concerning the proposed rules and modifies them where the Commission has been determined that service to the public would be provided with greater speed and efficiency.

3. Paperwork Reduction Act Statement. The Proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found not to impose a new information collection requirement on the public.

4. Authority for this Rulemaking is contained in sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

5. Wherefore, for the foregoing reasons, part 22 of the Commission's Rules is hereby amended as specified in the rule section appended to this summary. The amendments adopted in this Order for part 22 licensees will become effective December 7, 1990.

List of Subjects in 47 CFR 22

Communications common carriers, Prior construction.

1. The authority citation for part 22 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 22.43 is amended by removing paragraph (d)(3)(iii), and adding new paragraph (d)(1)(viii), redesignating paragraphs (d)(3)(iv) through (d)(3)(vii) as paragraphs (d)(3)(iii) through (d)(3)(vi), and revising paragraphs (d)(1), (d)(1)(i), (d)(1)(ii), (d)(1)(iii), (d)(1)(vi), (d)(1)(vii), newly redesignated (d)(3)(iii), (d)(3)(v); and (d)(4)(iii), to read as follows:

§ 22.43 Period of construction.

(d) * * *

(1) Scope. Section 22.43(d) applies to all Public Mobile Service (PMS) applicants as defined in § 22.2 and set forth in § 22.43(d), paragraphs (i)-(viii):

(i) Applicants for an initial station authorization in the PMS;

(ii) Applicants for a non-permissive change of an existing station

authorization in the PMS, *see* § 22.9(a) of the rules;

(iii) Applicants who have filed applications or amendments which request expansion of the reliable service area of a PMS base station facility by less than one mile. *Cf.* § 22.23(c)(2) of the rules;

* * *

(vi) Applicants seeking authorization to expand an existing Cellular Geographic Service Area (CGSA), pursuant to § 22.9(a) of the rules, within the boundaries of their market, both during the exclusive five year fill-in period, and after the fill-in period has expired, *see* § 22.31(a)(1)(i), (f) of the rules;

(vii) Applicants seeking an initial cellular authorization after the exclusive five year fill-in period has expired, *see* § 22.31(a)(1)(i), (f) of the rules;

* * *

(3) * * *

(iii) The applicant, where required (and not exempted under § 17.14 of the rules), has not filed a notice of proposed construction with the FAA, and has not received a determination from the Commission as to any required antenna structure marking and lighting specifications;

* * *

(v) For non-cellular applicants, the proposed facility will be located between line A and the United States-Canadian border, *see* §§ 1.955, 22.117(b)(2) of the rules; or a facility to be operated in the 931-932 MHz band will be located in any of the areas indicated in Note C, *infra*; and

* * *

(4) * * *

(iii) Applications and amendments to expand the reliable service area of a non-cellular base station by less than one mile. Applications and amendments which request expansion of the reliable service area of a non-cellular base station facility by less than one mile, *see* § 22.43(d)(1)(iii), shall not be subject to the general rule set out in § 22.43(d)(2)(i). Rather, once the applicant has mailed the Form 401 to the Commission, the applicant may commence construction provided that the requirements of § 22.43(d)(3) have been met.

* * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-25695 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-18; RM-7122]

Radio Broadcasting Services; Pine Bluff, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 267C3 for Channel 267A at Pine Bluff, Arkansas, and modifies the permit issued to Madison Hodges, for Station KPBBQ-FM, as requested, to specify operation on the higher powered channel, thereby providing that community with an additional expanded coverage FM service. See 55 Fed. Reg. 4632, February 9, 1990. Coordinates for Channel 267C3 at Pine Bluff are 34-08-00 and 91-56-45. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 20, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-18, adopted September 24, 1990, and released November 5, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Arkansas, is amended by removing Channel 267A and adding Channel 267C3 at Pine Bluff.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26476 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-131; RM-7162]

Radio Broadcasting Services; Bowling Green, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 231C3 for Channel 231A at Bowling Green, Missouri, in response to a petition filed by Pike County Broadcasting Co. See 55 FR 10790, March 23, 1990. We shall also modify the license for Station KPCR-FM, Bowling Green, to specify operation on Channel 231C3. The coordinates for Channel 231C3 are 39-21-57 and 91-10-45.

EFFECTIVE DATE: December 20, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-131, adopted September 25, 1990, and released November 5, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 231A and adding Channel 231C3 at Bowling Green.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26477 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-589; RM-7050]

Radio Broadcasting Services; La Crosse, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule

SUMMARY: The Notice in this proceeding was issued in response to a request from Vaughn Broadcasting Group proposing the substitution of Channel 292C3 for Channel 285A at La Crosse, Wisconsin, and modification of the license for Station WLXR-FM to specify the higher class channel. See 55 FR 327, January 4, 1990. Petitioner withdrew his interest in the proposed upgrade, but Robert V. Barnes filed comments stating his intent to file an application for the channel at La Crosse. This document allots Channel 292C3 to La Crosse, Wisconsin, as that community's fourth FM broadcast service, in response to comments filed by Robert V. Barnes. The coordinates for channel 292C3 are 43-48-00 and 91-14-42.

DATES: Effective December 20, 1990; the window period for filing applications will open on December 21, 1990, and close on January 21, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-589, adopted September 28, 1990, and released November 5, 1990.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Wisconsin by adding Channel 292C3 at La Crosse.

Federal Communications Commission.
Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division,
Mass Media Bureau.
 [FR Doc. 90-26478 Filed 11-7-90; 8:45 am]
 BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 90926-9277]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery for shallow-water groupers (all groupers other than yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and jewfish) in the exclusive economic zone (EEZ) of the Gulf of Mexico. The Secretary has determined that the commercial allocation for shallow-water groupers will be reached on November 7, 1990. This closure is necessary to protect the shallow-water grouper resource.

EFFECTIVE DATES: Closure is effective November 8, 1990, through December 31, 1990.

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

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico was developed by the Gulf of Mexico Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR part 641. Those regulations set the commercial quota for shallow-water grouper in the Gulf of Mexico at 9.2 million pounds for the current fishing year, January 1-December 31, 1990.

Under 50 CFR 641.26, the Secretary is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notice in the *Federal Register*. The Secretary, based on current statistics, has determined that the commercial quota of 9.2 million pounds for shallow-water grouper will be reached on November 7, 1990. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for shallow-water grouper is closed effective November 8, 1990, through

December 31, 1990, the end of the fishing year.

During the closure, the bag limit applies to all harvests of shallow-water groupers from the EEZ in the Gulf of Mexico and the purchase, barter, trade, or sale of shallow-water groupers taken from the EEZ is prohibited. This prohibition does not apply to trade in shallow-water groupers that were harvested, landed, and bartered, traded, or sold prior to the closure and were held in cold storage by a dealer or processor. The daily bag limit for groupers, excluding jewfish, is five. There is no allowable catch of jewfish in either the commercial or recreational fisheries.

Other Matters

This action is required by 50 CFR 641.26 and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Date: November 2, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-26380 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 55, No. 217

Thursday, November 8, 1990

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter 1

[Docket No. 26339; Summary Notice No. FR-90-28]

Request for Additional Comments on the Summary of Rulemaking Petition Received From American Airlines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of petition for rulemaking.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice requests additional, specific comments addressing certain aspects of a petition by American Airlines, Inc., to allow aircraft certificated for 110 seats or less and that meet Stage 3 noise requirements to use commuter slots at Chicago's O'Hare International Airport. Specifically, this notice solicits additional comments on the availability of ground facilities for additional turbojet operations at O'Hare and the impact of such operations on ground congestion at the airport. Neither the publication of this notice nor the inclusion or omission of information in the summary or the additional request is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on the original petition and this supplemental request must identify the petition docket number involved and be received on or before December 3, 1990.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 25717, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-3491.

SUPPLEMENTARY INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC-10), room 915, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

Part 93, subpart K of the Federal Aviation Regulations (14 CFR part 93, subpart K) limits the number of aircraft operations at O'Hare International Airport and limits the type of aircraft that may use commuter slots. Under § 93.123(c), commuter operations are those conducted by a propeller-driven aircraft having a maximum certificated seating capacity of less than 75 passenger seats or a turbojet aircraft having a maximum certificated seating capacity of less than 56 passenger seats.

On October 2, 1990, the FAA published a summary of American Airlines' petition in which American requested that the requirements of part 93, subpart K of the Federal Aviation Regulations be amended to permit aircraft certificated for 110 seats or less and that meet Stage 3 noise requirements to use commuter slots at O'Hare International Airport. (54 FR 40191) Petitioner stated in its petition that the use of Stage 3 aircraft with up to 110 passenger seats would upgrade and increase service to small and medium-sized communities and would enhance competition in the Chicago area, as well as throughout the United States.

The FAA is now requesting further comment on certain concerns of the agency that were not addressed in the original petition. In particular, Air Traffic Control has concerns about the capacity of O'Hare Airport for additional turbojet operations that would result if the seat limitation of the commuter aircraft is raised as the petition has requested. Specifically, the FAA is requesting comments on the following.

1. Are sufficient terminal gates available at O'Hare International Airport for the additional jet aircraft?

2. If terminal gates are not available and ramp parking will be used, is there sufficient ramp space available at O'Hare in which to

board and deplane passengers without causing a congestion problem in ramp areas?

3. Further, if terminal gates are not used, will passengers be able to transition between the terminal and the aircraft safely?

4. Should there be a limit on the number of commuter slots that may be converted to turbojet operations during specific time periods?

Issued in Washington, DC on November 5, 1990.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 90-26447 Filed 11-5-90; 12:19 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-ANE-28]

Airworthiness Directives; General Electric Co. (GE) CF6-80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain GE CF6-80C2 series engines, which would require establishment of a borescope inspection program for high pressure turbine (HPT) stage one shrouds and HPT stage one blades. The AD would also require the installation of HPT hardware to increase cooling to the HPT stage one shroud. This proposal is prompted by an HPT failure which resulted in aircraft damage. This condition, if not corrected, could result in HPT failure and possible aircraft damage.

DATES: Comments must be received no later than December 5, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-ANE-28, 12 New England Executive Park, Burlington, Massachusetts 01903.

Comments may be inspected at the above location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street,

Cincinnati, Ohio 45246. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7096.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90-ANE-28." The postcard will be date/time stamped and returned to the commenter.

Discussion

There has been one event with aircraft damage attributed to an HPT stage one shroud failure. The shroud failure resulted in subsequent high and low pressure turbine damage and airfoil failures. Debris from the failed turbine exited the exhaust nozzle and impacted the aircraft external surfaces. Also, there have been several instances of distressed shrouds discovered on high thrust rated engines at shop visits and during routine HPT borescope inspections.

HPT stage one shroud distress has been attributed to two conditions. First,

the shroud leading edge may become exposed to hot flowpath gases as the film cooling holes lack adequate backflow margin. This condition is prevalent on high thrust rated engine models where the least backflow margin and the highest flowpath temperatures exist. Second, a manufacturing process problem has been identified which could allow shroud grinding debris to become entrapped in the shroud cooling circuit, thus starving the shroud of sufficient cooling air. These conditions, if not corrected, could result in HPT failure and possible aircraft damage.

The FAA has reviewed and approved GE CF6-80C2 Service Bulletin (SB) 72-473, dated July 3, 1990, which describes procedures for borescope inspection of HPT stage one shrouds and HPT stage one blades. Also, the FAA has reviewed and approved GE CF6-80C2 SB 72-474, dated July 13, 1990, which describes HPT modifications to increase cooling to the HPT stage one shrouds.

Since this condition is likely to exist or develop on other engines of this same type design, an AD is proposed which would require repetitive borescope inspection of HPT stage one shrouds and HPT stage one blades, in accordance with CF6-80C2 SB 72-473. Also, the proposed AD would require HPT modifications to increase cooling to the shroud, in accordance with CF6-80C2 SB 72-474.

There are approximately 177 GE CF6-80C2A5, -80C2B6, -80C2B6F, and -80C2D1F series engines of the affected design in the worldwide fleet. It is estimated that 99 engines installed on aircraft of U.S. registry would be affected by this AD, and that all costs associated with the proposal will be incurred by the manufacturer through a warranty program.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the

draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423, 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983); and 14 CFR 11.99.

§ 39.13 [Amended]

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

General Electric Co.: Applies to General Electric Company (GE) CF6-80C2A5 and CF6-80C2B6 engines, Serial Numbers (S/N) 690-101 through 690-369, and S/N 695-101 through 695-423; and CF6-80C2B6F and CF6-80C2D1F engines, S/N 702-101 through 702-470, and S/N 703-101 through 703-136, which do not incorporate the increased shroud cooling design features of paragraph (c) of this AD, installed on, but not limited to, Airbus A300, Boeing 767, and McDonnell Douglas MD-11 aircraft.

Compliance is required as indicated, unless previously accomplished.

To prevent high pressure turbine (HPT) failure and possible aircraft damage, accomplish the following:

(a) Borescope inspect engines in accordance with the Accomplishment Instructions in GE CF6-80C2 Service Bulletin (SB) 72-473, dated July 3, 1990, unless previously accomplished, according to the following schedule based upon cycles since new (CSN) on the effective date of this AD:

(1) Inspect within 10 cycles in service (CIS) after the effective date of this AD or prior to accumulating 520 CSN, whichever occurs later, for CF6-80C2A5 and CF6-80C2B6 engines, S/N 690-101 through 690-369, and S/N 695-101 through 695-350; and CF6-80B6F engines, S/N 702-101 through 702-315, and S/N 702-317 through 702-321.

(2) Inspect within 10 CIS after the effective date of this AD or prior to accumulating 1,250 CSN, whichever occurs later, for CF6-80C2A5 and CF6-80C2B6 and CF6-80C2D1F engines, S/N 702-316, 702-322 through 702-470, and S/N 703-101 through 703-136.

(3) Remove from service or reinspect in accordance with the following:

(i) Remove from service prior to further flight, engines with at least one Category 4 shroud.

(ii) Remove from service within 25 hours time in service (TIS) since last inspection (SLI), engines with no Category 4 shrouds, but at least one Category 3 shroud.

(iii) Borescope reinspect at intervals not to exceed 125 hours TIS SLI, engines with no Category 3 or 4 shrouds, but at least one Category 2 shroud.

(iv) Borescope reinspect at intervals not to exceed 300 hours TIS SLI, engines with no Category 2, 3, or 4 shrouds, but at least one Category 1 shroud.

(v) Borescope reinspect at intervals not to exceed 520 CIS SLI, engines with no Category 1, 2, 3, or 4 shrouds.

(b) Replace the HPT stator stage one shroud supports, the HPT stator support hangers, and the HPT stage one shrouds, in accordance with the Accomplishment Instructions of GE CF6-80C2 SB 72-474, dated July 13, 1990, at the next HPT module exposure after the effective date of this AD, but prior to December 31, 1994.

(c) For the purpose of this AD, HPT module exposure is defined as the separation of the HPT stator support case from the compressor rear frame.

(d) For the purpose of this AD, the shroud Categories are defined in GE CF6-80C2 SB 72-473, dated July 3, 1990.

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

(f) 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, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on October 26, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-26390 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-033-d]

RIN 1218-AB25

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Cancellation of public hearing and extension of comment period.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is extending the period for submission of comments and analyses on a recent document submitted to the Agency by the American Thoracic Society (ATS). OSHA also is cancelling the informal public hearing scheduled for November 9, 1990.

DATES: Comments and analyses relevant to issues raised in the ATS final report must be postmarked on or before December 14, 1990.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket H-033-d, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., room N-2625, Washington, DC 20210; telephone (202) 523-7894.

All written materials received will be available for inspection and copying in the Docket Office, room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210, between the hours of 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3649, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: On February 12, 1990, OSHA published a Notice of Proposed Rulemaking (NPRM) (55 FR 4938) to amend the asbestos standards (29 CFR 1910.1001; 1926.58) to remove non-asbestiform tremolite, anthophyllite and actinolite from their scope. Public hearings were held in Washington, DC May 8-14, 1990. At the close of the hearings, the Administrative Law Judge set the following deadlines for participants to send material to OSHA: June 28, 1990 for the submission of additional information and July 23,

1990 for submission of comments, summations and briefs.

At the time of the hearings, the American Lung Association and its medical division, the American Thoracic Society could not submit to the record its final report relating to the health effects of non-asbestiform tremolite, anthophyllite and actinolite. Earlier, the ATS had submitted a draft report to the record (Ex. 472) which discussed the relevant health issues and the ATS's opinion on the regulation of non-asbestiform tremolite, anthophyllite and actinolite. Extensive comment on the draft report had been submitted to the record before the hearing. ATS's final report was scheduled to undergo review for internal approval after the close of OSHA's public hearings.

After the close of the post-hearing comment period OSHA received the final report from the ATS entitled, "The Health effects of Tremolite." This document was placed in the public record (Docket Number H-033-d, Ex. 525).

On October 4, 1990 OSHA published a Federal Register notice which announced the re-opening of the rulemaking record to receive comments on the ATS report and which scheduled a one day hearing for November 9, 1990 to receive testimony by ATS and to allow questioning of ATS by hearing participants (55 FR 40677).

The ATS has now informed OSHA that it will not present oral testimony. OSHA, therefore, is cancelling the November 9, 1990 hearing. The Agency is extending the previously announced comment period from October 31, 1990 until December 14, 1990. This extension will afford sufficient time for all interested parties to submit written comments and analyses on all issues raised in the ATS report.

The Agency notes that relevant written submissions which have been subject to public comment, become part of the rulemaking record which the Assistant Secretary may consider in reaching a regulatory decision (see 29 CFR 1911.18(a)(1)).

Certification of Record and Final Determination

Following the close of the comment period, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health.

The proposed standard will be reviewed in light of all testimony and

written submissions received as part of the record and a standard will be issued based on the entire record of the proceeding, including the written comments and data received from the public.

Authority: Section 6(b), 8(c), and 8(g), Pub. L. 91-596, 84 stat. 1593, 1599, 1600, 29 U.S.C. 655, 657; 29 CFR part 1911; and Secretary of Labor's Order No. 1-90 (55 FR 9033).

Signed at Washington, DC on this 2nd day of November 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-26392 Filed 11-7-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169a

[DoD Instruction 4100.33]

RIN 0790-AA48

Commercial Activities Program Procedures

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Defense withdraws the proposed rule regarding the Commercial Activities Program Procedures to incorporate changes (32 CFR part 169a). The Department of Defense will publish a revision after the Office of Management and Budget (OMB) completes its major revision to OMB Circular A-76, "Performance of Commercial Activities," which has an impact on this part.

FOR FURTHER INFORMATION CONTACT: Mr. D. Miglionico, Office of the Assistant Secretary of Defense (Production and Logistics) Installations Support Division, Pentagon, Washington, DC 20301-8000.

SUPPLEMENTARY INFORMATION: On April 18, 1989 (54 FR 15442), the Department of Defense published part 169a as a proposed rule. The Department of Defense previously published part 169a on November 14, 1979 (44 FR 65603) and April 4, 1980 (45 FR 22924).

Authority: 10 U.S.C. 133.

Dated: November 5, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-26457 Filed 11-7-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AE89

Schedule for Rating Disabilities—The Muscular System

AGENCY: Department of Veterans Affairs.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Veterans Affairs (VA) is issuing an advance notice of proposed rulemaking (ANPRM) concerning that portion of the Schedule for Rating Disabilities which deals with disabilities of the muscular system. This ANPRM is necessary because of a General Accounting Office (GAO) study and recommendation that the medical criteria in the rating schedule be reviewed and updated as necessary. The intended effect of this ANPRM is to solicit and obtain the comments and suggestions of various interest groups and the general public on necessary additions, deletions and revisions of terminology and how best to proceed with a systematic review of the medical criteria used to evaluate disabilities of the muscular system. Other body systems will be subsequently scheduled for review until the medical criteria in the entire rating schedule have been analyzed and updated.

DATES: Written comments and submissions in response to this ANPRM must be received by VA on or before January 7, 1991.

ADDRESSES: Interested persons and organizations are invited to submit written comments and suggestions regarding this ANPRM to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420. All written submissions will be available for public inspection only in the Veterans Service Unit, room 132, at the above address and only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 17, 1991.

FOR FURTHER INFORMATION CONTACT: Phyllis Barber, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In December 1988, GAO published a report entitled *Veterans' Benefits: Need to Update Medical Criteria Used in VA's Disability Rating Schedule* (GAO/HRD-89-28). After consulting numerous medical professionals and VA rating

specialists, GAO concluded that a comprehensive and systematic plan was needed for reviewing and updating VA's Schedule for Rating Disabilities (38 CFR part 4). The medical professionals noted outdated terminology, ambiguous impairment classifications and the need to add a number of medical conditions not presently in the rating schedule. VA rating specialists noted that for some disorders they would prefer more medical criteria for distinguishing between various levels of severity and that inconsistent ratings may result when unlisted conditions had to be rated by analogy to other listed disorders. GAO recommended that VA prepare a plan for a comprehensive review of the rating schedule and, based on the results, revise the medical criteria accordingly. It also recommended that VA implement a procedure for systematically reviewing the rating schedule to keep it updated. VA agreed to both recommendations, and this ANPRM is one step in a comprehensive rating schedule review plan which will ultimately be converted into a systematic, cyclical review process.

This ANPRM is the first stage in VA's consideration of what regulatory action to take, if any, with respect to revising and updating that portion of the rating schedule dealing with disabilities of the muscular system (38 CFR 4.73). While we do not wish to limit comments in any way, it should be noted that our primary concern in this ANPRM is the medical criteria used to evaluate muscular disabilities and not the percentage evaluations presently assigned to each level of severity.

Interested organizations and individuals are invited to submit comments and suggestions for revising current medical criteria, adding additional disabilities and/or deleting certain rarely encountered disorders or transferring them to other sections of the rating schedule. Submissions may run the gamut from narrative discussions of individual rating criteria to wholesale format changes and substitute rating schedules. Where changes are suggested, we would also appreciate a recitation as to the scientific or medical authority for such changes. Early submissions will expedite the comment review process and are encouraged.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: October 15, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 90-26381 Filed 11-7-90; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-482, RM-7172]

Radio Broadcasting Services; Lemoore and Tipton, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Lemoore Wireless Co., Inc., licensee of Station KQYZ(FM), Channel 285A, Lemoore, California, seeking the reallocation of Channel 285A to Tipton, California, as a Class B1 channel, and modification of its license accordingly. Coordinates for this proposal are 36-02-58 and 119-29-08.

DATES: Comments must be filed on or before December 27, 1990, and reply comments on or before January 11, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lauren A. Colby, Esq., Law Offices of Lauren A. Colby, 10 E. Fourth St., P.O. Box 113, Frederick, MD 21701.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-482, adopted September 28, 1990, and released November 5, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26479 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-483, RM-7456]

Radio Broadcasting Services; Searsport, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Brian Dodge, proposing the allotment of FM Channel 269A to Searsport, Maine, as that community's first local service. Canadian concurrence will be requested at coordinates 44-27-30 and 68-55-30.

DATES: Comments must be filed on or before December 27, 1990, and reply comments on or before January 11, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Brian Dodge, Harvest Broadcasting Services, RFD3 Rt. 16N, Dover, New Hampshire 03820.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-483, adopted September 28, 1990, and released November 5, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission

consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26480 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-485, RM-7433]

Radio Broadcasting Services; Bolivar and Nixa, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Sunburst II, Inc., proposing the reallocation of Channel 290C2 from Bolivar, Missouri, to Nixa, Missouri, and modification of the permit for Station KGBX-FM to specify the new community of license. The coordinates for Channel 290C2 are 37-17-10 and 93-10-15.

DATES: Comments must be filed on or before December 27, 1990, and reply comments on or before January 11, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Martin R. Leader, Francisco R. Montero, Fisher, Wayland, Cooper and Leader, 1255 23rd Street, NW., suite 800, Washington, DC 20037-1125. (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-485, adopted September 28, 1990, and released November 5, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also

be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26481 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-484, RM-7478]

Radio Broadcasting Services; Kalispell, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Skyline Broadcasters, Inc., proposing the allotment of Channel 292A to Kalispell, Montana, as that community's fourth FM broadcast service. Canadian concurrence will be requested at coordinates 48-11-42 and 114-18-48.

DATES: Comments must be filed on or before December 27, 1990, and reply comments on or before January 11, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ambrose Measuse, Skyline Broadcasters, Inc., P.O. Box 169, Kalispell, Montana 59903, (Petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

90-484, adopted September 28, 1990, and released November 5, 1990.

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

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,
Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-26482 Filed 11-7-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 89-24; Notice 3]

RIN 2127-AC77

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice responds to comments to a notice of proposed rulemaking published in December 1989. That notice proposed deleting the phrase "optically combined" in Standard No. 108, and substituting clarifying language. Because of objections to the proposed language, NHTSA is proposing to adopt the SAE definition of "optical combination".

DATES: The comment closing date for the proposal is December 24, 1990. Effective date of the amendment would be 30 days after publication of the final rule in the Federal Register. Any request for an extension of time in which to comment must be received not later than 10 days before the published expiration date of the comment period.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, Nassif Building, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, NHTSA (202-366-5271).

SUPPLEMENTARY INFORMATION: On December 5, 1989, the agency proposed amendments to Federal Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, with the intent of substituting clarifying phrases for the term "optical combination" (54 FR 50254). In view of comments received on the proposal, the agency has decided not to issue a final rule based on the proposal, but to issue this supplemental notice of proposed rulemaking instead.

As the agency explained in Notice 1, from its very beginning, Motor Vehicle Safety Standard No. 108, in one version or another, has allowed two or more lamps, reflective devices, or items of associated equipment to be combined, if the requirements for each are met, provided that certain specified lamps were not "optically combined" (See, e.g., sections S3.3, S3.4.4.3, 23 CFR 255.21 revised as of January 1, 1968, Motor Vehicle Safety Standard No. 108). The current provisions are contained in sections S5.1.1.26 and S5.4.1. They are also contained in two SAE standards incorporated by reference.

Section S5.4.1 is being amended contemporaneously with this proposal to be redesignated S5.4, and to omit the prohibition against optical combination of identification lamps and clearance lamps. As amended, section S5.4 permits lighting equipment to be "combined", provided that "no clearance lamp may be optically combined with any taillamp, and no high mounted stop lamp shall be combined with any other lamp or reflective device."

With respect to use of the term elsewhere in Standard No. 108, paragraph 4.2 of SAE Standard J586c Stop Lamps, August 1970, and paragraph 4.4 of SAE Standard J588e Turn Signal Lamps, September 1970, both state "When a stop signal is optically

combined with the turn signal, the circuit shall be such that the stop signal cannot be turned on in the turn signal which is flashing". Finally, the second sentence of section S5.1.1.26 of Standard No. 108, states that "A stop lamp that is not optically combined with a turn signal lamp shall remain activated when the turn signal is flashing."

The agency has never adopted a definition of "optically combined", but over the years attempted to clarify the term by issuing a variety of interpretations. On June 14, 1988, the Truck Safety Equipment Institute ("TSEI") petitioned the agency for rulemaking to amend Standard No. 108 to adopt the Society of Automotive Engineers' (SAE) definition of the term "combined optically" as set forth in SAE Information Report J387 OCT88 "Terminology—Motor Vehicle Lighting." Until the revision of SAE J387 in 1988, the term had been undefined, though appearing in the two SAE standards for many years. TSEI had examined the opinion letters issued by NHTSA and concluded that they were inconsistent, alleging, for example, that one had "apparently been used to justify designs which have the clearance lamp bulb mounted in close proximity to the dual filament stop/tail lamp bulb * * * Both use a common lens area for the output of the tail and clearance functions. It does not appear that this is in keeping with either the spirit or the intent of FMVSS 108." The petitioner also mentioned that Canada had adopted, effective September 2, 1987, a definition of "combined optically" which is substantially similar to that of the SAE.

In considering TSEI's petition, NHTSA examined the prohibition against optically combining taillamps and clearance lamps. These lamps serve similar functions, namely the indication of the width and presence of the vehicle. The agency proposed an amendment of S5.4 that would prohibit a taillamp from sharing a light source, lens, or lamp body with a clearance lamp. NHTSA also wished to clarify its existing prohibition against combining the center highmounted stop lamp with other lighting devices, and proposed that the center lamp not share a light source, lens, or lamp body with any other lamp or reflector.

In reviewing section S5.1.1.26, containing the other direct reference to "optically combined", the agency wished to distinguish a lamp that performs two functions (stop, turn signal) with a single filament from one that performs these two functions with more than one filament. Accordingly it proposed a revision of that section to

delete the term "optically combined" and replace it with language to clarify that a light source that performs a stop function but not a turn signal function shall provide the function regardless of whether any turn signal is flashing.

Finally, with reference to the identically worded sentence in the two SAE standards, NHTSA proposed to delete the phrase "when the stop signal is optically combined with the turn signal" and replace it with "when a light source performs both stop and turn signal functions". This would be accomplished by adding language to section S5.1.1.26. In NHTSA's view, removal of the term "optically combined" from Standard No. 108 would therefore cure the ambiguities that have existed, and constitute a grant of TSEI's petition.

Comments were received on the proposal from White/GMC Trucks, Chrysler Corporation, General Motors Corporation, Transportation Safety Equipment Institute, Peterson Manufacturing Company, Grote Manufacturing Company, Ford Motor Company, Truck-Lite Company, and Dry Launch. All commenters except Chrysler Corporation opposed the terminology of the proposed amendments to S5.1.1.26, and 5.4.1, though concurring with NHTSA is the regulatory goal of greater clarity. In general, the commenters felt that new ambiguities were being introduced, and that adoption of the proposal would prohibit some existing lamp designs where optical combination does not exist under current interpretations.

As an example, TSEI and Grote queried whether "light source" would mean the bulb or each filament, with respect to a bulb with more than one filament. Peterson pointed out that the fact that two light sources share a common body does not mean *per se* that they are "optically combined." GM, TSEI, and Ford argued that the proposed rewording of S5.1.1.26 would not result in the same performance as the SAE specifications for which it was intended to be a substitute. Virtually all these commenters recommended that NHTSA adopt the definition of "optically combined" as set forth in SAE Information Report J387 OCT88 Terminology—Motor Vehicle Lighting. Under the SAE definition,

A lamp shall be deemed to be 'optically combined' if both of the following conditions are met:

A. It has two or more separate light sources, or a single light source that operates in different ways (e.g., a two filament bulb).

B. Its optically functional lens area is wholly or partially common to two or more lamp functions.'

NHTSA has reviewed these comments and found them persuasive. Accordingly, it is proposing an amendment of S4, rather than of S5.1.1.26 and S5.4.1, to add a definition quite similar to that of the SAE. Under the proposed definition:

'Optically combined' means a combination within a lamp of two or more separate light sources, or a single light source that operates in different ways, such as a dual-filament bulb, where its optically functional lens area is wholly or partially common to two or more lamp functions.

Because the amendment would clarify existing requirements, it is proposed that the amendment become effective 30 days after its publication in the **Federal Register**.

Impacts

NHTSA has considered the impacts of this rulemaking action and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulation," nor significant under Department of Transportation regulatory policies and procedures. The primary effect of adopting the proposal would be to clarify existing requirements. In proposing this amendment, NHTSA has tentatively concluded that the savings in costs to manufacturers would be minimal, as it knows of no existing lamp designs that would be affected. Therefore, the agency has not prepared a full regulatory evaluation.

NHTSA has analyzed this proposal for purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment because its effect is to clarify existing requirements.

The agency has also considered the effects of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic effect upon a substantial number of small entities. Lamp and vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Furthermore, small organizations and governmental jurisdictions would not be significantly affected as the price of new vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism," and it has been determined that the proposed rule does

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the proposal. Please submit 10 copies of written comments and 2 copies of films, tapes, and other materials. All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR part 512).

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment be amended as follows:

Part 571—[AMENDED]

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

Authority: 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

2. In § 571.108, S4 would be amended by adding a definition of "Optically combined", in alphabetical order, to read: § 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

Optically combined means a combination within a lamp of two or more separate light sources, or a single light source that operates in different ways, such as a dual filament bulb, where the optically functional lens area of the lamp is wholly or partially common to two or more lamp functions.

* * * * *

Issued on: October 31, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-26231 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB52

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Scirpus ancistrochaetus* (Northeastern Bulrush)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Scirpus ancistrochaetus* (Northeastern bulrush), a perennial herb of the sedge family (Cyperaceae) to be an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. Twelve occurrences of *Scirpus ancistrochaetus* are found in open shallow ponds, wet depressions, and marshes in Virginia, West Virginia, Maryland, Pennsylvania, Massachusetts, and Vermont; the species is also known historically from New York. Eight of the twelve extant populations are extremely small, each having less than 70 flowering culms. The species is threatened by habitat loss and modification through residential, agricultural and recreational development. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Scirpus*

ancistrochaetus. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by January 7, 1991. Public hearing requests must be received by December 24, 1990.

ADDRESSES: Comments and materials, and requests for public hearing concerning this proposal should be sent to the New England Field Office, U.S. Fish and Wildlife Service, 22 Bridge St., Concord, New Hampshire 03301. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Susanna L. von Oettingen at the above address (telephone: 603/225-1411 or FTS 834-4411).

SUPPLEMENTARY INFORMATION:

Background

Scirpus ancistrochaetus (Northeastern bulrush), a perennial member of the sedge family (Cyperaceae), was described as a new species by A.E. Schuyler in 1962. Though *Scirpus ancistrochaetus* is closely related to *Scirpus atrovirens* and *Scirpus hattorianus*, Kartesz and Kartesz (1980) also acknowledged *S. ancistrochaetus* as a distinct species. The Northeastern bulrush is a tall, leafy plant, generally 80 to 120 cm (30 to 47 inches) in height. Flowering culms (stems) are produced from short, woody, underground rhizomes. The lower leaves are 40 to 60 times as long as wide; the uppermost leaves are 30 to 50 times as long as wide (Schuyler 1962). A distinctive field characteristic which aids in separating this species from other bulrushes is the arching rays of the inflorescence. The flowers have six, small rigid perianth bristles each covered to the base with thick-walled, sharply pointed barbs projecting downward. The yellow brown achenes (fruits) are mostly ovate, and thickened and tough at the top. *S. ancistrochaetus* flowers from mid-June to July, and sets fruit between July and September (Crow 1982).

The reproductive mechanism of *S. ancistrochaetus* is not clearly understood. It appears that *S. ancistrochaetus* most often reproduces vegetatively as new plants develop from the nodes and culms of recumbent stems. The absence of isolated individuals suggests that sexual recruitment is not occurring (Bartgis, The Maryland Natural Heritage Program, pers. comm., 1990).

Schuyler (1964, 1967) investigated the relationship between *Scirpus*

ancistrochaetus and two closely related species, *S. atrovirens* and *S. hattorianus* and observed that *S. ancistrochaetus* will hybridize with both species, generally producing a sterile hybrid. When in its vegetative form, *S. atrovirens* is very similar in appearance to *S. ancistrochaetus*, while hybrids between these two species are morphologically intermediate, both in vegetative and reproductive forms. The ancestral relationship of *Scirpus ancistrochaetus* to *S. atrovirens*, as well as its scarcity and scattered occurrence in isolated wetlands in areas where the flora has been well researched, suggests that *S. ancistrochaetus* is a relict species (A. Schuyler, Academy of Natural Sciences of Philadelphia, pers. comm., 1990).

The Northeastern bulrush is found at the unshaded water's edge of acidic to circumneutral natural ponds, wet depressions or shallow sinkholes. The ponds are often clustered and separated by a few hundred feet or yards. *S. ancistrochaetus* may be found in one or more ponds within a wetland complex, though rarely, if ever, occurring in all of the ponds. These wetlands, generally less than one acre in size, appear to occur primarily in low-lying areas in hilly country (Schuyler 1962) and have seasonally variable water levels, ranging from inundation to desiccation (Rawinski 1990). The ponds and depressions where *S. ancistrochaetus* may be found are considered unusual habitats, especially in the southern portion of its range. Though the habitat does not appear to have distinctive characteristics, many statewide rare plants such as *Potamogeton pulcher*, *Scirpus torreyi*, and *Glyceria acutiflora* are often found in association with *S. ancistrochaetus*, indicating that there may be subtle, and as yet unknown properties of the habitat (Rawinski, The Nature Conservancy, pers. comm., 1990). Other members of the genus *Scirpus* found with *S. ancistrochaetus* are *S. atrovirens*, *S. cyperinus*, *S. pedicellaris*, *S. hattorianus* and *S. atrocinctus*.

Schuyler (1962) first discovered *S. ancistrochaetus* in Rockingham, Windham County, Vermont, which is considered the type locality. Emergence of the plant at a location may be unpredictable from year to year. Nonetheless, historical records of leafy *Scirpus* species are useful in indicating whether *S. ancistrochaetus* is more common than believed. In Schuyler's (1963, 1967) extensive review of *Scirpus* herbaria specimens, few misidentified *S. ancistrochaetus* were documented and only five historical occurrences were identified. In 1986 and 1989 the Fish and

Wildlife Service (Service) contracted with The Nature Conservancy's Eastern Regional Office to conduct status surveys for *Scirpus ancistrochaetus* (Rawinski 1986, 1990). All extant and historic sites, and a majority of the sites identified as potential habitat were surveyed in Virginia, West Virginia, Maryland, Pennsylvania, New York, Massachusetts, and Vermont. At present, there are 12 extant occurrences and nine historical occurrences, four of which were confirmed to have been destroyed or failed.

Approximately half of the suitable habitat in Virginia has been surveyed; of the twenty-one ponds identified as potential habitat and surveyed for *S. ancistrochaetus* in 1989, only one was found to be a new occurrence. There are now four extant occurrences found in Rockingham, Bath, Alleghany and Augusta Counties. One of the occurrences has less than 25 plants. The plants are found in shallow, oligotrophic sinkholes overlying sandstone in the Blue Ridge Mountains. A number of rare and unusual species occur in association with *S. ancistrochaetus* on the Virginia sites, including *Helenium virginicum*, a Category 1 Federal candidate species (a candidate for which the Service has sufficient information to support a proposal to list), and *Glyceria acutiflora* and *G. septentrionalis*, two species diagnostic of this habitat type (Rawinski 1990). Three of the occurrences are on privately owned land, the fourth is located in the George Washington National Forest.

Prior to 1988, *Scirpus ancistrochaetus* had not been found in Maryland or West Virginia. Using aerial photographs to identify potentially suitable habitat, all potential habitat in Maryland and approximately ninety percent of the potential habitat in West Virginia was surveyed. Three occurrences were discovered, two in West Virginia and one in Maryland. These populations are found relatively close together in the Appalachian Mountains. West Virginia's two extant occurrences are located in Berkeley County, both on privately owned land. They are found in shallow, centripally-drained sinkholes perched atop flat ridges and are part of wetland complexes containing three or more ponds. One site consists of two ponds in a cluster of seven, with stands totaling over 1400 stems. The second occurrence has over 400 stems in three discrete patches within one pond (Bartgis 1989). Maryland's occurrence, located in Frederick County, consists of a very small stand of approximately 100 stems. The small, shallow, successional pond is located on private property lying within

the acquisition boundary of a State Wildlife Management Area (Bartgis 1989).

All but one of the historical *S. ancistrochaetus* sites and much of the potential habitat in Pennsylvania have been surveyed for *S. ancistrochaetus*. The two occurrences in Lackawanna and Clinton Counties, Pennsylvania are still recorded as "extant", although three years of surveys have been unable to reconfirm the plants' presence. The Lackawanna County site, a bog lying between sandstone ridges on private land, had one plant in 1985 and was severely burned in 1988. The Clinton County site, lying within the Bald Eagle State Forest, was reported to have had two plants in 1985.

Most of the potential habitat for *Scirpus ancistrochaetus* has been surveyed in Massachusetts; no new sites have been discovered, though one historical site was confirmed extant in 1989. The extant occurrence of four plants in Franklin County, Massachusetts is found in a shallow, bowl-shaped depression, which is part of a privately owned wetland complex. The depression is inundated with water during periods of ample rainfall and dries out during droughts (Rawinski 1990).

The two Vermont occurrences are both located in Windham County. One is an emergent marsh in an alluvial meadow of the Connecticut River. Sixty-nine plants were observed in 1985; 10 plants were observed in 1989. Currently, The Nature Conservancy holds a management agreement with the landowner. The second site, also located on privately owned land, is part of a wetland complex consisting of natural depressions and abandoned beaver ponds. In 1985, 12 plants were observed, while no plants were observed in 1989 (Thompson 1989). At both sites the plants grow at the edge of the emergent zone, adjacent to open water. All suitable habitat within the Connecticut River drainage in Vermont was surveyed; no new occurrences of *Scirpus ancistrochaetus* were found.

Five historical collections of *Scirpus ancistrochaetus* are known from New York (Washington County) and Pennsylvania (Blair, Lehigh, Monroe and Northampton Counties). The Nature Conservancy and Natural Heritage Program botanists undertook extensive surveys of these states in 1989, including all historical occurrences and a significant portion of the suitable habitat. Surveys have not relocated the presence of *S. ancistrochaetus* at any of the historical occurrences in New York and Pennsylvania.

Scirpus ancistrochaetus and its habitat are highly vulnerable to destruction and disturbance. The majority of the occurrences are found in wetlands that currently have little State or Federal protection. Of the 12 existing populations, two are located on Federal lands and one population is located on State land. The remaining populations situated on private lands are subject to obliteration or degradation through filling and dredging activities for development, agriculture and recreation purposes. Other adverse impacts to the species can occur through direct physical damage to the plants by recreational vehicles or through water quality degradation from non-point source pollution.

There is little available information on the life history of this species. It is not known how the water regime affects *Scirpus ancistrochaetus* and what specific ecological factors are required for the establishment of new populations. Extremely high water levels may be responsible for the lack of reproduction in a given year, while drier conditions may be conducive to good reproductive output (Rawinski, pers. comm., 1990). There is no data on the impact of fire on *Scirpus ancistrochaetus*. The site of one extant population was completely burned in 1988 and subsequently, plants have not been observed.

Federal government action on this plant began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on the plants considered to be endangered, threatened or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975 and subsequently published (Ayensu and DeFilippis 1978). *Scirpus ancistrochaetus* was listed as "endangered" in that document. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) of the Act (now section 4(b)(3)) and of its intention to review the status of plant taxa named within. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered or threatened pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975 *Federal Register* publication. *Scirpus ancistrochaetus* was included in the July 1, 1975 notice of review and the

June 16, 1976 proposal. General comments received in relation to the 1976 proposal were summarized in the *Federal Register* on April 26, 1978 (FR 17909). On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the portion of the June 16, 1976 proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments to the Act. On December 15, 1980 (45 FR 82479) the Service published a revised notice of review for native plants in the *Federal Register*. In this publication, *Scirpus ancistrochaetus* was identified as a Category 2 candidate (a taxon for which listing is possibly appropriate though existing information is not presently available to support a proposed rule). The species was also designated a Category 2 species in the September 27, 1985 (50 FR 29526) and the February 21, 1990 (50 FR 6184) updated notices of review.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982 be treated as having been newly submitted on that date. The deadline for a finding on those species, including *Scirpus ancistrochaetus* was October 13, 1983. Each October, 1983 through 1989, the Service found that the petitioned listing of *Scirpus ancistrochaetus* was warranted pending finding of further biological information but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires that the petition be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. This proposal to classify *Scirpus ancistrochaetus* as endangered constitutes the final required petition finding.

On April 7, 1988, the Service received a second petition, submitted by the Vermont Natural Heritage Program, requesting that *Scirpus ancistrochaetus* be federally listed. In accordance with its established policy, the Service treated this second petition as a public comment to be considered in evaluating the original listing petition. Additional information about the status and threats to *S. ancistrochaetus* provided by this petition, resulted in the Service's decision to raise the species' priority for listing.

Upon the evaluation of the most recent and comprehensive status survey work (Rawinski 1990), the Service has determined that *Scirpus ancistrochaetus* warrants listing as an endangered species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 224) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Scirpus ancistrochaetus* Schuyler (Northeastern bulrush) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Nine of the twelve extant populations occur on private lands. Residential development activities, particularly at the southern portion of its range, are responsible for extensive destruction and modification of *Scirpus ancistrochaetus* habitat. During the 1989 status survey in Virginia, nine of twenty-one ponds believed to be suitable habitat for *S. ancistrochaetus* were found to be degraded from fill, partial excavation, and eutrophication due to non-point source discharges, or were destroyed by total excavation and diking activities (Rawinski 1990). The two extant populations in West Virginia are also located in areas of increasing residential development and may suffer degradation or destruction if not protected. Both occurrences are surrounded by subdivided lands currently being marketed for housing developments. Four of eight historical sites in eastern Pennsylvania have been destroyed or degraded, primarily by agricultural activities. Construction or agricultural activities occurring near populations may indirectly impact the habitat unless specific measures to prevent or minimize siltation or contamination are implemented. Sedimentation of the wetlands, discharges of herbicides or fertilizers, and alteration of the hydrological regime of *Scirpus* wetlands are actions which can alter the physical and biological makeup of the habitat, creating an unsuitable environment for the continued existence of the species.

During droughts, the wetlands in which the populations are found dry out, allowing vehicular access to the habitat. Use of off-road and all terrain vehicles may result in the degradation of the habitat through soil compaction, destruction of vegetation, and the direct loss of plants. Heavy off-road vehicle use was observed at one *Scirpus ancistrochaetus* site in West Virginia

during a dry period in 1989, but actual destruction of this species was not observed.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Taking of the species for these purposes has not been documented as being a factor in its decline. In the past, scientific collections have been inadvertent. Relatively few specimens have been collected in recent years. However, future collections could seriously threaten populations, especially at those sites consisting of only a few plants or occupying a very small area.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanism.* In Virginia, *Scirpus ancistrochaetus* is listed as endangered and is protected under the Endangered Plant and Insect Species Act of Virginia (1979, c. 372). This law prohibits taking without permits, except by private landowners. Virginia law also gives the Department of Agriculture and Consumer Services the authority to regulate the sale and movement of listed plants and to establish programs for the management of listed plants.

Scirpus ancistrochaetus receives protection in Pennsylvania as an endangered species under the regulations of the Wild Resources Conservation Act (25 Pa. Code, Chapter 82). Permits are required to collect, remove, or transplant wild plants classified as threatened or endangered, though landowners are exempt from these requirements. Pennsylvania regulations also provide for the establishment of native wild plant sanctuaries on private lands where there is a management agreement between the landowner and the State Department of Environmental Resources.

Under the Vermont Endangered Species Law (10 V.S.A. Chapter 123), *Scirpus ancistrochaetus* is listed as threatened and is afforded protection from taking, possession or transport by any person, unless exempted, or by certificate or permit. Permits may be granted for scientific purposes, enhancement of survival of the species, economic hardship, educational purposes or special purposes consistent with the purposes of the Federal Endangered Species Act.

Maryland is in the process of designating *Scirpus ancistrochaetus* as endangered, though no additional protection will be afforded the plant. Currently, there is no State endangered species legislation in Massachusetts or West Virginia. New York has a law

protecting State listed plants, but has not listed *Scirpus ancistrochaetus* since there are no extant populations.

Though half of the states with extant *Scirpus ancistrochaetus* populations have legislation protecting endangered plants from taking or transport, no protection is afforded the habitat. The primary threat to *S. ancistrochaetus* is from habitat degradation.

Under current Federal regulations, a Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States including adjacent and isolated wetlands where the majority of *S. ancistrochaetus* occurrences are situated. However, Nationwide Permit 26 exempts wetland fills smaller than 10 acres from the individual permit process provided they are (a) located above headwaters (5 cfs or less) and (b) not part of a surface tributary system to interstate waters or navigable waters. Deposit of up to one acre of dredge or fill material in such wetlands does not require the prior notification of the Army Corps of Engineers. Without federal listing of the species, the 404 regulatory process does not protect *S. ancistrochaetus* or its habitat.

E. *Other natural or manmade factors affecting its continued existence.* Six of the 12 known occurrences of *S. ancistrochaetus* contain fewer than 25 plants. These isolated and critically small populations are highly vulnerable to extinction. Extreme isolation, whether by geographic distance, ecological factors or reproductive strategy, prevents the influx of new genetic material and can result in a highly inbred population with low viability and/or fecundity (Chesser 1983). In addition, current knowledge of the species biology and population dynamics is insufficient to assess whether *S. ancistrochaetus* is likely to persist following natural events such as drought, flooding and fire.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Scirpus ancistrochaetus* as endangered. Only twelve occurrences are known, and plants were not found at three of these sites during the most recent status survey (Rawiński 1990). Due to the small number of populations and the continuing threats to its habitat, the plant is in need of protection if it is to survive. These factors support listing as an endangered species. Critical habitat is not being designated for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Scirpus ancistrochaetus* at this time. Most populations of this species are small to moderate in size, are widely scattered throughout its range and are located on private property, for which there is no regulation to prevent taking by the landowner or others. While collecting for scientific and educational purposes has not contributed to the decline of the species, taking due to vandalism or private collections could eliminate some populations if their locations are publicized. Publication of critical habitat descriptions and maps in the **Federal Register** could increase these threats to the survival of the species, overriding any protection that such designation might provide.

Designation of critical habitat primarily affects Federal agencies. Since the majority of the occurrences are on privately owned land, critical habitat designation will have little impact on the management or protection of this species. The designation of critical habitat would not provide additional benefits to populations that do not already accrue from listing through section 7 consultation and the recovery process. The Service will coordinate with the U.S. Army Corps of Engineers by providing locational information on *S. ancistrochaetus* in an effort to prevent destruction of existing sites under Nationwide Permit 26 activities. The U.S. Forest Service has been notified of the presence of *Scirpus ancistrochaetus* on its properties and of the section 7 requirements. The population located on State property is managed and protected by the State landowning agency.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. Though *Scirpus ancistrochaetus* is not currently listed as endangered in New York State, Federal

listing will result in the species being listed as a Protected Native Plant in New York. This action will provide additional protection from collection or destruction. The Nature Conservancy is currently working to protect the known populations and listing will enhance these efforts. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Because *Scirpus ancistrochaetus* is a wetland plant, activities which involve filling of these wetlands (including filling authorized under Nationwide 26) would be regulated by the U.S. Army Corps of Engineers and would require section 7 consultation. The Service is not presently aware of any specific proposed projects that might affect known populations of *Scirpus ancistrochaetus*.

Listing *Scirpus ancistrochaetus* will encourage research on critical aspects of its life history, ecology and population biology. Information is needed regarding the relationship of fertile culm production to the hydrologic regime of its habitat, reproduction strategies and population recruitment. These factors will be important for the development of recovery strategies and long-term management considerations for individual populations.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62

and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988

amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and state conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, Rm 432, 4401 N Fairfax Dr., Arlington VA 22203-3507 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Scirpus ancistrochaetus*;
- (2) The location of any additional populations of *Scirpus ancistrochaetus* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;
- (3) Additional information concerning the range, distribution, and population size of *Scirpus ancistrochaetus*; and

(4) Current or planned activities in the subject area and their possible impacts on *Scirpus ancistrochaetus*.

Final promulgation of the regulation on *Scirpus ancistrochaetus* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 25 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Field Supervisor, New England Field Office, U.S. Fish and Wildlife Service (See ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Thompson, L. 1990. Vermont status report: *Scirpus ancistrochaetus*. Unpub. rept. 14 pp.

Author

The primary author of this proposed rule is Susanna L. von Oettingen (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Cyperaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species		Historic Range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cyperaceae—Sedge family						
<i>Scirpus Ancistrochaetus</i>	Northeastern bulrush.	(=Barbed bristle) U.S.A. (MA, MD, NY, PA, VA, VT, WV).	E		NA	NA

Dated: October 15, 1990.

Bruce Blanchard,
Acting Director, Fish and Wildlife Service.

[FR Doc. 90-26355 Filed 11-7-90; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 60

RIN 1018-AB51

Patuxent Wildlife Research Center Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to revise regulations published on Dec. 15, 1966 codified at 50 CFR 60.10 that govern public use policy on the Patuxent Wildlife Research Center (PWRC). The existing restrictions that sport fishing would only be allowed in support of research are no longer necessary. The proposed regulations would permit public sport fishing on selected areas of the facility.

DATES: Comments must be received on or before December 10, 1990.

ADDRESSES: Comments may be addressed to Director, Patuxent Wildlife Research Center, Laurel-Bowie Rd., Laurel Md. 20708.

FOR FURTHER INFORMATION CONTACT: John P. Stasko, Chief, Branch of Facility Management, Patuxent Wildlife Research Center, Laurel-Bowie Rd., Laurel Md. 20708 (telephone 301-498-0342).

SUPPLEMENTARY INFORMATION:

The Patuxent Wildlife Research Refuge was established, by Executive Order 7514, dated December 6, 1936, in order to further the purposes of the Migratory Bird Conservation Act. The name of the Refuge was changed in 1956 to the Patuxent Wildlife Research Center (PWRC) but the mission of this facility—to help protect and conserve the Nation's wildlife and natural environment through research on critical environmental problems and issues—has remained virtually unchanged throughout its 50-year history.

Shortly after its opening, PWRC began constructing two large lakes on the south side of its property. These lakes, Cash Lake and Lake Redington, were completed in 1939. These lakes were developed to provide habitat for a wide range of fish and wildlife. The recreational benefits of these lakes was also recognized. Cash Lake was opened to public fishing in 1940. Years later several other impoundments were created on the facility and several of these were also opened to public fishing. The persons who fished the PWRC impoundments were required to provide data about the kind of fish caught, their length, weight, etc. Much of the early work at the Research Center involved fish and their habitat.

Public fishing was discontinued at Cash Lake in 1957, when waterfowl studies were initiated at the lake. As the research emphasis at PWRC changed the compatibility of a public fishing program began to be questioned. In 1966 a Rule was published in the Code of Federal Regulations which restricted fishing at the Center only to that which would provide research data to the

center's scientists. In 1969, fishing was discontinued.

Much has happened to PWRC and its grounds since the late 1960's. Today, PWRC encompasses 4700 acres. A large tract of land immediately adjacent to Cash Lake was acquired by PWRC from the Beltsville Agricultural Research Center in 1975 for recreational and environmental education use. This property is separated from the main research campus by Maryland Route 197. Although the lakes are managed to provide suitable habitat for waterfowl, no active waterfowl research is being conducted on this area.

In keeping with the Department of the Interior's efforts to develop recreational and environmental education opportunities for the public, including persons with disabilities, PWRC proposes to open the lakes and ponds that are located in this designated public use area to the general public for the purpose of sport fishing.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966 (NWRSA), as amended (16 U.S.C. 668dd), authorizes the Secretary of the Interior (Secretary) to permit public access, use and recreation on refuges whenever he determines that such uses are compatible with the major purposes for which such areas were established. The Service has determined that permitting controlled public sport fishing at PWRC from June 15 through October 15 will not have a biological impact on waterfowl nesting on the acreage, will not interfere with

the research that is being conducted on the facility's main campus, and is compatible with the purposes for which the Patuxent Wildlife Research Refuge was established and with the purposes for which the land was acquired in the years since its establishment.

The provisions of the NWRSA relating to recreation are administered in accordance with the Refuge Recreation Act of 1962 (16 U.S.C. 460k), which authorizes the Secretary to permit recreational uses on refuges if they are appropriate, incidental, or secondary uses. In conformance with that Act, the Service has determined that controlled public sport fishing, at PWRC, governed by the proposed regulations, permits a secondary use that is not inconsistent with the primary objectives for which it was established.

Further, the proposed recreational use will not interfere with the primary purposes for which PWRC was established. The above determinations are based in large part on empirical data collected at PWRC and have been previously described in the PWRC Master Plan. In addition, funds are available within the annual facility budget for the administration of the recreational activities that will be permitted by these regulations.

Economic Effect

Executive Order 12291 of February 19, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, or significant adverse impact on the ability of the United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which will include small businesses, organizations, or government jurisdictions.

The proposed rulemaking is a minor adjustment to existing regulations for one refuge; therefore, this action will not have an adverse impact on the overall economy of a particular region, industry, or group of industries, or level of government. Although the proposed rule alters the existing recreational uses of the refuge, small entities such as sporting goods stores, restaurants, motels, and local governments will not be significantly affected by the rule.

Accordingly, the Department of the Interior has determined that this proposed rule is not a "major rule"

within the meaning of Executive Order 12291, and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rule contains information collection requirements approved by the Office of Management under 44 U.S.C. 3501, *et seq.*, and assigned clearance number 1018-0014. The public reporting burden for the permit application is estimated to average 6 minutes per response, including the time for reviewing instructions, gathering, and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, MS 224 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240; or the Office of Management and Budget Paperwork Reduction Act Project (1018-0014), Washington, DC 20503.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment (EA) was prepared in 1989 on the effects of public use activities on the management of the Patuxent Wildlife Research Center as part of the PWRC Master Plan. An EA and Finding of No Significant Impact (FONSI) were also prepared for the August 1990 rulemaking.

These documents are available for public inspection at the Library/Merriam Laboratory, Patuxent Wildlife Research Center, Laurel, Md. Copies of the EA and FONSI are available by mail from the Center.

Maps of the refuge are available from the Chief, Branch of Facility Management, Patuxent Wildlife Research Center, Laurel-Bowie Rd., Laurel, Md. 20708.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the ADDRESSES section of this document. All relevant comments will be considered by the Department prior to the issuance of the final rule.

Primary author of this proposed rule is John P. Stasko, Chief, Branch of Facility Management, Patuxent Wildlife Research Center.

List of Subjects in 50 CFR Part 60

Research, Wildlife.

PART 60—PATUXENT WILDLIFE RESEARCH CENTER

Accordingly, it is hereby proposed to amend 50 CFR part 60, as set forth below:

1. The authority citation for part 60 is amended to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460K, 668dd, 715i.

2. Section 60.10 is revised to read as follows:

60.10 Public sport fishing.

The research center may be opened to public sport fishing, under such conditions and restrictions as may be required, when public sport fishing activities will provide recreational and environmental opportunities for the public, including persons with disabilities, and when these activities can be administered without affecting the primary mission of the center. The sport fishing provisions set forth in part 33 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

3. Section 60.11 is revised to read as follows:

60.11 Special regulations; hunting and sport fishing.

(a) Controlled public sport fishing will be permitted on the Patuxent Wildlife Research Center, Laurel, Md. The open area is confined to Cash Lake, comprising 54 acres as delineated on a map available at the Center. All of the fresh water fishing and boating laws of the State of Maryland apply except as further restricted below:

- (1) Species permitted to be taken: Bass, pickerel, catfish, and sunfish.
- (2) Open season: June 15 through October 15; 6 a.m. to legal sunset daily.
- (3) Daily creel limits:
 - (i) Bass, catch and release only, except keeping of one bass greater than 15 inches in length is permitted.
 - (ii) Pickerel, catch and release only, except keeping of one pickerel greater than 15 inches in length is permitted.
 - (iii) Sunfish and catfish, 15 per day total fish limit.
- (4) Methods of fishing:
 - (i) Hook and line tackle and baits permitted by Maryland law, except that no live minnows or other fish may be used for bait.
 - (ii) Boats may be used by permittees subject to the following conditions:
 - (A) No gasoline motors permitted.
 - (B) Boats may not be trailered to the water.

(C) Canoes longer than 17 feet are not permitted.

(D) Boats other than canoes may not exceed 14 feet.

(E) Sailboats and kayaks are not permitted.

(5) Special provisions:

(i) The information collection requirements contained in section 5(ii) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018-0014. The information is being collected and used to determine eligibility for permit issuance. Response is required to obtain a benefit in accordance with the requirements of the

Refuge Administration Act (16 U.S.C. 668dd).

(ii) The provisions of this special regulation supplement the regulations which govern public use activities on national wildlife refuges which are set forth in title 50, Code of Federal Regulations, part 26.

(iii) A Federal permit is required to fish and a limit of 25 daily permits issued. Persons may request a permit application by addressing: Fishing Program, Patuxent Wildlife Research Center, Laurel-Bowie Rd., Laurel Md. 20708. Each request must include the person's name, address, and phone number; and the model, year, and license number of the vehicle they will

drive to the Center and will be accepted annually after May 1st. Requests should be made no later than one week prior to the requested fishing date. All requests will be filed and, for dates where the number of requests exceeds the daily permits available, a random selection will determine successful permittees. Persons selected will be notified and the dates that they have been assigned will be listed. Each permit shall authorize the holder to be accompanied by one guest.

Dated: September 7, 1990.

Richard N. Smith,

Acting Director.

[FR Doc. 90-26422 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 55, No. 217

Thursday, November 8, 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

Forms Under Review by Office of Management and Budget

November 2, 1990.

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

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

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

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

Revision

- National Agricultural Statistics Service.

Vegetable Surveys.
Weekly; Monthly; Quarterly;
Seasonally.

Farms; Businesses or other for-profit;
19,365 responses; 3,250 hours, not
applicable under 3504(h).

Larry Gambrell (202) 447-7737.

- Packers and Stockyards Administration.

Regulations and Related Reporting and Recordkeeping Requirements—Packers and Stockyards Act.

Recordkeeping; On occasion; Semi-annually; Annually.

Businesses or other for-profit: 29,517 responses; 361,874 hours; not applicable under 3504(h).

Patrick D'Agostino, (202) 475-3214.

Reinstatement

- Food and Nutrition Service.
Child Nutrition Program Operations Study.

One-time data collection.
State or local governments; Non-profit institutions; 2,460 responses; 1,230 hours; not applicable under 3504(h).

John Endahl, (703) 756-3115.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90-26366 Filed 11-7-90; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Steen Creek, Landore, and Deep Copper Timber Sales, Council Ranger District, Payette National Forest, Idaho, Revision of Notice of Intent

AGENCY: Forest Service, USDA.

ACTION: Revision of the notice of intent to prepare an environmental impact statement.

SUMMARY: A notice of intent to prepare an Environmental Impact Statement for the proposed Steen Creek, Landore, and Deep Copper Timber Sales was published in the *Federal Register*, August 3, 1990 (Vol. 55, Issue No. 150, Page 31617).

That notice is hereby revised to show that the Environmental Impact Statement will not include the analysis for the Deep Copper Timber Sale. Because of rapidly changing timber stand conditions, Payette National Forest Supervisor Veto J. LaSalle has decided to address the Deep Copper Timber Sale in a separate Environmental Impact Statement.

The condition of the timber stands in the Deep Copper project area is deteriorating rapidly. The Eagle Bar Fire of 1988 and prolonged drought have reduced the natural resistance of the trees to insect attack. Insect populations have reached epidemic proportions. If salvage activities are not initiated in the next year, currently infested trees will

no longer be sound for harvest. The timber salvage harvest could also help reduce insect populations and risks to nearby timber stands.

No other revisions are made.

Dated: November 2, 1990.

Ralph Geibel,

Acting Forest Supervisor.

[FR Doc. 90-26406 Filed 11-7-90; 8:45 am]

BILLING CODE 3410-11-M

Deep Copper Timber Sale, Idaho; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for the proposed Deep Copper Timber Sale, Council Ranger District, Payette National Forest, Idaho. The proposed sale would construct roads and harvest timber within a portion of the Hells Canyon/Seven Devils roadless area that the Forest Plan allocated to timber management.

A range of alternatives will be considered for the proposal—from taking no action to harvesting about 15 million board feet of timber.

The agency has done some initial scoping for the analysis, but they invite additional comments and suggestions on the scope of the analysis to be included in the draft environmental impact statement (draft EIS).

DATES: Comments on the scope of the analysis must be received by December 7, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Tracy Beck, Deep Copper Team Leader, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Tracy Beck, (208) 634-1333.

SUPPLEMENTARY INFORMATION: The Payette National Forest Plan (1988) provides Forestwide direction for management of the resources of the Payette National Forest, including roadless areas. The environmental impact statement for the Forest Plan (1988) analyzed a range of development and non-development alternatives for the Hells Canyon/Seven Devils roadless area. The Forest Plan allocates portions

of the area to timber management and assigns them to Management Area 3.

As well as Forestwide direction, the Forest Plan gives specific direction for that management area. It requires integrated management of the multiple resources including recreation, range, soil and water, fish, wildlife, timber, and fire/fuels to meet the desired future condition of the Forest.

Public participation will be especially important at several points during the analysis, particularly during scoping of issues and review of the draft EIS.

The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those covered by a relevant previous environmental analysis.
4. Determining potential cooperating agencies and responsibilities.

The U.S. Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat.

The Forest Service has conducted some preliminary scoping on the proposed timber sales and has identified preliminary issues and concerns. They include the following:

- How will recreation use be affected?
- How will visual quality be affected?
- How will the Hells Canyon/Seven Devils roadless area be affected?
- How will the associated logging traffic affect the community of Cuprum?
- How will the wildlife be affected?
- How will soil productivity be affected?
- How will water quality in Deep Creek be affected?
- How will anadromous fish and other fish be affected?

The second major opportunity for public input is the draft EIS. The draft EIS will analyze a range of alternatives to the proposed action, including the no-action alternative and alternative amounts of road building and timber harvesting. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in March 1991. EPA will then publish a notice of availability of the draft EIS in the *Federal Register*. Public comments are invited.

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the *Federal Register*. It is important that those interested in the management of the affected areas participate at that time. To be most helpful, comments on

the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed. Federal court decisions have established that reviewers of draft EIS's must structure their participation of the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 [1978]), and 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 (*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 in the final EIS.

Comments on the draft EIS will be analyzed and considered by the Forest Service in preparing the final EIS, which is scheduled to be completed in September 1991. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies in making the decision and stating the reasons for it in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Veto J. LaSalle, Forest Supervisor of Payette National Forest, McCall, Idaho, is the responsible official for this EIS.

Dated: November 2, 1990.

Ralph Geibel,

Acting Forest Supervisor.

[FR Doc. 90-26407 Filed 11-7-90; 8:45 am]

BILLING CODE 3410-11-M

White Mountain National Forest; Wildcat River Advisory Commission Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Wildcat River Advisory Commission meeting.

SUMMARY: The Wildcat River Advisory Commission will meet on November 20, 1990 at the Jackson Town Hall in Jackson, New Hampshire. The meeting will begin at 7 p.m. An agenda for the meeting includes review of a draft cooperative agreement between the Town of Jackson, State of New Hampshire and US Forest Service and

review of a process for completing a comprehensive river management plan.

Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Carl F. Gebhardt, Staff Officer, White Mountain National Forest, 719 Main Street, Laconia, NH 03247, (phone 603-528-8778).

Dated: November 1, 1990.

Rick D. Cables,

Forest Supervisor.

[FR Doc. 90-26408 Filed 11-7-90; 8:45 am]

BILLING CODE 3410-11-M

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, Fred D. Allen, (703) 875-1573, MO/CPM, room 1109B, SA-14, Washington, DC 20523-1407.

Date submitted: October 29, 1990.

Submitting agency: Agency for International Development.

OMB number: 0412-0035.

Form numbers: AID 1550-2.

Type of submission: Renewal.

Title: Computation of Percentage of Private Funding for PVO's International Activities.

Purpose: A.I.D. is required to collect information regarding the financial support of private and voluntary organizations registered with the Agency. The information is used to determine the eligibility of PVOs to receive A.I.D. funding.

Annual reporting burden—

Respondents: 240;

Annual responses: 1;

Average hours per response: 1.5;

Burden hours: 368.

Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1990.

Elizabeth Baltimore,

Chief, Communications and Program
Management Division.

[FR Doc. 90-26417 Filed 11-7-90; 8:45 am]

BILLING CODE 6116-01-M

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. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875-1573, MO/CPM, room 1109B, SA-14, Washington, DC 20523-1407.

Date submitted: October 29, 1990.

Submitting agency: Agency for International Development.

OMB number: 0412-0506.

Form number: AID 1420-50.

Type of submission: Renewal.

Title: Information Collection Elements in the A.I.D. Consultant Registry Information System (ACRIS).

Purpose: A.I.D.'s procuring activities are required to establish bidders mailing lists "to assure access to sources and to obtain meaningful competition," (CFR 1-2.205). In compliance with this requirement, A.I.D.'s Office of Small and Disadvantaged Business Utilizations/Minority Resource Center has responsibility for "developing and maintaining a Contractor's Index of bidders/offers capable of furnishing services for use by A.I.D. procuring activities" (AIDPR 7-1.704-2(b)(4)).

Annual reporting burden—
Respondents: 2000;

Annual responses: 1;

Average hours per response: .5;

Burden hours: 1,000.

Reviewer: Marshall Mills, (202) 395-7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1990.

Elizabeth Baltimore,

Chief, Communications and Program
Management Division.

[FR Doc. 90-26418 Filed 11-7-90; 8:45 am]

BILLING CODE 6116-01-M

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, Fred D. Allen, (703) 875-1573, MO/CPM, room 1109B, SA-14, Washington, DC 20523-1407.

Date submitted: October 29, 1990.

Submitting agency: Agency for International Development.

OMB number: 0412-0510.

Type of submission: Revision.

Title: Information Collection Requirements Contained in A.I.D.'s Handbook 13, Grants and Cooperative Agreements.

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes A.I.D. to make grants and cooperative agreements with any corporation or body of persons, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of the FAA. A.I.D. is required to ensure the recipients are responsible and that they prudently manage public funds. These information collection and recordkeeping requirements are necessary for A.I.D. to review and monitor recipient's responsibility and compliances with U.S. Government requirements concerning use of funds.

Annual reporting burden—
Respondents: 400;

Annual responses: 2.75;

Average hours per response: 36;

Burden hours: 39,600.

Reviewer: Marshall Mills, (202) 395-7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1990.

Elizabeth Baltimore,

Chief, Communications and Program
Management Division.

[FR Doc. 90-26419 Filed 11-7-90; 8:45 am]

BILLING CODE 6116-01-M

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, Fred D. Allen, (703) 875-1573, MO/CPM, room 1109B, SA-14, Washington, DC 20523.

Date submitted: October 29, 1990.

Submitting agency: Agency for International Development.

OMB number: 0412-0537.

Form number: AID 1 MB.

Type of submission: Renewal.

Title: Information on U.S. Private Organizations with Activities in Eastern Europe.

Purpose: A.I.D. in coordination with the Eastern Europe Business Information Center (EEBIC) at the Commerce Department is seeking qualified PVOs to help provide support to emerging eastern european countries. In order for A.I.D. to work with EEBIC to respond to requests from the public and to coordinate future program efforts, information is needed about each of the organizations working or planning to work in eastern europe. The information will be used to respond to requests for information on how to assist the people of eastern europe with donations of services or in kind contributions.

Annual reporting burden—

Respondents: 500;

Annual responses: 1;

Average hours per response: 2.25;

Burden hours: 1125.

Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1990.

Elizabeth Baltimore,

Chief, Communications and Program
Management Division.

[FR Doc. 90-26421 Filed 11-7-90; 8:45 am]

BILLING CODE 6116-01-M

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, Fred D. Allen, (703) 875-1573, MO/CPM, room 1109B, SA-14, Washington, DC 20523.

Date submitted: October 29, 1990.

Submitting agency: Agency for International Development.

OMB number: 0412-0524.

Type of submission: Renewal.

Title: Guidelines for Development Education Project Grants.

Purpose: The Biden-Pell Amendment to the International Security and Development Cooperation Act of 1980 urges the Administrator of A.I.D. to provide support to the ongoing efforts of private and voluntary organizations engaged in increasing public awareness of the issues pertaining to world hunger and poverty. A.I.D.'s major response to this legislative mandate is the Development Education Grants Program, initiated in FY 1982. Through this competitive, cost-shared grants program, applications for funding are considered on an annual basis. The information is used by A.I.D. officials in order to select the most qualified candidates for grant awards.

Annual reporting burden—

Respondents: 40;

Annual responses: 1;

Average hours per response: 5;

Burden hours: 200.

Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1990.

Elizabeth Baltimore,

Chief, Communications and Program Management Division.

[FR Doc. 90-26420 Filed 11-7-90; 8:45 am]

BILLING CODE 6116-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance

Board (ATBCB or Access Board) has scheduled regular business meetings to take place on Tuesday, November 13, 1990 at the ATBCB Library, 1111 18th Street, NW., suite 501, Washington, DC and Wednesday, November 14, 1990 at the Holiday Inn Southwest, 550 C Street, SW., Columbia North room, Washington, DC

DATES: The schedule of events is as follows:

Tuesday, November 13, 1990:

9:30-11:30 a.m. Planning and Budget Committee.

1-5 p.m. MGRAD Review (Closed Session).

Wednesday, November 14, 1990:

8:30-9:30 a.m. Ad Hoc Committee on Public Affairs.

10 a.m.-1 p.m. Business Meeting.

MATTERS TO BE CONSIDERED: Agenda items at the Wednesday business meeting include:

- Approval of the September 12, 1990 Board Meeting Minutes.
- Executive Director's Report.
- Complaint Status Report.
- Legislative Amendments.
- Task Force Reports.

—ADA.

—Legislative (Section 502).

• *Ad Hoc Committee Report:*

—Public Affairs.

• *Planning and Budget Committee Reports:*

—Fiscal Years 1990, 1991 and 1992

Budget Status Reports.

—January Planning Retreat.

—Status Report: Facilities Task Force.

FOR FURTHER INFORMATION CONTACT:

For information regarding the business meetings, please contact Barbara A. Gilley, Executive Officer, (202) 653-7834 (voice or TDD).

SUPPLEMENTARY INFORMATION: All meetings are open to the public except as noted. Interpreters (sign language and oral) and an assistive listening system are available for those individuals needing such accommodation.

Lawrence W. Roffe, Jr.,

Executive Director.

[FR Doc. 90-26459 Filed 11-7-90; 8:45 am]

BILLING CODE 6820-BP-M

CIVIL RIGHTS COMMISSION

California Advisory Committee: Meetings

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the California Advisory Committee

to the Commission will convene at 9 a.m. and adjourn at 5 p.m. on December 1, 1990 at the Santa Maria Inn, 801 South Broadway, Santa Maria, California 93454. The purpose of the meeting is to obtain information on civil rights issues in Santa Maria.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael C. Carney or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 29, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-26409 Filed 11-7-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Title 15

[Order No. 491]

Foreign-Trade Zones Board; Resolution and Order Approving the Application of the Dallas-Fort Worth Maquila Trade Development Corp. for a Foreign-Trade Zone in the Dallas-Fort Worth, TX, Area

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Dallas-Fort Worth Maquila Trade Development Corporation, filed with the Foreign-Trade Zones Board on May 8, 1990, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in Dallas and Fort Worth, Texas, within the Dallas-Fort Worth Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by

parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zoning proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue an appropriate Board Order.

Grant of Authority To Establish, Operate, and Maintain a Foreign-Trade Zone in the Dallas-Fort Worth, Texas, Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Dallas-Fort Worth Maquila Trade Development Corporation (the Grantee), a Texas non-profit corporation, has made application (filed May 8, 1990, FTZ Docket 17-90, 55 FR 21210) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Dallas and Fort Worth, Texas, within the Dallas-Fort Worth Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 168, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 1st day of November, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Robert A. Mosbacher,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 90-26330 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Birmingham, AL

November 1, 1990.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with the provisions of Executive Order 11625, 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 a 3-year period, subject to available funds. The cost of performance for the

first 12 months is estimated at \$194,118 for the project performance of 4/1/91 to 3/31/92. The MBDC will operate in the Birmingham, Alabama, Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of \$165,000 in Federal Funds and a minimum of \$29,118 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations (50 points); the resources available to the firm in providing management and technical assistance (10 points); the firm's proposed approach to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). It is advisable that applicants have an existing office in the geographic region for which they are applying.

An applicant must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations 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

Federal Government are made to pay the debt.

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 Departmental regulations, policies, and procedures applicable to Federal assistance awards.

A false statement on an application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Section 319 of Public Law 101-121 generally prohibits recipients of appropriated funds from lobbying the Executive or Legislative Branches of Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contractors, Grants Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

CLOSING DATE: The closing date for applications is December 17, 1990. Applications must be postmarked on or before December 17, 1990. The anticipated processing time is 120 days.

ADDRESSES: Atlanta Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 401 West Peachtree Street NW., room 1930, Atlanta, Georgia 30308-3516, 404/730-3300.

FOR FURTHER INFORMATION CONTACT: Carlton L. Eccles, Regional Director of the Atlanta Regional Office.

SUPPLEMENTARY INFORMATION: 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)

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street NW., room 1930, Atlanta, Georgia, November 28, 1990, at 9 a.m.

Dated: November 1, 1990.

Carlton L. Eccles,
Regional Director, Atlanta Regional Office.

[FR Doc. 90-26410 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

1989 Survey of Atlantic Striped Bass Fisheries

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

ACTION: Notice of survey results.

SUMMARY: NOAA publishes the results of a survey of Atlantic coast striped bass fisheries for 1989, as required by the Atlantic Striped Bass Conservation Act, to provide information on the status of the fisheries.

ADDRESSES: Copies are available from David G. Deuel, NOAA/NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, 301-427-2347.

SUPPLEMENTARY INFORMATION: Comprehensive Annual Survey of the Atlantic Striped Bass Fisheries—Calendar Year 1989 Survey Results.

Section 6 of the Atlantic Striped Bass Conservation Act (the Act) (Pub. L. 98-613, 16 U.S.C. 1851) requires the Secretary of Commerce and the Secretary of the Interior to conduct a comprehensive annual survey of the Atlantic striped bass fisheries. Each survey is to include, but not be limited to, a compilation and assessment of the recreational and commercial landings of Atlantic striped bass in the coastal states during the period considered in the survey. The results of each annual survey are to be published in the *Federal Register*. Reauthorization of the Act in 1986 (Pub. L. 99-432) and in 1988 (Pub. L. 100-589), extended the requirement for the annual survey. This report presents data for calendar year 1989 as required by section 6 of the Act.

The Act was signed into law on October 31, 1984. Under the Act, no funds were authorized for appropriation for activities in fiscal year 1985. For fiscal years 1986 through 1990, funds were authorized but not appropriated. Thus, for calendar years 1985 through 1989, no funds were appropriated for conduct of the comprehensive annual survey and no separate surveys were conducted on the Atlantic striped bass fisheries. However, NMFS routinely collects data on all U.S. commercial fisheries and on marine recreational fisheries on the Atlantic, Gulf, and Pacific coasts. Data from these surveys are used in this report to satisfy the requirements of section 6 of the Act.

A description of the statistical survey procedures for the commercial fishery landings may be found in "Fishery Statistics of the United States 1977" (U.S. Department of Commerce, 1984),

and for the recreational fishery data in "Marine Recreational Fishery Statistics Survey, Atlantic and Gulf Coasts, 1986" (U.S. Department of Commerce, 1987).

The Act addresses Atlantic coast striped bass from Maine through North Carolina (hereafter referred to as striped bass); the data presented here are for the same area. In 1989, commercial landings of striped bass totaled 285,000 pounds (129.3 mt), the lowest landings on record, and a decrease of 122,000 pounds (55.3 mt) from the 1988 landings of 407,000 pounds (184.6 mt). The previous record low landings of 335,000 pounds (152.0 mt) was in 1986. Highest landings of 14.7 million pounds (666.8 kt) occurred in 1973, but have steadily declined at about 20 percent per year since that time (Figure 1). Part of the decline since 1982 has resulted from restrictive regulations on the commercial fishery. Commercial landings by state from 1982 through 1989 are shown in Table 1. During 1989, only Massachusetts and North Carolina reported commercial landings of striped bass.

Catch and harvest of striped bass by recreational fishermen have been estimated from the annual marine recreational fishery statistics surveys from 1979 through 1989. Catch is defined as the total number of fish caught, including those released alive. Harvest is the number of fish that were removed from the population. Estimated weights are available for the fish harvested. The reliability of the survey estimates is greater for species that occur more frequently in the catch than for those that occur infrequently. In recent years, with the striped bass stocks at low levels, the estimates for striped bass are less reliable than those for other species such as bluefish, winter flounder, or scup, which occur frequently in the catch. In addition, there is high interannual variability of striped bass catch estimates by state. Although a separate survey of the recreational fishery for striped bass would likely provide more reliable estimates of the catch and harvest of striped bass, such a survey would be extremely expensive to conduct. In recent years, several of the coastal states have augmented the level of sampling for the survey, which will result in an increase in the precision of catch estimates for striped bass. Additionally, if the striped bass stocks continue to increase, striped bass will occur more frequently in the catch, also resulting in increased precision.

In 1989, recreational fishermen caught an estimated 1,334,000 striped bass, of which only 40,000 were harvested; the remaining 1,294,000 were released alive.

The estimated weight of the 1989 recreational harvest was 624,000 pounds (283.0 mt).

Table 2 presents estimates of the total recreational catch of striped bass by state from 1982 through 1989. The total recreational catch of striped bass declined from about 2.0 million fish in 1979 to about 600,000 fish annually during 1983-1985. As with the commercial fishery, restrictions on the recreational fishery contributed to the decrease in catch. The increase in total catch since 1986 likely reflects the abundance of the 1982 and subsequent year classes, which have received nearly total protection by management measures in force since 1985. The number of striped bass harvested generally declined from about 1.3 million fish in 1979 to 40,000 harvested in 1989. Since the early 1980's, the percentage of the total catch released alive has generally increased. During 1979-1981, an average of 24 percent was released alive; during 1982-1985, an average of 68 percent was released alive; and during 1986-1989, an average of 92 percent of the fish caught was released alive. This demonstrates the effectiveness of size limits and bag limits in conserving striped bass in the recreational fishery.

The management measures imposed on striped bass fishing by the coastal states, as recommended by the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for the Striped Bass (as amended) (ASMFC Plan), have had a significant impact on the level of the recreational and commercial harvest. Most new management resolutions were put in place between 1982 and 1986, with those having the most impact being implemented during 1984, 1985, and 1986. The regulations included closed seasons, closed areas, size limits, commercial gear restrictions, and bag limits on the recreational fishery. A moratorium was imposed on striped bass fishing in Maryland and Delaware in January 1985. During 1986, the striped bass fishery was closed in the marine waters of New York, Connecticut, and Rhode Island. Since then, a one fish per angler per day bag limit has been allowed for the recreational fishery in New York (during the open season) and Rhode Island. Several other states had prohibited sale of striped bass and all

states had implemented a 36-inch (91.4 cm) total length minimum-size limit. Bag limits ranged from one to five fish in states that allowed possession of recreationally caught fish.

Historically, appropriate data from which to estimate the relative abundance of striped bass were not collected. Prior to 1982, striped bass commercial landings data were used as an indicator of the stock size. The commercial fishery has since been severely restricted by regulations; thus, landings in recent years are not comparable to those in earlier years, nor are they indicative of trends in stock size. The recreational fishery for striped bass has been similarly affected by management regulations. Thus, caution should be used in interpreting recent landings data.

In the last few years, commercial and recreational fishermen have reported increases in the numbers of striped bass. In addition to these undocumented reports, data obtained from sampling the population show an increased relative abundance of fish from recent year classes (fish born in the same year). This increase supports the hypothesis that high levels of fishing mortality contributed significantly to the severe decline of the striped bass population on the Atlantic coast during the 1970's, and certainly shows that management measures have been effective in conserving and rebuilding the striped bass population.

Recent information indicates that female striped bass of the Chesapeake Bay stock may not all mature until age 8. Females from the first year class (1982) offered nearly total protection from fishing mortality are just now reaching full maturity. Full recovery of the population from the decline of the 1970's now depends on successful reproduction by the females of these protected year classes. Production of juvenile striped bass in 1987 in the Hudson River and in the Virginia portion of the Chesapeake Bay reached record highs and remained high during 1988 and 1989. Production in the Maryland portion of Chesapeake Bay remained low through 1988, but increased in 1989. Juvenile production in Maryland, as measured by the Maryland juvenile index, was 25.2. The only higher index on record (30.4) occurred in 1970.

Both indices far exceed the 1954-1989 average index of 8.9.

Historically, spawning areas in Maryland have produced the majority of the striped bass found along the Atlantic coast. While fishing mortality was likely a major factor in the decline of the population, reduced water quality may have also played a role through reduced survival of eggs and/or larval fish. In some spawning rivers in Maryland during some years, larval striped bass exposed to various contaminants and/or low pH levels present in the rivers experienced greater mortality than the larvae exposed to water without contaminants or low pH. Thus, although an increased number of females are now in the spawning population, successful reproduction also will depend on water quality during the spawning season to allow survival of eggs and larval fish.

The ASMFC Plan was amended (Amendment 4) in October 1989 based on a 3-year average of the Maryland juvenile index exceeding 8.0. This trigger was assumed to represent a level of production that would signal partial recovery of the stocks and result in an increase in the allowed harvest. Amendment 4 of the ASMFC Plan specifies a 28-inch (71.1 cm) minimum size limit along the coast and an 18-inch (45.7 cm) minimum-size limit in inshore producing areas. The commercial harvest is restricted to 20 percent of the historical harvest from 1972 through 1979, and the recreational bag limit is set at one fish per angler per day. However, states also may propose regulations that differ from the basic provisions of Amendment 4, as long as those regulations meet the management objectives of the ASMFC Plan and result in the harvest at least as conservative as under the basic provisions. The ASMFC has approved fisheries to be conducted during 1990 for each state, the District of Columbia, and the Potomac River Fisheries Commission. This limited level of harvest during 1990 will be closely monitored by the states and, if needed, adjustments will be made for the 1991 season.

Dated: November 2, 1990.

Richard H. Schaefer,

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

TABLE 1.—REPORTED COMMERCIAL LANDINGS (THOUSANDS OF POUNDS) OF STRIPED BASS IN ATLANTIC COASTAL STATES, 1982-1989

State	1982	1983	1984	1985	1986	1987	1988	1989
Maine	—	—	—	1	—	—	—	—
New Hampshire	—	—	—	—	—	—	—	—
Massachusetts	643	224	107	119	96	78	80	172

TABLE 1.—REPORTED COMMERCIAL LANDINGS (THOUSANDS OF POUNDS) OF STRIPED BASS IN ATLANTIC COASTAL STATES, 1982-1989—Continued

State	1982	1983	1984	1985	1986	1987	1988	1989
Rhode Island.....	270	196	54	61	11	1	—	—
Connecticut.....	8	2	2	6	—	—	—	—
New York.....	471	310	595	469	—	—	—	—
New Jersey.....	10	20	9	12	10	—	—	—
Delaware.....	26	7	37	—	—	—	—	—
Maryland.....	518	446	1,108	43	8	33	45	—
Virginia.....	147	151	508	241	23	57	165	—
North Carolina.....	338	361	513	280	189	262	115	113
Total.....	2,429	1,717	2,933	1,232	337	431	407	285

Source: National Marine Fisheries Service, F/RE1, unpublished data.

Dash denotes none reported.

Note: Restrictive regulations contributed to the decrease in landings since 1981.

TABLE 2.—ESTIMATED TOTAL RECREATIONAL CATCH (THOUSANDS OF FISH) OF STRIPED BASS BY STATE, MAINE TO NORTH CAROLINA, 1982-1989

State	1982	1983	1984	1985	1986	1987	1988	1989
Maine.....	—	—	—	77	—	—	—	—
New Hampshire.....	0	—	0	—	0	—	—	—
Massachusetts.....	129	68	132	123	655	138	301	236
Rhode Island.....	—	—	72	50	—	107	31	47
Connecticut.....	555	45	41	41	—	95	30	111
New York.....	—	36	101	95	149	227	146	376
New Jersey.....	151	210	84	—	43	89	704	287
Delaware.....	0	—	—	—	0	—	36	—
Maryland.....	40	155	148	102	502	181	163	152
Virginia.....	0	—	—	—	—	—	—	98
North Carolina.....	0	—	—	—	—	0	—	—
Total.....	911	568	626	618	1,399	886	1,465	1,334

Estimates include both fish harvested those released.

— = less than 30,000 reported.

0 = none reported.

Sources:

1982: USDOC, 1985. Current Fishery Statistics No. 8324.

1983-1984: USDOC, 1985. Current Fishery Statistics No. 8326.

1985: USDOC, 1986. Current Fishery Statistics No. 8327.

1986: USDOC, 1987. Current Fishery Statistics No. 8392.

1987, 1988, 1989: National Marine Fisheries Service, R. Essig, personal communication.

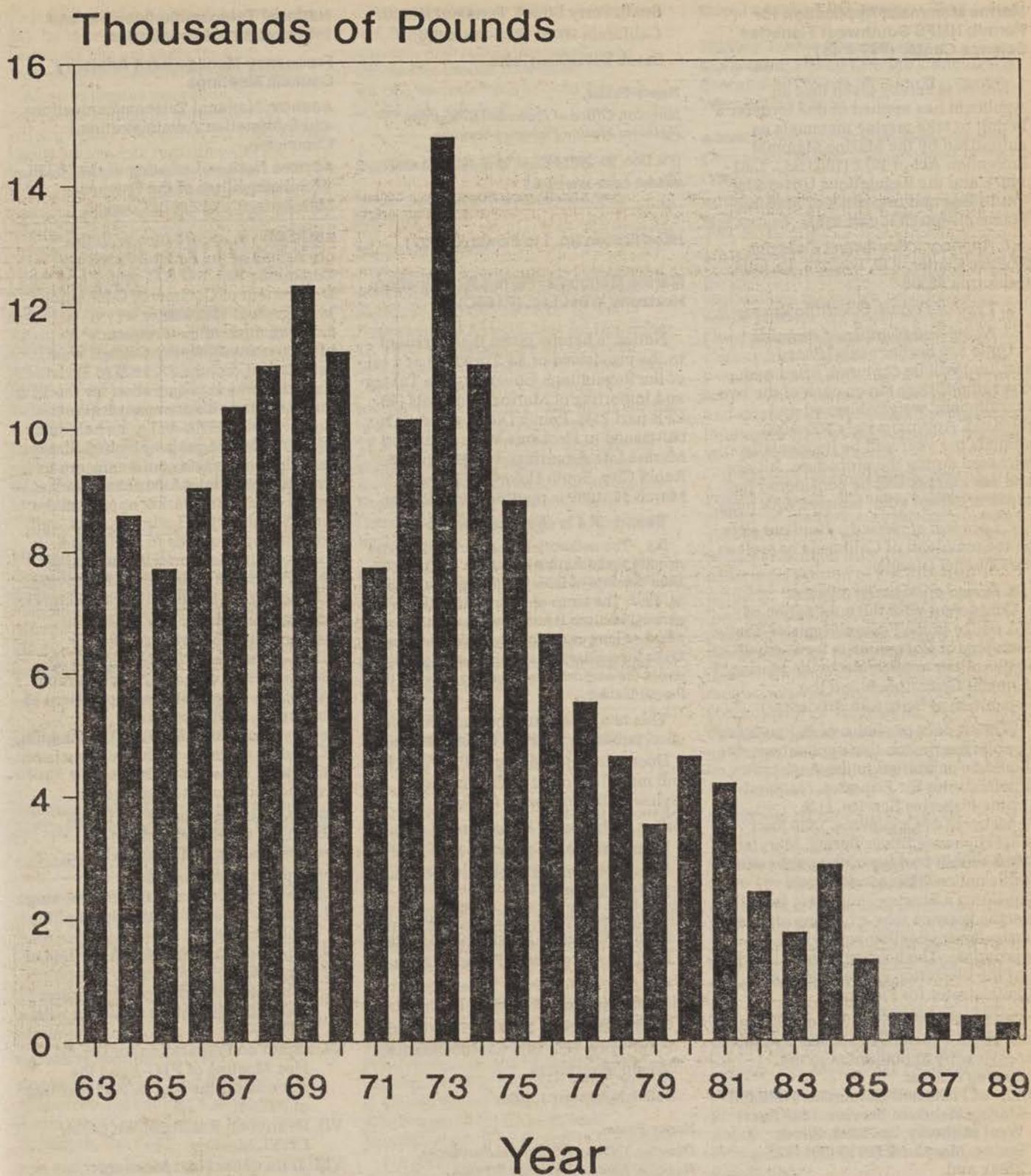


Figure 1. Reported commercial landings of striped bass from Maine through North Carolina, 1963-1989.

Note: Restrictive regulations on the commercial fishery contributed to the decrease in landings since 1982.

[FR Doc. 90-26462 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; NMFS Southwest Fisheries Science Center (P77#45)

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

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

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Animals:* Up to 120 harbor seals (*Phoca vitulina*) will be captured, fitted with one radio-flipper tag on each of the two rear flippers, weighed, sexed and released. Approximately 500-1000 animals per year will be incidentally harassed during the procedure. All age and sex classes will be considered for capture, except adult females with pups.

4. *Location of Activity:* Haul out sites on the mainland of California as well as the Channel Islands.

5. *Period of Activity:* 3 years.

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

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

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

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, rm. 7324, Silver Spring, Maryland 20910 (301/427-2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300

South Ferry Street, Terminal Island, California 90731 (213-514-6196).

Dated: November 1, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-26374 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 627]

Marine Mammals; Permit Modification: Horizons West Ltd. (P158C)

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 627 issued to Horizons West, Ltd., dba Marine Life Aquarium, HC 41 Box 365, Rapid City, South Dakota 57701, on March 14, 1988 is modified as follows:

Section B.4 is changed to read

B.4 The authority to capture or otherwise acquire these marine mammals shall extend from the date of issuance through December 31, 1992. The terms and conditions of this permit (Sections B and C) shall remain in effect as long as one of the marine mammals taken hereunder is maintained in captivity under the authority and responsibility of the Permit Holder.

This modification becomes effective upon publication in the Federal Register.

Documents pertaining to the Permit and modification are available for review in the following Offices:

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

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702; and

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

Dated: November 1, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-26375 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Frequency Management Advisory Council: Meetings

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting of the CITEL-VI Subcommittee of the Frequency Management Advisory Council.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 and the Department of Commerce Committee Management Handbook, a subcommittee of the Frequency Management Advisory Council was established on June 27, 1990 to assist United States in preparation for the Vth InterAmerican Telecommunications Conference (CITEL-VI) to be held in mid-1991. Major goals of United States participation in this conference are to strengthen the interAmerican alliance, create additional market opportunities for U.S. industry in Latin America, and provide opportunities to further U.S. goals of privatization while assisting Latin American countries in improving their telecommunication infrastructures.

NOTICE OF MEETING: The FMAC Subcommittee on Preparations for CITEL-VI will meet on November 29, 1990, from 9:30 a.m. to 12 noon in room 1605 of the United States Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC. Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

AGENDA: The agenda for the fourth meeting of the Subcommittee on Preparations for CITEL-VI will be:

- I. Adoption of the Agenda.
- II. Summary Minutes of the 3rd Meeting.
- III. Consideration of Draft Report of the Subcommittee.
- IV. Report on Coordination Activities of T1/PTC-1.
- V. Update on the Telecommunications Exhibition/Forum Associated with CITEL-VI.
- VI. Report on Preparation for the Ad Hoc Meeting of PTC-I and the Agenda for the March 1991 Meeting of PTC-1.
- VII. Debrief on Results of the COM/CITEL Meeting.
- VIII. Date of the Next Meeting.

PUBLIC PARTICIPATION: This meeting of the CITEL VI Preparation Subcommittee will be held in accordance with the

Federal Advisory Committee Act and will be open to public observations. A period will be set aside for oral comments or questions by the public.

More extensive questions, or comments should be submitted in writing before November 21, 1990. Other public statements regarding CITE VI Subcommittee activities may be submitted at any time before or after the meeting. Approximately 25 seats will be available for the public on a first-come, first-served basis. Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments concerning the CITE VI Subcommittee may be addressed to the Designated Federal Official, Mr. William Moran, National Telecommunications and Information Administration, room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230, telephone (202) 377-1866.

Dated: October 31, 1990.

Michael W. Allen,

Executive Secretary, Frequency Management Advisory Council, National Telecommunications and Information Administration.

[FR Doc. 90-26411 Filed 11-7-90; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Environmental: Chlorofluorocarbons (CFCs) Advisory Committee: Meetings

ACTION: Notice of meeting.

SUMMARY: This is another in a series of meetings to be held by the CFC Advisory Committee to study the feasibility and cost within DoD of substituting chemicals or technologies to replace ozone depleting chemicals whose production is restricted by the Montreal Protocol.

DATES: November 13, 1990.

ADDRESSES: Two Crystal Park, Advanced Technology Conference Room, 2121 Crystal Drive, Suite 200, Arlington, VA 22207.

FOR FURTHER INFORMATION: Mr. William D. Goins, (703) 325-2215.

SUMMARY INFORMATION: Due to limited space and security considerations please contact Charles W. Purcell (703) 934-3017 for attendance information and admission number.

Dated: November 5, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-26456 Filed 11-7-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 2, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet on December 17, 1990, from 8 a.m. to 5 p.m. at the Pentagon, Washington, DC 20330-5430.

The purpose of this meeting is to review the technology area plans for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-26412 Filed 11-7-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

November 2, 1990.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Aeronautical Systems Division (ASD) will meet on 28 November 90, from 8 a.m. to 5 p.m. and on 29 November 90, from 8 a.m. to 3 p.m. at Wright-Patterson AFB, OH. This meeting was originally scheduled for 12-13 September 90, but was postponed.

The purpose of this meeting is to receive classified briefings and hold classified discussions on selected Air Force programs. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 90-26413 Filed 11-7-90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command; Policy Change Concerning Storage-in Transit (SIT) on Carrier's Warehouse Floor

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Proposed revision of regulation and request for public comment.

SUMMARY: The Department of Defense is proposing to incorporate a policy specifying a maximum time frame in which carriers or carrier agents have to place personal property properly in storage-in-transit (SIT) to comply with paragraph 36.a of the Tender of Service for personnel property household goods and unaccompanied baggage shipments. Paragraph 36.a. of the Tender of Service will be changed to read:

a. *Storage.* Personal property shall be stored on skids, dunnage, pallet bases, evaluated platforms, or similar storage aids maintaining a minimum of at least 2 inches clearance from the floor to the undermost portion of the personal property. This must be done no later than 3 workdays after receipt of the property by the storage facility or 3 workdays after the SIT number is issued, whichever is greater. In addition, the property shall not be stored in contact with exterior walls. Trash cans, extension ladders, lawn mowers, TV antennas, swing sets, and other like items are excluded from this requirement.

EFFECTIVE DATE: Change will be effective on January 1, 1991.

DATES: Comments must be submitted on or before December 10, 1990.

ADDRESSES: Comments should be addressed to Commander, Military Traffic Management Command, ATTN: MTPP-QQ, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Wells, HQMTMC, ATTN: MTPP-QQ, 5611 Columbia Pike, Falls Church, VA 22041-5000, (703) 756-1784.

SUPPLEMENTARY INFORMATION: The proposed revision would supersede policy published in DoD 4500.34R, Personal Property Traffic Management Regulation.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 90-26416 Filed 11-7-90; 8:45 am]

BILLING CODE 3710-06-M

Department of the Navy**CNO Executive Panel; Closed Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel U.S. Navy-Soviet Navy Exchanges Task Force will meet November 19-20, 1990 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss key issues regarding U.S. Navy-Soviet Exchanges. The entire agenda for the meeting will consist of discussions on how to implement a long-range, comprehensive, follow-on program. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

This notice is being published late because of administrative delays which constitutes an exceptional circumstance, not allowing Notice to be published in the *Federal Register* at least 15 days before the date of this meeting.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: November 5, 1990.

Wayne T. Baucino,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-26487 Filed 11-7-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION**National Advisory Committee on Accreditation and Institutional Eligibility; Amendment of Notice of Meeting**

AGENCY: National Advisory Committee on Accreditation and Institutional Eligibility; Education.

ACTION: Amendment of notice of meeting.

SUMMARY: This notice amends the agenda for the November 13-15 meeting of the National Advisory Committee on

Accreditation and Institutional Eligibility, as published on October 15, 1990, in Vol. 55, No. 199, pages 41745-46.

FOR FURTHER INFORMATION CONTACT: Steven G. Pappas, Executive Director, National Advisory Committee on Accreditation and Institutional Eligibility, U.S. Department of Education, 400 Maryland Avenue SW., room 3915, ROB-3, Washington, DC 20202-5151, (202) 708-5856.

AGENDA: The agenda has been amended to include two petitions for initial recognition from Transnational Association of Christian Schools, Accrediting Commission.

Authority: 5 U.S.C.A. appendix 2.

Dated: November 5, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90-26464 Filed 11-7-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY**Determination To Establish the Environment, Safety, and Health Advisory Committee**

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Public Law 92-463), and in accordance with 41 CFR 101-6.1007, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Environment, Safety, and Health Advisory Committee (ESHAC) has been established. The Advisory Committee will provide independent advice to the Assistant Secretary for Environment, Safety and Health (EH) on the mission and activity of EH.

The Committee will be composed of distinguished individuals with expertise in the areas of public health, occupational health, epidemiology, research standards, ethical and legal aspects of research, organized labor, and other areas as necessary to obtain a fairly balanced membership on the Committee.

The establishment of the ESHAC has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Advisory Committee will operate in accordance with the provisions of FACA, the Department of Energy Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Committee can be obtained from Elinor Donnelly (202-586-3448).

Issued in Washington, DC, on November 5, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90-26470 Filed 11-7-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Grant to the Rougeot Oil and Gas Corporation

AGENCY: U.S. Department of Energy, Bartlesville Project Office.

ACTION: Notice of non-competitive financial assistance (Grant) award with Rougeot Oil and Gas Corporation.

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (A) and (D), it intends to make a Non-Competitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center to Rougeot Oil and Gas Corporation for the research effort entitled "Cleanup/Stimulation of an Uncased Horizontal Well Bore Using Propellants."

SCOPE: The objective of this grant project is to ignite a propellant in a 1,000' horizontal well bore. This procedure will cause thousands of short fractures (less than 20') effectively eliminating skin damages and increasing near well bore permeability.

An increase in the project well's productivity after cleanup/stimulation will allow for quantifying the existence of near well bore permeability impairment in the project well. In contrast, no improvement in well productivity will indicate that a horizontal well can be drilled with air and the resulting skin damage is negligible. A positive or negative outcome will be equally valuable to independents studying the feasibility of horizontal drilling projects in their area.

There would be two levels of success. Level one would be a significant increase fluid production and the second level would be that the oil-water ratio remained above 50%. A level one success would provide a viable well plan for other independents' "pet" projects and a level two success would generate interest in a horizontal drilling from all stripper well operators.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (A) and (D), a non-competitive financial assistance award

to Rougeot Oil and Gas Corporation has been justified.

This effort is a continuation and expansion of Department of Energy grant number DE-FG22-89BC14458. Work to be performed under this renewal effort is part II of two parts. Part I was designed to do applied research in the drilling, completion, and production of a horizontal well in a particular type reservoir with peculiar conditions. Part II will center on the production phase of the well, the stimulation of the well to determine if the higher oil producing rates and additional oil production can be obtained by removing any damage imposed during the drilling and completion phases. Rougeot Oil and Gas Corporation has exclusive domestic capability to perform this activity successfully based on their unique equipment and technical expertise.

The term of the grant is for a six-months period at an estimated value of \$41,500. The DOE share is anticipated at \$29,800.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-165, Pittsburgh, PA 15236, Attn: Norey B. Laug. Telephone: AC (412) 892-4827.

Dated: November 1, 1990.

Gregory J. Kawalkin,
Director, Acquisition and Assistance
Division, Pittsburgh Energy Technology
Center.

[FR Doc. 90-26471 Filed 11-7-90; 8:45 am]

BILLING CODE 6450-01-M

Math/Science Leadership Development and Recognition Program

AGENCY: Department of Energy (DOE),
Richland Operations Office.

ACTION: Notice of availability of
financial assistance solicitation.

SUMMARY: In accordance with 10 CFR 600.9, the Department of Energy (DOE), the Office of Minority Economic Impact in conjunction with the DOE Richland Operations Office announces the availability of a financial assistance solicitation for use in submitting an application for a grant under the Math/Science Leadership Development and Recognition Program. Recent studies have made it quite clear that the United States is not producing enough scientists, engineers and professionals in related fields to meet projected future demands. African Americans, Hispanics, American Indians, Native Alaskans and certain other minorities

continue to be under-represented in math and science professions and at all educational levels. In view of its critical dependence on advanced technology, the DOE is implementing this program in an effort to find a selected number of projects that could serve as models of successful efforts by public and private organizations leading to increased minority participation in mathematics, science and engineering fields. A Solicitation for Financial Assistance (SFAA), Number DE-SC06-91RL12051, has been developed for the purpose of providing qualified organizations interested in submitting an application with general guidelines and instructions. A copy of the SFAA may be obtained by contacting the office indicated below.

ELIGIBILITY: The intent of the financial assistance for this activity is to assist in expanding the support provided by private industry, foundations and individuals to those organizations dedicated to stimulating or sustaining the interest of minorities in mathematics, science and engineering. DOE has determined that one of the most effective ways to stimulate or sustain minority students interest in mathematics, science and engineering is to support existing programs that have been successful and can expand. Therefore, in accordance with 10 CFR 600.7(b)(1), eligibility for awards under this notice is restricted to all educational institutions, section 501(c)(3) tax exempt organization, and not-for-profit entities (including professional and/or technical associations with a program designed to increase minority participation in mathematics, sciences and engineering—excluding social sciences). To be eligible, programs sponsored by educational institutions must be outside of the normal operating requirements associated with progress toward completion of the appropriate education level.

FOR COPY OF THE SFAA: To receive a copy of the SFAA, please send your request to the address indicated below.

DATES: Applications are due at the address listed below no later than 2 p.m., Pacific Standard Time, on January 10, 1991. The SFAA does not commit the Government to pay costs incurred in the preparation or submission of the application proposal, or in making necessary studies or design for the preparation thereof.

FOR FURTHER INFORMATION CONTACT: Copies of the SFAA may be obtained by contacting the U.S. Department of Energy, Richland Operations Office, ATTN: Ms. Julie A. Riel, Grants Specialist, Procurement Division, A7-80,

P.O. Box 550, Richland, Washington, 99352, Phone (509) 376-9790 (no collect calls please). Completed applications referencing SFAA No. DE-SC06-91RL12051 must be forwarded to this same address.

SUPPLEMENTAL INFORMATION: The primary objective of the Math/Science Leadership Development and Recognition Program is to identify and promote efforts to increase the number of under-represented minority students pursuing studies in mathematics, science or engineering; efforts to improve the performance of students in those fields; and to provide resources needed to implement those efforts. In particular, DOE intends to recognize activities which have demonstrated "what works" in the education of minorities in the sciences and mathematics. The DOE will provide financial assistance to allow the selected programs to expand the coverage of activities, increase the number of participants, improve the effectiveness of services, expand parent and/or community involvement, or implement other improvements as defined by the applicant. In addition, the DOE intends to provide recognition to those qualified programs which do not get selected for financial assistance. It is expected that this SFAA will result in the award of approximately 40 grants totaling more than \$2.0 million. The DOE intends to award a minimum of one (1) grant in each minority category and at each educational level. The maximum award amount shall be limited to \$50,000 per grant. In the event there is not a sufficient number of acceptable applications submitted in response to this SFAA, the DOE reserves the right to extend competition under this SFAA by holding a second round of application review and award.

Issued in Richland, Washington, on
November 1, 1990.

R.D. Larson,
Director, Procurement Division, Richland
Operations Office.

[FR Doc. 26472 Filed 11-7-90; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information
Administration, DOE.

ACTION: Notice of requests submitted for
review by the Office of Management
and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, *e.g.*, new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, *i.e.*, mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before December 10, 1990. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC-538
3. 1902-0061
4. Gas Certificates: Initial Service
5. Extension
6. On Occasion
7. Mandatory
8. Business or other for-profit
9. 1 respondent
10. 1 response
11. 320 hours per response
12. 320 hours
13. FERC-538 is an application filing requesting the Commission to order an interstate natural gas pipeline to provide service to the LDC/municipality or natural gas company. Data are needed to determine the facilities necessary, cost and details of the project and to determine if such connection/service would be in the public interest.

Authority: Section 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, November 2, 1990

Yvonne M. Bishop,
Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-26473 Filed 11-7-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GP88-13-001]

Damson Oil Corporation and the GHK Company; Petition to Reopen and Reconsider Final Order Reversing Jurisdictional Agency Determination, Permit Supplemental Evidentiary Filing, and Affirm Findings of the Oklahoma Corporation Commission

November 1, 1990.

Take notice that on October 3, 1990, Damson Oil Corporation and the GHK Company (Damson) filed with the Federal Energy Regulatory Commission (Commission), pursuant to §§ 275.205 and 385.716 of the Commission's regulations (18 CFR 275.205 and 385.716) a petition (1) to reopen and reconsider its Final Order Reversing Jurisdictional Agency Determinations issued November 29, 1988 (45 FERC ¶ 61,315 [1988]), in the above-captioned docket insofar, as such order pertains to the application for NGPA well category determination filed by Amarex, Inc. for the Nichols-Gregory No. 1 well, Beckham County, Oklahoma, Cause No. U.S. 06615 before the Oklahoma Corporation Commission, FERC No. JD 81-17268; (2) to permit the filing of the

supplemental evidentiary material which accompanied this petition; and (3) to affirm the findings of the Oklahoma Corporation Commission that natural gas produced from the Red Fork Formation by the Nichols-Gregory No. 1 well is produced from a new onshore reservoir within the meaning of NGPA section 102(c)(1)(C).

Any person desiring to be heard or protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 23, 1990. All protests filed will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Copies of this petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26373 Filed 11-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-24-000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

November 1, 1990.

Take notice that Equitrans, Inc. (Equitrans) on October 30, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective December 1, 1990.

Eighteenth Revised Sheet No. 10
Ninth Revised Sheet No. 34

Equitrans hereby submits its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with §§ 154.308 and 154.304 of the Commission's regulations and section 19 of Equitrans' FERC Gas Tariff, Original Volume No. 1.

The changes proposed in this filing consist of current adjustments for the components of Equitrans' sales rates under Rate Schedule PLS representing the change in Equitrans' last scheduled PGA filing effective September 1, 1990 in Docket No. TA90-1-24, et al. The current adjustment to the demand cost is an increase of \$0.2628 per dekatherm (Dth). The commodity adjustment is an increase of \$0.2663 per Dth. The current adjustment to Rate Schedule ISS is an

increase in the maximum rate of \$0.3171 per Dth and \$0.2757 per Dth in the minimum rate.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-26369 Filed 11-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

November 1, 1990.

Take notice that on October 30, 1990, Mississippi River Transmission Corporation (MRT) tendered for filing Fiftieth Revised Sheet No. 4, Ninth Revised Sheet No. 4.1, and Ninth Revised Sheet No. 4.2 to its FERC Gas Tariff, Second Revised Volume No. 1. These tariff sheets are proposed to become effective November 1, 1990.

MRT states that Fiftieth Revised Sheet No. 4, Ninth Revised Sheet No. 4.1, and Ninth Revised Sheet No. 4.2 to be effective November 1, 1990 reflects a 5.98 cents per MMBtu increase in its commodity cost of gas. MRT states that this tariff sheet represents an out-of-cycle purchased gas cost adjustment (PGA) filing necessitated by increases in the prices of natural gas that could not have been reflected under current Commission Regulations at the time of MRT's quarterly PGA filing. MRT states that because spot market purchases constitute a significant portion of its overall purchase mix of system supply gas, its overall gas costs have risen significantly, and its presently effective rates no longer reflect the current costs of gas which MRT is now experiencing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-26370 Filed 11-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-26-000]

Natural Gas Pipeline Co. of America; Changes in Rates

November 1, 1990.

Take notice that on October 31, 1990, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective December 1, 1990:

Ninety-Sixth Revised Sheet No. 5
Sixty-First Revised Sheet No. 5A
Thirty-Ninth Revised Sheet No. 5B

Natural states the purpose of the instant filing is to implement Natural's quarterly PGA unit rate adjustment calculated pursuant to section 18 of the General Terms and Conditions of Natural's Tariff. The tariff sheets contain peak rates.

The overall effect of the quarterly adjustment when compared to the gas cost component in Natural's PGA filing in Docket No. TA90-3-26, effective September 1, 1990, is an increase in the DMQ-1 demand and commodity charges of \$.04 and \$.9930, respectively, and a decrease in the DMQ-1 entitlement charge of \$.0019. Appropriate adjustments have been made with respect to Natural's other rate schedules. No changes are required to the surcharge adjustments that were approved in Docket No. TA90-1-26, effective March 1, 1990.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 90-26372 Filed 11-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-41-000]

Paiute Pipeline Co.; Out-of-Cycle Purchased Gas Cost Adjustment

November 1, 1990.

Take notice that on October 31, 1990, Paiute Pipeline Company (Paiute) tendered for filing an out-of-cycle purchased gas cost adjustment (PGA) filing pursuant to part 154 of the Commission's Regulations and the PGA provisions contained in section 9 of the General Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1. Paiute has requested that its proposed tariff sheet, Seventeenth Revised Sheet No. 10, become effective December 1, 1990.

Paiute states that the purpose of its out-of-cycle PGS filing is to reflect the impact of a substantial increase in the gas supply requirements of its largest sales customer which occurred subsequent to the filing of Paiute's annual PGA on August 31, 1990 at Docket No. TA91-1-41-000. Paiute estimates that the cost impact of acquiring these additional gas supplies for the 1990-91 winter heating season will increase Paiute's average cost of purchased gas from the \$1.8003 per Dth reflected in Paiute's annual PGA filing at Docket No. TA91-1-41-000 to \$2.1548 per Dth.

Paiute states that copies of this filing have been mailed to all jurisdictional sales customers of Paiute Pipeline Company, interested parties and affected state regulatory agencies.

Any persons desiring to be heard or to protest said filing should file a motion to

intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-26371 Filed 11-7-90; 8:45 am]

BILLING CODE 5717-01-M

Office of Hearings and Appeals

Determination of Excess Petroleum Violation Escrow Funds for Fiscal Year 1991

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of determination of excess monies pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986.

SUMMARY: The Petroleum Overcharge Distribution and Restitution Act of 1986 requires the Secretary of Energy to determine annually the amount of oil overcharge funds held in escrow that is in excess of the amount needed to make restitution to injured parties. Notice is hereby given that \$32,371,163 of the amounts currently in escrow is determined to be excess funds for fiscal year 1991. Pursuant to the statutory directive, these funds will be made available to state governments for use in specified energy conservation programs.

FOR FURTHER INFORMATION CONTACT:

Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-2094 (Mann); (202) 586-2363 (Klurfeld).

SUPPLEMENTARY INFORMATION: The Petroleum Overcharge Distribution and Restitution Act of 1986 (hereinafter PODRA), contained in Title III of the Omnibus Budget Reconciliation Act of 1986, Public Law No. 99-509, establishes

certain procedures for the disbursement of funds collected by the Department of Energy (hereinafter DOE) pursuant to the Emergency Petroleum Allocation Act of 1973 (hereinafter EPAA) or the Economic Stabilization Act of 1970 (hereinafter ESA). These funds, commonly referred to as oil overcharge funds, are monies obtained through enforcement actions instituted to remedy actual or alleged violations of those Acts.

PODRA requires the DOE, through the Office of Hearings and Appeals (hereinafter OHA), to conduct proceedings under 10 CFR part 205, subpart V, to accept claims for restitution from the public and to refund oil overcharge monies to persons injured by violations of the EPAA or the ESA. In addition, PODRA requires the Secretary of Energy to determine annually the amount of oil overcharge funds that will not be required for restitution to injured parties in these refund proceedings and to make this excess available to state governments for use in four energy conservation programs. This determination must be published in the Federal Register within 45 days after the beginning of each fiscal year. The Secretary has delegated this responsibility to the OHA Director.

Notice is hereby given that based on the best currently available information, \$32,371,163 is in excess of the amount that is needed to make restitution to injured parties.

To arrive at that figure, the OHA has reviewed all accounts in which monies covered by PODRA are deposited. PODRA generally covers all funds now in DOE escrow which are derived from alleged violations of the EPAA or the ESA, with certain exclusions. Excluded are funds which (1) Have been identified for indirect restitution in orders issued prior to enactment of PODRA; (2) have been identified for direct restitution in a judicial or administrative order; or (3) are attributable to alleged violations of regulations governing the pricing of crude oil and subject to the settlement agreement in *In re The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan., July 7, 1986). As of September 30, 1990, the total in escrow subject to the PODRA procedures was \$341,628,893.

The OHA has employed the following methodology to determine the amount of excess funds. We took special account of the provision of PODRA which

directs that "primary consideration (be given) to assuring that at all times sufficient funds (including a reasonable reserve) are set aside for making (direct) restitution." Thus, in proceedings in which refund claims are pending, we have on a claim-by-claim basis examined pending claims and established reserves sufficient to pay the entire amount of these claims. The reserves also include all refunds ordered by the OHA since the end of the last fiscal year on September 30, 1990, but not yet paid. For proceedings in which all claims have been considered or in which no claims have been filed, and the deadline for filing claims has passed, all funds remaining are excess. Small amounts of interest accrued, until transfer, on funds in accounts that were closed (with a zero balance) in the fiscal year 1990 PODRA determination (54 FR 47262 (1989)) are included as part of the "excess" for fiscal year 1991. Finally, a relatively small amount of oil overcharge funds is currently subject to the control of the Department's Economic Regulatory Administration, which finds in its accompanying determination, as it has found in the past, that none of those funds are currently excess. No "other commitments" are reflected in the reserves.

As indicated above, the total escrow account equity subject to PODRA is \$341,628,893. The total amount needed as reserves for direct restitution in those cases is \$309,257,730. When this figure is subtracted from the former, the remainder—\$32,371,163—is the amount in fiscal year 1991 that is "in excess" of the amount that will be needed to make restitution to injured persons. Appendix A sets forth for each refund case within the OHA's jurisdiction the total amount eligible for distribution under PODRA and the "excess" amount. Appendix B reflects information supplied by the Economic Regulatory Administration regarding cases subject to PODRA under its jurisdiction.

Accordingly, \$32,371,163 will be transferred to a separate account within the United States Treasury and made available to the States for use in the four designated energy conservation programs in the manner prescribed by PODRA.

Dated: November 2, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A: NOTICE OF EXCESS FUNDS FOR FISCAL YEAR 1991

OHA case name	Case No.	Consent order No.	Current equity	Excess funds in fiscal year 1991
Enron Corporation	HEF-0116	730V00221Z	\$56,734,438	\$9,600,000
Crown Central Petroleum Corp	KEF-0044	RCWA00000Z	3,596,947	3,580,000
AOC Acquisition Corporation	LEF-0003	RCKH016A1Z	13,377,655	3,300,901
Exxon Corporation	KEF-0087	REXL00201Z	10,366,129	2,600,000
Good Hope Refineries Inc	HEF-0211	150S00154Z	9,444,497	2,361,124
Placid Oil Company	KEF-0007	6DOS00005Z	2,181,732	2,000,000
True Companies, The	HEF-0557	733V02018Z	2,046,029	1,800,000
Product Tracking-PODRA	N/A	999DOE005W	1,648,135	1,648,135
United Refining Company	KEF-0132	340S00445Z	4,989,973	1,087,897
EDG, Inc.	KEF-0003	930S00173Z	2,193,935	1,000,000
Quintana Energy Corp. et al	KEF-0131	650X00356Z	3,224,376	712,500
Power Test Petroleum Dist	KEF-0042	240H00499Z	543,127	543,127
Dorchester Gas Corporation	HEF-0559	670S00113Z	500,253	500,253
Gulf Oil Corp.	DFE-0001	NOOR00007Y	287,285	287,285
Fletcher Oil & Refining Comp	LEF-0010	960S00100Z	1,019,672	254,918
Meadows Realty Company	KEF-0133	910S00001Z	1,232,257	250,000
Northeast Petroleum Industries	HEF-0137	110H00334Z	206,284	206,284
Northeast Petroleum, Inc	HEF-0138	120H00491Z	207,516	204,064
MCO Holdings Inc & MGPC Inc	KEF-0108	831V00016Z	156,306	156,306
Elias Oil Company	KEF-0022	412H00105Z	152,682	100,000
Power Pak Co. Inc	HEF-0155	610H10452Z	36,893	36,893
John R. Adams	LEF-0020	660H00060Z	144,378	36,094
West Coast Oil Company	KEF-0142	961S00028Z	101,003	25,251
World Oil Company	KEF-0005	960S00104Z	24,226	24,226
Pedersen Oil, Inc	HEF-0147	000H00418Z	20,554	20,554
Amtel, Inc	HEF-0027	720H00552Z	16,906	16,906
Appalachian Flying Service Inc	HEF-0028	432K00435Z	9,865	9,865
South Hampton Refining	HEF-0222	6E0S00002Z	8,226	8,226
Green Oil, c/o Terry's Propane	LEF-0013	811E00237Z	232	232
Saber Energy, Inc	HEF-0220	6DOS00037Z	122	122
Agway, Inc	KEF-0102	RTYA00001Z	904,565	0
Aminoil, U.S.A., Inc	HEF-0007	740V01259Y	5,031,633	0
Anchor Gasoline Corporation	KEF-0120	740S01247Z	3,502,478	0
Atlantic Richfield Company	HEF-0591	RARH00001Z	32,575,726	0
Automatic Comfort Corp	LEF-0005	110H00519A	9,890	0
Beacon Oil Company	HEF-0203	910S00008Z	2,758,791	0
Butler Fuel Corporation	KEF-0094	110E00421Z	64,452	0
County Fuel Company, Inc	LEF-0015	320H00310Z	44,518	0
Diamond Industries, Inc	KEF-0130	320H00097Z	349,759	0
Empire Gas Corporation	KEF-0048	720T00521Z	1,293,659	0
Gasoline Marketers of America	KEF-0138	320H00318Z	85,962	0
Getty Oil Company	HEF-0209	RGEA00001Z	4,605,284	0
Gulf Oil Corporation	HEF-0590	RGFA00001Z	20,000,000	0
Indian Wells Oil Company	KEF-0103	710V02002Z	1,669,593	0
Marathon Petroleum Company	KEF-0021	RMNA00001Z	7,454,778	0
Maxwell Oil Co	HEF-0125	000H00425W	12,974	0
McClure Oil Company	KEF-0009	660E00083Z	52,168	0
Mobil Oil Corporation	HEF-0508	RMOA00001Z	4,886,633	0
Murphy Oil Corporation	KEF-0095	RMUH01983Z	3,816,475	0
Northeast Petroleum Industries	HEF-0580	6C0X00241Z	1,689,390	0
O'Neals Service Center	KEF-0117	999K90056Z	4,573	0
Oasis Petroleum Corp	LEF-0007	940X00217Z	213,032	0
P&R Trading Company	LEF-0018	6A0X00335Z	105,360	0
Paul Invests & A.B. Holding Co	LEF-0006	400H00231Z	63,343	0
Pester Marketing Company	KEF-0134	730S01236Z	360,784	0
Petrolane-Lomita Gasoline Co	HEF-0269	940V00195Z	62,210	0
Point Landing Inc	HEF-0152	640H00175Z	151,002	0
Quantum Chemical Corporation	LEF-0011	720V01245Z	543,581	0
Reinauer Petroleum Company Inc	KEF-0110	240H00492Z	367,863	0
Sauvage Gas Company, Inc	KEF-0024	710H06008Z	232,072	0
Shell Oil Company	KEF-0093	RSHA00001Z	11,294,194	0
Strasburger Enterprises, Inc	LEF-0014	400H00219Z	528,541	0
Suburban Propane Gas Corp	KEF-0038	733V02010Z	50,122	0
Tesoro Petroleum Corp	KEF-0128	RTSE006A1Z	6,000,000	0
Texaco Inc	KEF-0119	RTXE006A1Z	105,566,970	0
Thomas P. Reidy, Inc	KEF-0137	720H06015Z	6,052,092	0
Trigon Exploration Inc	LEF-0019	650C00374Z	838,747	0
Witco Chemical Corporation	HEF-0227	240S00054Z	3,914,046	0
Totals			341,628,893	32,371,163

Appendix B: Notice of Excess Funds for Fiscal Year 1991

Memorandum for: George B. Breznay,
Director, Office of Hearings and Appeals.
From: Chandler L. Van Orman, Acting
Administrator, Economic
Regulatory Administration.
Subject: ERA Input for the Podra Section
3003(c) Report.

ERA has reviewed the funds held in escrow as of September 30, 1990, which have not been petitioned under subpart V. A subpart V petition is filed with your office following completion of the required payments into an escrow account. Thus, payment into the escrow accounts we examined has not been completed.

The purpose of the review was to identify funds held in escrow in excess of the amounts required to effect restitution to persons or classes of persons in accordance with section 3003(b)(1) of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA). Since the amount of funds which will be available and the extent of claims which will be filed are not known, the funds currently on deposit in these escrow accounts are not excess funds for the purposes of PODRA.

[FR Doc. 90-26474 Filed 11-7-90; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy, 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 procedures for disbursement of \$1,187,500, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Time Oil Company. The DOE has determined that injured Time Oil customers should be given an opportunity to submit claims for direct restitution before any remaining funds are distributed for indirect restitution in accordance with the terms of that consent order.

DATES AND ADDRESSES: Applications for Refund will be accepted from purchasers of Time Oil covered products. Applications must conform with the requirements set forth in the Decision and Order and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications

must be filed in duplicate, postmarked no later than April 1, 1991, and should display a reference to case number KEF-0129.

FOR FURTHER INFORMATION CONTACT:
Thomas O. Mann, Deputy Director,
Roger Klurfeld, Assistant Director,
Office of Hearings and Appeals, 1000
Independence Avenue SW.,
Washington, DC 20585, (202) 586-2094
(Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 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 funds obtained from Time Oil Company (Time). The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE and Time entered into a December 13, 1982 consent order that resolved, with the exclusion of specific exceptions, all civil and administrative disputes regarding Time's compliance with the DOE's price and allocation regulations. As explained in the Decision and Order, the Time consent order identifies one injured purchaser to receive direct restitution, and seven states which are designated to receive the remainder of the funds for indirect restitution. Although a claims process for other unidentified injured purchasers is required by neither the consent order nor any applicable statute, in view of the unique circumstances of this case, we have determined that all injured Time customers be permitted to file refund claims before any unclaimed monies are distributed to the seven states identified in the consent order, where Time sold petroleum products during the relevant period. The process of indirect restitution through those states will be governed by OHA's "second-stage" refund procedures.

Applications for Refund from the Time consent order fund will be accepted from customers who purchased covered petroleum products from Time during the consent order period. Applications for Refund must be postmarked no later than April 1, 1991 to meet the filing deadline.

Dated: October 31, 1990.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision and Order; Implementation of Special Refund Procedures

Name of petitioner: Time Oil Company
Date of filing: April 18, 1989
Case number: KEF-0129

On April 18, 1989, the Economic Regulatory Administration (ERA) filed a

Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures, in accordance with the provisions of 10 CFR part 205, subpart V (subpart V), for distributing funds obtained through the settlement of enforcement proceedings brought against Time Oil Company (Time) by the DOE.

I. Background

During the period August 20, 1973 through January 27, 1981, Time was engaged in the refining of crude oil and the sale of refined petroleum products. It was, therefore, a "refiner" as that term is defined in 10 CFR 212.31, and subject to the federal petroleum price and allocation regulations in existence at that time. The ERA conducted audits of Time's compliance with the price and allocation regulations during that period. During and as a result of those audits, disputes arose between Time and the DOE concerning the firm's compliance with the regulations, some of which led to the issuance of a notice of probable violation to Time on February 29, 1980.

In order to avoid protracted and costly litigation, Time and the DOE agreed to enter into a consent order, which became final on December 13, 1982. The consent order resolved, with certain specified exceptions, all civil and administrative disputes regarding Time's compliance with the regulations. Pursuant to the settlement agreement, Time paid the DOE \$1,187,500 on December 22, 1982. The settlement agreement funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE.

In its Petition for the Implementation of Special Refund Procedures, the ERA states that during the audit it had been able to identify a claim of the Defense Fuel Supply Center (DFSC), which was the only purchaser of jet fuel from Time during the months selected for intense audit. Petition at 2. The consent order therefore provided for the distribution of \$325,000 to the DFSC. In addition, the consent order provides that the DOE will distribute the remaining amount to the treasurers of the seven states within which Time sold covered products during the period November 1973 through January 1981: Washington, Oregon, California, Idaho, Montana, Nevada and Hawaii. *Id.* Each state's portion of the remaining funds was calculated according to the share of Time's total volume of gasoline sold in that state during the period November 1973 through January 1981. The ERA

requests that the OHA establish refund procedures pursuant to subpart V for the distribution of the funds that have been obtained from Time and distribute the Time money in accordance with the consent order. *Id.* at 3.

On April 5, 1990, the OHA issued a Proposed Decision and Order (PDO) that established tentative procedures for distributing the Time funds. The PDO was published for notice and comment in the *Federal Register* on April 16, 1990 at 55 FR 14122. In the PDO, we tentatively determined that the DFSC, the only injured purchaser of Time refined petroleum products identified in the consent order, should receive a refund in the indicated amount, and that the seven states would share the remainder of the funds in the manner suggested in the consent order.

The States of Oregon and Washington filed the only comments regarding the April 5, 1990 PDO, urging OHA to expedite release of the Time funds. However, the OHA reconsidered the proposed Time refund procedures on its own motion, and determined that they should be modified in two respects. First, we concluded that it would be more appropriate at this point to allow a claims process to proceed. This will permit injured purchasers of Time refined petroleum products who were not identified in the 1982 consent order to submit claims before any residual funds are distributed to the seven states. Second, we determined that the use of the unclaimed funds which are distributed to the seven states for indirect restitution should be governed by OHA's "second-stage refund procedures."

In view of these changes, we issued a new Proposed Decision and Order (Second PDO) to provide interested persons with notice and an opportunity to comment on the modified Time refund procedures. This Second PDO was published in the *Federal Register* on September 4, 1990, at 55 FR 35950. We provided a 30-day period for the submission of comments regarding the proposed procedures. The specified period for submission of comments on the Second PDO has now expired. The OHA received no objection or other comments from ERA or Time. The only comments received were filed jointly by the States of Hawaii, Nevada, Oregon, and California. After considering the States' comments, which are discussed below, we have concluded that the procedures set forth in the Second PDO should be adopted without revision.

II. Comments and Refund Procedures

In their comments, the States raise a procedural objection. They contend that

the OHA has no authority to modify the Time consent order by proposing to accept refund claims. They argue that the consent order may not be rescinded or modified "except upon a petition pursuant to 10 CFR part 205, subpart J," and maintain that since no formal motion has been filed, the OHA cannot implement the refund procedures in the Second PDO.

We do not agree. Subpart J permits the Office of Hearings and Appeals to modify the consent order in the presence of "significantly changed circumstances." 10 CFR 205.135(b)(1)(i). As we set forth in the Second PDO, we have determined that circumstances surrounding this proceeding have changed significantly since the 1982 Time consent order. The States do not contest this. Before the enactment of the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501-07 (PODRA), the DOE had used a variety of restitutionary remedies for oil overcharges, including payment directly to the United States Treasury. It also used the unusual remedy fashioned in Time, in which a flat sum was earmarked for direct restitution to a single identified purchaser, with the remainder of the consent order fund to be distributed as indirect restitution to the states in which Time products were sold. No portion of the fund was reserved for direct restitution to unidentified purchasers. This procedure would not be allowable at the present time. PODRA specifically favors direct restitution and requires that oil overcharge funds be distributed under subpart V, in a manner designed to provide direct restitution to as many injured purchasers as possible. Only thereafter may monies be made available to the states for indirect restitution. The distribution scheme designated in the Time consent order, therefore, does not comply with the DOE's current restitutionary policy, which reflects the requirements embodied in PODRA.

As explained in the Second PDO, the use of subpart V procedures to distribute the Time funds is not mandatory, since those funds, "grandfathered" by an older consent order, are covered by section 3002(c) of PODRA. Nevertheless, PODRA does not prohibit the DOE from determining that subpart V is the most appropriate method for distributing the Time consent order funds. In light of PODRA and its clear congressional mandate that OHA shall, "to the maximum extent possible," use subpart V procedures to identify persons injured by oil overcharges, and make direct restitution to them, we have determined that significantly changed

circumstances exist which justify the modification of the Time consent order. 10 CFR 205.135(b)(1)(i).

The States misguidedly contend that subpart V may not be used because no motion for modification of the Time consent order has been filed. However, this is an equitable proceeding for restitution, for which the DOE and the courts have the authority to fashion appropriate remedies, and we have here determined that significantly changed circumstances exist, making the use of the subpart V procedures appropriate. See *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 717 (Temp. Emer. Ct. App.), cert. denied, 459 U.S. 877 (1982); 10 CFR 205.282(e). Furthermore, the States ignore that ERA's Petition for Implementation of Special Refund Procedures specifically requests that the OHA establish a refund procedure under subpart V, noting that it "now believes that the amount in escrow should be distributed in this manner." Petition at 2. Finally, both ERA and Time, the only parties to the consent order, have been served with the Second PDO, which sets forth the details of the proposed subpart V refund procedures, and neither has registered any objection. The time period for filing comments has now expired, and the only objectors to the proposed distribution scheme are the States, who are not parties to the Time consent order. Contrary to the States' suggestion, we cannot ignore the significantly changed circumstances during the eight years following the consent order, including the enactment into law of a comprehensive new restitutionary policy, calling for the use of subpart V to the maximum extent possible. See 15 U.S.C. 4502(b). Accordingly, we find that the States' arguments lack sufficient weight to convince us to change the terms of the proposed subpart V distribution scheme.

As discussed in detail in the Second PDO, we will implement a two-stage refund process by which the DFSC, and purchasers of Time covered products other than jet fuel during the period August 20, 1973 through January 27, 1981, may submit Applications for Refund in the initial stage, and any monies remaining after the payment of all valid first-stage claims will be remitted to the seven states in the proportional shares specified in the consent order for indirect restitution as second-stage refunds. From our experience with subpart V proceedings, we expect that potential applicants generally will fall into the following categories: (1) End-users; (2) regulated entities, such as public utilities, and cooperatives; and (3) refiners, resellers

and retailers (hereinafter collectively referred to as "resellers").

A. Claims Based Upon Alleged Overcharges

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Time covered products during the refund period.¹ If the product was not purchased directly from Time, the claimant must establish that the product originated with Time. Additionally, a reseller claimant, except one who chooses to utilize the injury presumptions set forth below, will be required to make a detailed showing that it was injured by Time's alleged overcharges. This showing will generally consist of two distinct elements. First, a reseller claimant will be required to show that it had "banks" of unrecovered increased product costs in excess of the refund claimed.² Second, because a showing of banked costs alone is not sufficient to establish injury, a claimant must provide evidence that market conditions precluded it from increasing its prices to pass through the additional costs associated with the alleged overcharges. See *Vickers Energy Corp./Hutchins Oil Co.*, 11 DOE ¶ 85,070, at 88,105 (1983). Such a showing could consist of a demonstration that a firm suffered a competitive disadvantage as a result of its purchases from Time. See *National Helium Co./Atlantic Richfield Co.*, 11 DOE ¶ 85,257 (1984), *aff'd sub nom. Atlantic Richfield Co. v. DOE*, 618 F. Supp. 1199 (D. Del. 1985).

1. The Use of Presumptions

Our experience also indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense and ensures that refund claims are evaluated in the most efficient

manner possible. See, e.g., *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986) (*Marathon*). The use of presumption in refund cases is specifically authorized by the applicable subpart V regulations at 10 CFR 205.282(e). Accordingly, we adopt the presumptions set forth below.

a. *Calculation of refunds.* First, we will adopt a presumption that the alleged overcharges were dispersed equally in all of Time's sales of refined petroleum products during the refund period. In accordance with this presumption, refunds are made on a per gallon or volumetric basis.³ In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric approach, a claimant's "allocable share" of the consent order fund is equal to the number of gallons purchased from Time during the refund period multiplied by the per gallon refund amount. In the present case, the per gallon refund amount is \$.00122. We derived this figure by dividing the consent order fund, \$2,164,209, by 1,776,655,181 gallons, the approximate number of gallons of covered refined products which Time sold during the refund period. A firm that establishes its entitlement to a refund will receive all or a portion of its allocable share plus a pro-rata share of the interest that has accrued on the Time consent order fund since October 1, 1990.⁴

In addition to the volumetric presumption, we will adopt a number of

³ Because we realize that the impact on an individual claimant may have been greater than the volumetric refund amount, we will allow any purchaser to file a refund application based upon a claim that it suffered a disproportionate share of Time's alleged overcharges. See, e.g., *Standard Oil (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Such an application will be granted only if an applicant makes a persuasive showing that: (1) it was "overcharged" by a specific amount, and (2) it was injured by those overcharges. See *Panhandle Eastern Pipeline Co./Western Petroleum Co.*, 19 DOE ¶ 85,705 (1989); *Mobil Oil Co./Cantro Petroleum Corp.*, 19 DOE ¶ 85,076 (1989), and cases cited therein. To the extent that a claimant makes this showing, it will receive a refund above the volumetric refund level. See *Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989) (*Amtel/Whitco*).

⁴ As in previous cases, we will establish a minimum refund amount of \$15. In this determination, any potential claimant which purchased less than 12,296 gallons of petroleum products would have an allocable share of less than \$15. We have found through our experience that the cost of processing claims in which refunds for amounts less than \$15 are sought outweighs the benefits of restitution in those instances. See *Exxon Corp.*, 17 DOE ¶ 85,590 at 89,150 (1988) (*Exxon*).

presumptions regarding injury for claimants in each category listed below.

b. *End-users.* In accordance with prior subpart V proceedings, we will adopt the presumption that an end-user or ultimate consumer of Time petroleum products whose business is unrelated to the petroleum industry was injured by the alleged overcharges settled by the consent order. See, e.g., *Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069, and 88,209 (1984) (*TOGCO*). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the refund period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of the refund proceeding. *Id.* We have concluded, therefore, that the end-users of Time refined petroleum products need only document their purchase volumes from Time during the refund period to make a sufficient showing that they were injured by the alleged overcharges.

c. *Regulated firms and cooperatives.* A claimant whose prices for goods and services are regulated by governmental agency (*i.e.*, a public utility), or an agricultural cooperative that is required by its charter to pass through cost savings to its member purchasers, need only submit documentation of purchases used by itself or, in the case of a cooperative, sold to its members in order to receive a full volumetric refund. However, a regulated firm or a cooperative will also be required to certify that it will pass through any refund received to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund. See *Marathon*, 14 DOE at 88,514-15. These requirements are based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers. Similarly, any refunds received should be passed through to its customers. With respect to a cooperative, in general, the cooperative agreement which controls its business operations would ensure that the alleged overcharges, and similarly refunds, would be passed through to its member-customers. Accordingly, these firms will

¹ Covered products are petroleum products sold by Time between August 20, 1973 and the dates of decontrol for those products:

Residual Fuel—June 1, 1976

Diesel Fuel and No. 2 Fuel Oil—July 1, 1976

Jet Fuel—February 26, 1979

Motor Gasoline and Propane—January 27, 1981

² Claimants who have previously relied upon their banked costs in order to obtain refunds in other special refund proceedings should subtract those refunds from the cumulative banked costs submitted in this proceeding. See *Husky Oil Co./Metro Oil Products, Inc.*, 16 DOE ¶ 85,090, at 88,179 (1987). Additionally, a claimant may not receive a refund for any month in which it has a negative cumulative bank (for that product) or for any preceding month. See *Standard Oil (Indiana)/Suburban Propane Gas Corp.*, 13 DOE ¶ 85,030 at 88,082 (1985). If a claimant no longer has records showing its banked costs, the OHA may exercise its discretion to allow approximations of those banks prepared by the applicant. See *Gulf Oil Corp./Sturdy Oil Co.*, 15 DOE ¶ 85,187 (1986).

not be required to make a detailed demonstration of injury.⁵

d. *Refiners, resellers and retailers*—1. *Small claims presumption.* We will adopt a "small claims" presumption that a firm which resold Time products and requests a small refund was injured by the alleged overcharges. Under the small claims presumption, a refiner, reseller or retailer seeking a refund of \$5,000 or less, exclusive of interest, will not be required to submit evidence of injury beyond documentation of the volume of Time products it purchased during the refund period. See *TOGCO*, 12 DOE at 88,210. This presumption is based on the fact that there may be considerable expense involved in gathering the types of data necessary to support a detailed claim of injury; for small claims the expense might possibly exceed the potential refund. Consequently, failure to allow simplified refund procedures for small claims could deprive injured parties of their opportunity to obtain a refund. Furthermore, use of the small claims presumption is desirable since it allows the OHA to process routine refund claims in an efficient manner.⁶

ii. *Mid-level claim presumption.* In addition, a refiner, reseller or retailer claimant whose allocable share of the refund pool exceeds \$5,000, excluding interest, may elect to receive as its refund either \$5,000 or 40 percent of its allocable share, up to \$50,000, whichever is larger.⁷ The use of this presumption reflects our conviction that these larger, mid-level claimants were likely to have experienced some injury as a result of the alleged overcharges. See *Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed analysis in order to determine produce-specific levels of injury. See, e.g., *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). However, in *Gulf Oil Corp.*, 116 DOE ¶ 85,381 at 88,737 (1987), we determined that based upon the available data, it was more accurate and efficient to adopt a single presumptive level of injury of 40 percent for all mid-level claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that

⁵ A cooperative's purchases of Time products that were resold to non-members will be treated in a manner consistent with purchases made by other resellers. See *Total Petroleum, Inc./Farmers Petroleum Cooperation, Inc.*, 19 DOE ¶ 85,215 (1989).

⁶ In order to qualify for a refund under the small claims presumption, a refiner, reseller, or retailer must have purchased less than 4,098,361 gallons of Time refined petroleum products during the refund period.

⁷ That is, claimants who purchase more than 4,098,361 gallons of Time refined petroleum products during the refund period (mid-level claimants) may elect to utilize this presumption.

approach generally to be sound, and we therefore will adopt a 40 percent presumptive level of injury for all mid-level claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Time refined petroleum products during the refund period in order to be eligible to receive a refund of 40 percent of its total allocable share, up to \$50,000, or \$5,000, whichever is greater.⁸

iii. *Spot purchasers.* We will adopt a rebuttable presumption that a reseller that made only spot purchases from Time did not suffer injury as a result of those purchases. As we have previously stated, spot purchasers generally had considerable discretion as to the timing and market in which they made their purchases, and therefore would not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. See, e.g., *Vickers Energy Corp.*, 8 DOE ¶ 82,597 at 85,396-97 (1981). Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Time.⁹

B. Allocation Claims

We may also receive claims based upon Time's alleged failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. See 10 CFR part 211. Any such applications will be evaluated with reference to the standards set forth in subpart V implementation cases such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *Mobil Oil Corp./Reynolds Industries, Inc.*, 17 DOE ¶ 85,608 (1988); *Marathon Petroleum Co./Research Fuels, Inc.*, 19 DOE ¶

⁸ A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads up to conclude that it passed through all of the alleged overcharges, or that it is eligible for a refund of less than the applicable presumption-level refund, may not then be eligible for a presumption-based refund. Instead, such a claimant may receive a refund which reflects the level of injury established in its application. No refund will be approved if its submission indicates that it was not injured as a result of its purchases from Time. See *Exxon*, 17 DOE at 89,150 n.10.

⁹ In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrate that: (1) They made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (2) they were forced by market conditions to resell the product at a loss.

85,575 (1989), *action for review pending*, No. CA3-89-2983G (N.D. Tex. filed Nov. 22, 1989) (*Marathon/RFI*). These standards generally require an allocable claimant to demonstrate the existence of a supplier/purchaser relationship with Time and the likelihood that Time failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards, we will consider various factors. For example, we will seek to obtain as much information as possible about the agency's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that Time may have had to the alleged allocation violation. See *Marathon/RFI*. In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operation, with particular reference to the amount of product that it received from suppliers other than Time. In determining the amount of an allocation refund, we will utilize any information that may be available regarding the portion of the Time consent order amount that the agency attributed to allocation violations in general and to the specific allocation violation alleged by the claimants. Finally, since the Time consent order reflects a negotiated compromise of the issues involved in the enforcement proceedings against Time and the consent order amount is less than Time's potential liability in those proceedings, we will prorate those allocation refunds that would otherwise be disproportionately large in relation to the consent order fund. Cf. *Amte/Whitco*.

C. Refund Application Requirements

We will not accept applications for refund from all direct and indirect purchasers of Time covered petroleum products. To apply for a refund, a claimant should submit an application for refund that contains the following information:

- (1) Identifying information including the applicant's name, address, and Social Security number or employer identification number, as well as an indication whether the applicant is a corporation, the name and telephone number of a person to contact for any additional information, and the name

and address of the person who should receive the refund check;

(2) The applicant's use(s) of the Time products, e.g., retail gas station, petroleum jobber, consumer (end-user), cooperative, or public utility;

(3) If the applicant did business under more than one name, or a different name during the period of price controls, the applicant should list these names. If the applicant's firm is owned by another company, or owns other companies, a list of those other companies' names and their relationships to the applicant's firm;

(4) For each covered product purchased from Time, a separate monthly purchase schedule covering the period between the beginning of the refund period (August 20, 1973) and the date of decontrol of that product. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit estimates of its petroleum purchases, but the estimation methodology must be reasonable and must be explained in detail;

(5) If the applicant is a retailer or reseller whose allocable share exceeds \$5,000 (i.e. whose purchases equal or exceed 4,098,361 gallons), it must indicate whether it elects to rely on the appropriate reseller injury presumption and receive the larger of \$5,000 or 40% of its allocable share. If it does not elect to rely on the injury presumption, it must submit a detailed showing that it absorbed Time's alleged overcharges (i.e. that the applicant did not pass through the overcharges to its own customers);

(6) If the applicant is a regulated utility or a cooperative, a certification that it will notify the state utility commission, other regulatory agency, or membership body of any refunds received, and that it will pass on the entirety of its refund to its customers or members; and

(7) The application should also contain the following statement signed by the individual applicant or a responsible official of the business or organization applying for a refund:

I swear (or affirm) that the information contained in this application is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of the entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled "Time Refund Proceeding—Case No. KEF-0129." Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the

confidential information, and two copies of the application with the confidential information deleted. All refund applications should be postmarked no later than April 1, 1991, and sent to the following address:

Time Refund Proceeding, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

III. Distribution of Refunds Remaining After Consideration of All Refund Applications

All unclaimed money remaining in the Time escrow account after all meritorious refund applications are paid will be distributed in the manner suggested in the consent order to the seven states in which Time sold covered products during the period November 1973 through January 1981. As stated above, each state's portion of the remaining funds was calculated according to the share of Time's total volume of gasoline sold in that state during the relevant period. Those funds will be allocated to the seven identified states in proportions equal to those by which the original states' pool of \$862,500 was apportioned.

Since these funds have been exempted from PODRA requirements, they will be distributed under OHA's second-stage refund procedures. These procedures have normally been used by OHA to ensure that indirect restitution of oil overcharges to the states is proportional to the injury experienced and provides timely restitutionary benefits. The states are familiar with this process. See "A Report on State Expenditures of Oil Overcharges," DOE Publication No. DOE/HG-003 (January 1990). Each of the seven affected states will be required to submit a restitutionary plan to the OHA. Upon approval of the plan, the OHA will order the disbursement of the state's share of the funds, including a proportionate share of accrued interest.

Detailed requirements applicable to the states' restitutionary plans will be addressed in a later Decision and Order, to be issued when we have completed processing all Time refund applications.

It is therefore ordered that: Applications for Refund from the alleged overcharge funds remitted by Time Oil Company may now be filed. Applications for Refund submitted by purchasers of Time covered products, including Defense Fuel Supply Center, must be postmarked by April 1, 1991.

Dated: October 31, 1990.

George B. Breznay,
Director, Office of Hearings and Appeals.
[FR Doc. 90-26475 Filed 11-7-90; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3859-1]

Clean Air Act Advisory Committee and Request for Candidates

SUMMARY: The Environmental Protection Agency (EPA) is proposing to establish a new Advisory Committee under the Federal Advisory Committee Act (FACA). The committee's purpose would be to provide independent advice and counsel to the EPA on policy and technical issues associated with implementation of the Clean Air Act amendments of 1990. The Advisory Committee will be consulted on economic, environmental, technical, scientific and enforcement policy issues.

At this time, EPA requests nominations of candidates for membership on the Advisory Committee. The membership of the committee will represent a balance of interested persons with diverse perspectives and professional qualifications and experience to contribute to the functions of the Advisory Committee. Members will be drawn from: business and industry; educational and research institutions; state and local governmental bodies; environmental groups; and international organizations.

DATES: Submit nominations of candidates no later than January 1, 1991. Any interested person or organization may submit the names of qualified persons. Suggestions for the list of candidates should be identified by name, occupation, organization, position, address, and telephone number. Candidates will be asked to complete a brief form that summarizes their background, experience, qualifications and other relevant information as a part of the review process.

ADDRESSES: Submit suggestions for the list of candidates to Paul Rasmussen, Advisory Committee Nominations, Office of Air and Radiation, (ANR-443), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Fax number 202-245-4185.

FOR FURTHER INFORMATION CONTACT: Paul Rasmussen at the above address, or call 202-382-7430. The Agency will

not formally acknowledge or respond to nominations.

SUPPLEMENTARY INFORMATION: The purpose of the Clean Air Act Advisory Committee is to provide advice and counsel to the Assistant Administrator, Office of Air and Radiation, on the development, implementation, and enforcement of the new and expanded regulatory and market-based programs required by the Clean Air Act amendments of 1990, with the exception of the provisions of the Act that address acid rain. A separate committee has been established to advise the Agency on the acid rain provisions of the Act. The programs falling under the purview of the committee include those for meeting National Ambient Air Quality Standards, reducing emissions from vehicles and vehicle fuels, reducing air toxics emissions, issuing operating permits and collecting fees, and carrying out new and expanded compliance authorities. The Clean Air Act Advisory Committee may advise on issues that cut across several program areas, including acid rain.

The responsibilities of the Advisory Committee include providing the Agency with advice on the following:

- Approaches for new and expanded programs, including those using innovative or market-based means to achieve environmental improvements.
- Potential health, environmental, and economic effects of programs required by the new amendments and the potential impacts on the public, state and local governments, and the regulated community.
- Policy and technical contents of proposed major EPA rulemaking and guidance required by the new amendments in order to help effectively incorporate appropriate outside advice and information.
- Integration of existing policies, regulations, standards, guidelines, and procedures in programs for implementing requirements of the new amendments.

Proposed Establishment

A Federal agency must comply with requirements of the FACA when it establishes or uses a group which includes non-federal members as a source of advice. Under FACA, a non-statutory advisory committee is established only after consultation with the General Services Administration (GSA). EPA has recently received approval from GSA to establish this committee.

Participants

The committee shall be composed of approximately 25 members, however,

meetings will be open to all interested parties. Committee members shall serve two-year terms.

Members of the committee shall be selected on the basis of their professional qualifications and diversity of perspectives that will enable them to provide advice and guidance to the Agency in implementing the new Clean Air Act amendments.

Advisory Committee members shall be appointed in a balanced representation from the following sectors: Business and industry; academic and educational institutions; state and local governments; and nongovernmental and environmental groups.

The Advisory Committee will be authorized to form subcommittees to consider specific issues or actions and report back to the Committee.

Meetings will be held at least four times a year or as necessary, as determined by the Chairperson.

No honoraria or salaries are contemplated in association with membership on the Advisory Committee, but compensation for travel and nominal daily expenses while attending meetings may be provided.

The Agency intends to hold the initial meeting of the Advisory Committee in the month of February 1991. Suggestions for the list of candidates should be submitted no later than January 1, 1991.

Dated: November 2, 1990.

Michael Shapiro,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 90-26468 Filed 11-7-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL: 3858-9]

Underground Injection Control Program, Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; American Cyanamid, Westwego, LA

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to American Cyanamid, for Class I injection wells located at Westwego, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental

Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by American Cyanamid, of the specific restricted hazardous waste identified in the petition, into the Class I hazardous waste injection wells at the Westwego, Louisiana facility specifically identified in the petition, for as long as the basis for granting an approval of the petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued June 7, 1990. A public hearing was held July 10, 1990, and a public comment period ended on July 23, 1990. Due to the unavailability of a portion of the petition, the comment period was reopened August 9, 1990 and closed on September 24, 1990. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of October 31, 1990.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Municipal Facility Branch, EPA—Region 6, telephone (214) 655-7110, (FTS) 255-7110.

Myron O. Knudson,

Director, Water Management Division (6W).

[FR Doc. 90-26468 Filed 11-7-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3858-6]

Underground Injection Control Program, Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Cecos International, Inc., Willow Springs, LA

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Cecos

International, Inc., for the Class I injection well located at Willow Springs, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Cecos International, Inc., of the specific restricted hazardous waste identified in the petition, into the Class I hazardous waste injection well at the Willow Springs, Louisiana facility specifically identified in the petition, for as long as the basis for granting an approval of the petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued March 13, 1990. A public hearing was held April 18, 1990, and a public comment period ended on April 26, 1990. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of October 31, 1990.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Chief Municipal Facilities Branch, EPA—Region 6, telephone (214) 655-7110, (FTS) 255-7110.

Myron O. Knudson,
Director, Water Management Division (6W).

[FR Doc. 90-26469 Filed 11-7-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3859-21]

Peer Review Workshop

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: This notice announces a Peer Review Workshop, sponsored by the U.S. Environmental Protection Agency (EPA), to analyze and review a draft Risk Assessment Forum report on the use of data on alpha-2u-globulin accumulation, renal toxicity, and neoplasia in male rats. The meeting will be held at the Gaithersburg Marriott Hotel in Gaithersburg, Maryland.

DATES: The Workshop will begin on Tuesday, November 13, 1990, at 8:30 a.m. and end on Wednesday, November 14 at 3:30 p.m. Members of the public may attend as observers.

ADDRESSES: Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, call Eastern Research Group's hotline for the meeting, (617) 648-7810, or contact Ms. Susan Brager, Eastern Research Group, Inc., 6 Whittemore Street, Arlington, Massachusetts, 02174, Telephone (617) 641-5347 by November 16, 1990. Space is limited.

FOR FURTHER INFORMATION CONTACT: For further information on this Federal Register notice, contact Dr. Imogene Rodgers, U.S. Environmental Protection Agency, (RD-689), 401 M Street, SW., Washington, DC, 20460, Telephone (202) 245-4192 (FTS: 245-4192).

SUPPLEMENTARY INFORMATION: Some scientists hypothesize that certain chemicals include the accumulation of alpha-2u-globulin in the male rat kidney, thus initiating a specific set of changes that can result in cancer in the renal tubules of these laboratory animals. In 1988 EPA's Risk Assessment Forum established a Technical Panel of Agency scientists to review the information underlying this hypothesis and to study its relevance for human risk assessment. A draft report, entitled "Alpha-2u-Globulin: Association with Renal Toxicity and Neoplasia in the "Male Rat," has been developed.

EPA has assembled a peer review panel of scientifically qualified persons to discuss four issues analyzed in the draft report: biochemistry and nephrotoxicity, cancer, criteria for distinguishing renal carcinogens that induce alpha-2u-globulin accumulation, and risk characterization. Panelists will discuss the draft report and make recommendations to EPA regarding information and principles reviewed in the report. Approximately 20 experts in toxicology, pathology, cancer mechanisms, and risk assessment are expected to participate as panelists.

Workshop discussions and recommendations will be used to prepare this draft Risk Assessment Forum report for further Agency and Science Advisory Board review.

Dated: October 31, 1990.

Erich W. Bretthauer,
Assistant Administrator for Research and Development.

[FR Doc. 90-26502 Filed 11-7-90; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL-3858-7]

Gulf of Mexico Program Policy Review Board Meeting

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting of the policy review board of the gulf of Mexico program.

SUMMARY: The Gulf of Mexico Program Policy Review Board will hold a meeting on November 8, 1990 at the Le Pavillon Hotel, Poydras at Baronne Streets, New Orleans, LA.

FOR FURTHER INFORMATION CONTACT: Mr. William Whitson, Gulf of Mexico Program Office, Stennis Space Center, MS, at 601/688-3726 (FTS 494-3726).

SUPPLEMENTARY INFORMATION: This notice, required by the Federal Advisory Committee Act (FACA), officially notifies interested parties of an open meeting of the Policy Review Board. Agenda items include a "Year of the Gulf" action plan presentation, a National Beach Cleanup report, a briefing on the Status of the Gulf Symposium, a report on the Boaters Pledge Project and other status briefings of interest to the committee.

Joseph R. Franzmathes,
Assistant Regional Administrator for Policy and Management.

[FR Doc. 90-26467 Filed 11-7-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-400052; FRL-3839-9]

Emergency Planning and Community Right-To-Know Act; Train-the-Trainers Conference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a 2-day train-the-trainers conferences on section 313 of the Emergency Planning and Community Right-to-Know Act reporting requirements. The purpose of this training is to present a model course to persons who plan to train others to comply with the reporting requirements of section 313. Persons who should consider attending are representatives from industry, consulting firms, or university continuing education departments. Attendance is restricted to organizations that have not attended this training in the past 2 years. It will be restricted to those organizations that

intend to provide training on a regular basis and expect to conduct a minimum of two training courses on section 313 prior to July 1, 1991. Persons who successfully complete the course will obtain a certification of proficiency. There is limited space available. Requests should be sent in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Notification will be sent to each applicant regarding their acceptance for the training session. There is no charge for this training.

DATES: The conference will be held on Tuesday and Wednesday, December 4th and 5th, 1990. The meeting will start at 9 a.m. and end at approximately 5 p.m.

ADDRESSES: The conference will be held at: 75 Hawthorne St., First Floor, Arizona/California/Nevada Conference Rooms, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Lee DePont, Economics and Technology Division (TS-779), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (1-800-535-0202).

SUPPLEMENTARY INFORMATION: Requests for registration will not be accepted after November 19, 1990. Future offerings of this course in February and March 1991 will be announced in the *Federal Register*.

Dated: November 1, 1990.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 90-26465 Filed 11-7-90, 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

[Agreement No. 232-011294]

Costa Container Line/Ocean Star Container Line Space Charter and Sailing Agreement

Reference is made to the *Federal Register* Notice of July 30, 1990, (55 FR 30981).

The above named Agreement has been redesignated as Agreement No. 203-011294.

By Order of the Federal Maritime Commission.

Dated: November 2, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26368 Filed 11-7-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Linabol/CSAV Vessel Space Charter; et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217-010612-004.

Title: Linabol/CSAV Vessel Space Charter Agreement.

Parties:

Compania Sud Americana De Vapores (CSAV")

Lineas Navieras Bolivianas.

Synopsis: The proposed amendment would permit the parties to charter space to one another in the trade between United States Atlantic, Gulf, and Great Lakes ports and ports on the West Coast of South America, for cargo moving to and from the Republic of Bolivia, except in the trade between U.S. Gulf Coast ports and inland points and ports and points in Mexico, Colombia, Panama, Ecuador, Peru and Chile, including Bolivian inland points, as set forth in Agreement No. 232-011301 between CSAV and Transportes Navieros Ecuatorianos.

Agreement No.: 202-010776-057.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.

Kawasaki Kisen Kaisha, Ltd.

A.P. Moller-Maersk Line

Mitsui O.S.K. Lines, Ltd.

Neptune Orient Lines, Ltd.

Nippon Liner Systems, Ltd.

Nippon Yusen Kaisha Line

Sea-Land Service, Inc.

Synopsis: The proposed amendment would modify Article 13.1 to allow a party that chooses to follow the independent action taken by another member of the Agreement to increase, in its following independent action, the amount of any monetary terms expressed in the original independent action.

Agreement No.: 212-011234-012.

Title: U.S.A./South Europe Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.

Costa Container Lines, S.p.A.

Evergreen Marine Corporation;

Italia di Navigazione S.p.A.

Lykes Lines

Nedlloyd Lines

P&O Containers Limited

Sea-Land Service, Inc.

Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would delete Costa Container Lines, S.p.A. as a party to the Agreement.

Agreement No.: 203-011305.

Title: Tricontinental Service Agreement.

Parties:

Cho Yang Shipping Co., Ltd.

DSR/Senator Joint Service.

Synopsis: The proposed Agreement would provide for a cooperative working arrangement which permits space chartering and sailing authority. The parties would charter space to each other on their respective vessels in the trade between ports or points in the United States and ports or points in other countries, except in the trade between North Europe and ports and points in Puerto Rico and the U.S. Virgin Islands, as set forth in the scope of Agreement No. 207-011291, DSR/Stinnes West Indies Services Agreement.

Dated: November 2, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-26367 Filed 11-7-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Carolina First Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank

holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Carolina First Corporation*, Greenville, South Carolina; to engage *de novo* through its subsidiary, Carolina Interim Savings Bank, F.S.B., Greenville, South Carolina, in owning and operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

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

1. *First Michigan Bank Corporation*, Holland, Michigan; to engage *de novo* through FMB-Trust and Financial Services, National Association, Holland, Michigan, in trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26398 Filed 11-7-90; 8:45 am]

BILLING CODE 6210-01-M

CNB Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

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

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

Unless otherwise noted, comments regarding each of these applications must be received not later than November 30, 1990.

A. Federal Reserve Bank of America (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CNB Financial Corporation*, Clewiston, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Clewiston National Bank, Clewiston, Florida.

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

1. *Morton Financial Corporation*, Morton, Texas; to acquire 84.3 percent of the voting shares of South Plains National Bank, Levelland, Texas.

Board of Governors of the Federal Reserve System, November 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26397 Filed 11-7-90; 8:45 am]

BILLING CODE 6210-01-M

Iqbal Haiderali Esnail Kassam, et al.; Change in Bank Control Notice; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 21, 1990.

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

1. *Iqbal Haiderali Esnail Kassam*, North York, Ontario, to acquire 27.35 percent; *Alnoor Haiderali Esnail Kassam*, Nairobi, Kenya, to acquire 27.35 percent; *Michael Harvey Appleton*, Don Mills, Ontario, to acquire 13.70 percent; and *Jay Stuart Hennick*, Toronto, Ontario, to acquire 13.70 percent of the voting shares of *AmeriTex Bancshares Corporation*, Fort Worth, Texas, and thereby indirectly acquire *Riverbend Bank, N.A.*, Fort Worth, Texas; *American Bank of Commerce*, Grapevine, Texas, and *American Bank of Haltom City*, Haltom City, Texas.

2. *Jerry Davis*, New Boston, Texas; *Marshall Dear*, New Boston, Texas; *Ronny Looney*, New Boston, Texas; *John McCoy*, New Boston, Texas; *Hiram Shute*, New Boston, Texas; and *James Torian*, New Boston, Texas; to each acquire an additional 14.29 percent of the voting shares of *New Boston Bancshares, Inc.*, New Boston, Texas, and thereby indirectly acquire *First National Bank*, New Boston, Texas.

Board of Governors of the Federal Reserve System, November 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26399 Filed 11-7-90; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp., et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities

of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to merge with United Banks of Colorado, Inc., Denver, Colorado, and thereby indirectly acquire United Bank of Boulder, N.A., Boulder, Colorado; United Bank of Colorado Springs, N.A., Colorado Springs, Colorado; United Bank of Denver, N.A., Denver, Colorado; United Bank of Fort Collins, N.A., Fort Collins, Colorado; United Bank of Greeley, N.A., Greeley, Colorado; United Bank of Montrose, N.A., Montrose, Colorado; United Bank of Steamboat Springs, N.A., Steamboat Springs, Colorado; United Bank of Sterling, N.A.,

Sterling, Colorado; United Bank of Grand Junction—Downtown, N.A., Grand Junction, Colorado; United Bank of Brighton, N.A., Brighton, Colorado; United Bank of Aurora, N.A., Aurora, Colorado; United Bank of Ignacio, N.A., Ignacio, Colorado; United Bank of Pueblo, N.A., Pueblo, Colorado; United Bank of Littleton, N.A., Littleton, Colorado; United Bank of Broomfield, N.A., Broomfield, Colorado; United Bank of Sunset Park, N.A., Pueblo, Colorado; United Bank of Lakewood, N.A., Lakewood, Colorado; United Bank of Northglenn, N.A., Northglenn, Colorado; United Bank of Lasalle, N.A., Lasalle, Colorado; United Bank of Grand Junction, N.A., Grand Junction, Colorado; United Bank of Delta, N.A., Delta, Colorado; United Bank of Bear Valley, N.A., Denver, Colorado; United Bank of Colorado Springs—East, N.A., Colorado Springs, Colorado; United Bank of Southglenn, N.A., Arapahoe County, Colorado; United Bank of Longmont, N.A., Longmont, Colorado; United Bank of Durango, N.A., Durango, Colorado; United Bank of Skyline, N.A., Denver, Colorado; United Bank of Buckingham Square, N.A., Aurora, Colorado; United Bank of Monaco, N.A., Denver, Colorado; United Bank of Garden of the Gods, N.A., Colorado Springs, Colorado; United Bank of Arvada, N.A., Arvada, Colorado; United Bank of Fort Collins—South, N.A., Fort Collins; United Bank of Arapahoe, N.A., Englewood, Colorado; United Bank of Southwest Plaza, N.A., Jefferson County; United Bank of Cherry Creek, N.A., Denver, Colorado; United Bank of Highlands Ranch, N.A., Highlands Ranch, Colorado; United Bank of Academy Place, N.A., Colorado Springs, Colorado; United Bank of Aurora—City Center, N.A., Aurora, Colorado; United Bank of Aurora—South, N.A., Aurora, Colorado; and United Bank of Westminster, N.A., Westminster, Colorado.

In connection with this application, Applicant also proposes to acquire Fidelity National Life Insurance Company, Denver, Colorado, and thereby engage in underwriting and reinsuring credit life, health and accident as authorized by § 225.25(b)(8); IntraWest Insurance Company, Denver, Colorado, and thereby engage in underwriting and reinsuring credit life, health and accident as authorized by § 225.25(b)(8); United Banks Financial Services Corporation, Denver, Colorado, and thereby engage in commercial finance activities pursuant to § 225.25(b)(1); United Banks Service Company, Englewood, Colorado, and thereby engage in data processing activities pursuant to § 225.25(b)(7); and

United Banks Insurance Services, Inc., Denver, Colorado, and thereby indirectly acquire Lincoln Agency Phoenix, Arizona, Tempe, Arizona, and thereby engage in insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-26400 Filed 11-7-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting in December

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Mental Health Council in the month of December 1990.

The Council meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available.

Notice of this meeting is required under the Federal Advisory Committee Act, Public Law 92-463.

Committee name: National Advisory Mental Health Council, NIMH.

Date and time: December 3-4: 9 a.m.

Place: National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Rockville, MD 20892.

Status of meeting: OPEN—December 3: 9 a.m.—5 p.m., December 4: 9 a.m.—adjournment.

Contact: Jane A. Steinberg, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3367.

Purpose: The National Advisory Mental Health Council Advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the

Secretary with respect to approval of applications for, and amount of, these grants.

Substantive information, a summary of the meeting, and a roster of committee members may be obtained from Ms. Joanna Kieffer, NIMH Committee Management Officer, room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-4333.

Dated: November 5, 1990.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 90-26486 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 90P-0450]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Hygeia Dairy Co. to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1991.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Hygeia Dairy Co., P.O. Box 751, Harlingen, TX 78551.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and

(2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "1/2 less calories" and "75% less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 24,000 quarts (22,712 liters) of the test product. The product will be manufactured at the Hygeia Dairy Co., 5330 Ayers, Corpus Christi, TX 78415, and distributed in Texas.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1990.

Dated: October 30, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-26345 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90P-0324]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Grand's Dairies, Inc., to market test a product designated as "light eggnog"

that deviates from the U.S. Standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This temporary permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1990.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food and Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Gandy's Dairies, Inc., 332 Pulliam St., San Angelo, TX 76902.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statement "1/3 less calories" and "75% less fat than regular eggnog."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of this product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 60,000 quarts (56 798 liters) of the test product. The test

product is to be manufactured at Gandy's Dairies, Inc., 332 Pulliam St., San Angelo, TX 76902, and distributed in Texas.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This temporary permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1991.

Dated: October 30, 1990.

Fred R. Shank,

Director, Center for Food and Safety and Applied Nutrition.

[FR Doc. 90-26346 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90P-0451]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Prairie Farms Dairy, Inc., to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1991.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Prairie Farms Dairy, Inc., 1100 North Broadway, Carlinville, IL 62626.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 9 percent,

and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon (28.35 gram (g)) serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "1/3 less calories" and "50% less fat than sour cream".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 500,000 16-ounce (453.6 g) units of the test product. The product will be manufactured at Prairie Farms Dairy, Inc., 742 North Illinois, Carbondale, IL 62901, and distributed in Illinois, Indiana, Iowa, Kentucky, Missouri, and Tennessee.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 6, 1991.

Dated: October 30, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-26347 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in

open public hearings before FDA's advisory committee.

Meeting: The following advisory committee meeting is announced:

Dermatologic Drugs Advisory Committee

Date, time, and place. November 26, 1990, 8 a.m., Conference rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact persons. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 2 p.m.; closed committee deliberations 2 p.m. to 5 p.m.; Isaac F. Roubein, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of dermatologic diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 15, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 26, 1990, the committee will discuss: (1) The use of within subject contralateral comparisons in the assessment of topical product safety and efficacy, (2) the appropriate clinical trial design for studies of diaper dermatitis and whether this is an appropriate indication for antifungal-steroid combination products, (3) revised class labeling for topical corticosteroids including the designation of class strengths, and (4) the safety and efficacy of the use of minoxidil 2 percent topical solution in the treatment of alopecia in women.

Closed committee deliberations. If necessary, the committee will review trade secret or confidential commercial information relevant to the safety and effectiveness of the new drugs under review. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open

public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this *Federal Register* notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, room 12A-16, 5600

Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall

not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 31, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-26396 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meetings: Minneapolis District Office, chaired by Donald W. Aird, Jr., Consumer Affairs Officer. The topic to be discussed is food labeling proposals: mandatory nutrition labeling, serving size, and reference daily intakes (RDI's) and daily reference values (DRV's).

DATES: There will be two consecutive meetings, both on the same topic, Tuesday, November 13, 1990, 11:30 a.m. to 12:15 p.m. and 12:15 p.m. to 1 p.m.

ADDRESSES: Bishop Henry Whipple Federal Bldg., room 196, Fort Snelling, MN 55111.

FOR FURTHER INFORMATION CONTACT: Donald W. Aird, Jr., Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-334-4103/4104.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's

district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 5, 1990.

William L. Schwemer,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-26485 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the months of December 1990 and January 1991.

Name: Departments of Family Medicine Review Committee.

Date and Time: December 6-7, 1990, 8:30 a.m.

Place: Conference Room I and J, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on December 6, 8:30 a.m.-9:30 a.m. Closed for remainder of Meeting

Purpose: The Departments of Family Medicine Review Committee shall review applications that (1) either assist in meeting the cost of planning, developing and operating; or participating in approved predoctoral training programs in the field of family medicine; and (2) assist in meeting the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, division, or other units) to provide clinical instruction in family medicine.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on December 6, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Name: Departments of Family Medicine Review Committee.

Date and Time: January 7-8, 1991, 8:30 a.m.

Place: Chesapeake and Potomac Rooms, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on January 7, 8:30 a.m.-9:30 a.m. Closed for Remainder of Meeting

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on January 7, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Mrs. Sherry Whipple, Executive Secretary, Departments of Family Medicine Review Committee, room 4C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6874.

Agenda Items are subject to change as priorities dictate.

Dated: November 2, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-26348 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the months of December 1990:

Name: Subcommittee on Medical Education Programs and Financing of the Council on Graduate Medical Education.

Time: December 3-4, 1990, 9 a.m.

Place: Conference Room G, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857. Open for entire meeting.

Purpose: The subcommittee identifies the issues and problems in current methods of financing and support. Assesses the implications of alternative financing policies on medical education programs, service delivery, cost containment, physician supply and distribution, and shortages and excesses of physicians.

Analyzes existing information and data on current and alternative medical education programs of hospitals, schools of medicine and osteopathy, and accrediting bodies; federal policies regarding medical education programs; and their impact on the supply and distribution of physicians.

Agenda: The Subcommittee will prepare and discuss recommendations

and conclusions for a future report on medical education including primary care training in the ambulatory setting.

Anyone requiring information regarding the subject Subcommittee should contact Dona Harris, Ph.D., Scholar-in-Residence, Division of Medicine, Bureau of Health Professions, room 4C-25 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6326.

Agenda Items are subject to change as priorities dictate.

Dated: November 2, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-26349 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Meeting of the Genome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Genome Research Review Committee, National Center for Human Genome Research, November 28-30, 1990, at the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland. This meeting will be open to the public on November 28th from 8:30 a.m. to 9:30 a.m. to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 522b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 28th from 9:30 a.m. to adjournment on November 30 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Linda Engel, Chief, Office of Scientific Review, National Center for Human Genome Research, National Institutes of Health, building 38A, room 601, Bethesda, Maryland 20892, (301) 402-0838, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: October 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-26382 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the Program Advisory Committee on the Human Genome

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Program Advisory Committee on the Human Genome, National Center for Human Genome Research, on December 3-4, 1990, at the National Institutes of Health, building 31, conference room 6, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public on December 3, from 9:30 a.m. to recess, to discuss the planning, organization, and progress of the human genome project at the National Institutes of Health. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on December 4 from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of progress on individual grant applications. The discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Elke Jordan, Deputy Director of the National Center for Human Genome Research, National Institutes of Health, building 38A, room 605, Bethesda, Maryland 20892, (301) 496-0844, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: October 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-26383 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National

Institute of Allergy and Infectious Diseases, on November 13, 1990 at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 11 a.m. to 1 p.m. on November 13 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 1 p.m. until adjournment on November 13. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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

Dr. Allen Stoolmiller, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, room 3A11, Bethesda, Maryland 20892, telephone (301-496-7966), will provide substantive program information.

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

Dated: October 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-26431 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

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

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on December 10, 11 and 12, 1990. The meeting will be held in the 11th floor solarium, Building 10, National

Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on December 10 from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 2:30 p.m. On December 11 the meeting will be open from 8 a.m. until 9:30 a.m. During the open sessions, the permanent staff of the Laboratory of Immunoregulation and Critical Care Medicine Department, Clinical Center will present and discuss their immediate past and present research activities.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on December 10 from 8:30 a.m. until 9 a.m., from 12:30 p.m. until 1:30 p.m., and from 2:30 p.m. until recess, on December 11 from 9:30 a.m. until recess and on December 12 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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

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

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

Dated: October 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-26432 Filed 11-07-90; 8:45 am]

BILLING CODE 4140-01-M

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

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research (NIDR), on December 5-7, 1990, in the H. Trendley Dean Conference Room, Building 30,

National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9 a.m. to recess on December 5 and from 9 a.m. until 1 p.m. on December 6. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public from 1 p.m. till recess on December 6 and from 9 a.m. till adjournment on December 7 for the review, discussion, and evaluation of individual programs and projects conducted by the NIDR, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Abner Notkins, Director of Intramural Research, NIDR, NIH, Building 30, room 132, Bethesda, Maryland 20892 (telephone 301-496-1483) will provide a summary of the meeting, roster of committee members and substantive program information.

Dated: October 24, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-26433 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute, Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Asthma Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute, Friday, November 2, 1990, from 8:30 a.m. to 3 p.m., at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, (301) 897-9400, which

was published in the Federal Register on October 9, (55-FR-41143).

This committee was to have convened at 8:30 a.m. on November 2, 1990, but the meeting has been changed to 8:30 a.m. to 3 p.m. on December 4, 1990, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public. For detailed program information, agenda, list of participants, and meeting summary contact: Mr. Robinson Fulwood, Coordinator, National Asthma Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, building 31, room 4A18, Bethesda, Maryland 20892 (301) 496-1051.

Dated: October 31, 1990.

William F. Raub,

Acting Director, NIH.

[FR Doc. 90-26384 Filed 11-7-90; 8:45 am]

BILLING CODE 1140-01-M

Public Health Service

National Toxicology Program; National Toxicology Program (NTP) Board of Scientific Counselors' Meeting, Announcement of NTP Draft Technical Reports Projected for Public Peer Review From November 1990 Through October 1992

To earlier inform the public and allow interested parties to comment or obtain information on long-term toxicology and carcinogenesis studies and short-term toxicity studies prior to public peer review, the National Toxicology Program (NTP) again publishes in the Federal Register a current listing of draft Technical Reports projected for evaluation by the NTP Board of Scientific Counselors' Technical Reports

Review Subcommittee and associated *ad hoc* Panel of Experts (Peer Review Panel) during their next seven meetings from November 1990 through October 1992. The listing will continue to be updated with announcements in the Federal Register approximately twice a year. The meeting date for 1990 is: November 19-20. Specific dates for the 1991 and 1992 meetings will be established at a later time.

The attachment gives draft Technical Reports of studies on chemicals listed alphabetically within known or established dates of reviews and includes Chemical Abstracts Service registry numbers, responsible staff scientists with telephone numbers, NTP report numbers (if assigned), primary use(s), species, route of administration, and exposure levels used.

Those interested in having more information about any of the studies listed in this announcement, or wanting to provide input, should contact the particular NTP staff scientist as early as possible by telephone or by mail to: NIEHS, P.O. Box 12233, Research Triangle Park (RTP), North Carolina 27709. The staff scientists would welcome receiving toxicology and carcinogenesis data from completed, ongoing or planned studies by others as well as current production data, human exposure information, and use and use patterns.

The Executive Secretary, Dr. Larry G. Hart, NTP, P.O. Box 12233, RTP, North Carolina 27709, telephone 919/541-3971, FTS 629-3971, will furnish final agendas, and other program information prior to a meeting, and summary minutes subsequent to a meeting.

Dated: November 1, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

NTP TOXICOLOGY AND CARCINOGENESIS STUDIES CHEMICALS PROJECTED FOR PEER REVIEW

Chemical Name/CAS No.	Use	Study scientist	Route	Species	Exposure levels	NTP TR No.
Chemicals Tentatively Scheduled for Peer Review—November 19-20, 1990						
Long-Term Studies:						
Acetaminophen (4-Hydroxyacetanilide), 103-90-2	PHAR	R. Irwin 919-541-3340	FEED	RM	R&M: 0, .06, .3, .6%/60 per group	394
Chloramine/Chlorine, 10599-90-3/7782-50-5	GERM INTR	J. Dunnick 919-541-4811	WATER	RM	Chloramine 0, 50, 100, 200 PPM/Buf'd Chlorine H ₂ O 0, 70, 140, 275 PPM/60 per group.	392
C.I. Direct Blue 15, 2429-74-5	DYE	J. Dunnick 919-541-4811	WATER	R	R: 0, 630, 1250, 2500 PPM (70, 45, 75, 70 per group respectively).	397
Methyl Bromide, 74-83-9	FUME	S. Eustis 919-541-3231	INHAL	M	Mice only: 0, 10, 33, 100 PPM	385
Monochloroacetic acid, 79-11-8	DYE	K. Abdo 919-541-7819	GAV	RM:	R: 0, 15, 30; M: 0, 50, 100 MG/KG/70 & 60 per group respectively.	396
Probenecid, 57-66-9	PHAR	K. Abdo 919-541-7819	GAV	RM	R&M: 0, 100, 400 MG/KG/50 per group	395
Titanocene Dichloride, 1271-19-8	LABC	J. Dunnick 919-541-4811	GAV	R	Rats Only: 0, 25, 50 MG/KG/80 per group	399

NTP TOXICOLOGY AND CARCINOGENESIS STUDIES CHEMICALS PROJECTED FOR PEER REVIEW—Continued

Chemical Name/CAS No.	Use	Study scientist	Route	Species	Exposure levels	NTP TR No.
Short-Term Toxicity Studies:						
Antimony Potassium Tartrate, 28300-74-5	PEST	M. Dieter 919-541-3368	IP/IJ	RM	R&M: 0, 1.5, 3, 6, 12, 24 MG/KG/30 per group.	11
Castor Oil, 8001-79-4	PHAR	R. Irwin 919-541-3340	FEED	RM	R&M: 0, .62, 1, 25, 2.5, 5.0, 10.0%	12
Cresol (Mixed Isomers), 1319-77-3	GERM	D. Dietz 919-541-2272	FEED	RM	R&M: 0, .03, .1, .3, 1.0, 3.0%	09
O-Cresol, 95-48-7	GERM	D. Dietz 919-541-2272	FEED	RM	R&M: 0, .03, .1, .3, 1.0, 3.0%	09
Ethylbenzene, 100-41-4	RUBR	P. Chan 919-541-7561	INHAL	RM	R&M: 0, 100, 250, 500, 750, 1000 PPM	10
2,4,7-Trinitro-Fluorene-9-One, 129-79-3	PHOT	F. Kari 919-541-2926	FEED	RM	R: 0, 1000, 2000, 4000, 8000, 16000; M: 0, 3212, 6250, 12500, 25000, 55000 PPM.	13
Chemicals Tentatively Scheduled for Peer Review—February, 1991						
Long-Term Studies:						
Gamma-Butyrolactone, 96-48-0	INTR	K. Abdo 919-541-7819	GAV	RM	MR: 0, 112, 225, FR: 0, 225, 450, M: 0, 262, 525 MG/KG/50 per group.	406
C.I. Acid Red 114, 6459-84-5	DYE	K. Abdo 919-541-7819	WATER	R	MR: 0, 70, 150, 300, FR: 0, 150, 300, 600 PPM (70, 45, 75, 70 per group respectively).	405
C.I. Pigment Red 3, 2425-85-6	DYE	K. Abdo 919-541-7819	FEED	RM	R: 0, 6000, 12500, 25000; M: 0, 12500, 25000, 50000 PPM (60 per group).	407
C.I. Pigment Red 23, 6471-49-4	DYE	S. Eustis 919-541-3231	FEED	RM	R&M: 0, 1000, 25000, 5000 PPM (60 per group).	411
2,4-Diaminophenol dihydrochloride, 137-09-7	PHOT	R. Irwin 919-541-3340	GAV	RM	R: 0, 12.5, 25, M: 0, 19, 38 MG/KG/60 per group.	401
4,4'-Diamino-2,2'-Stilbenedisulfonic acid, 81-11-8	DYE	K. Abdo 919-541-7819	FEED	RM	R: 0, 12500, 25000, M: 0, 6250, 12500 PPM/60 per group.	
Ethylene Glycol, 107-21-1	TEXTL	S. Eustis 919-541-3231	FEED	M	MM: 0, .625, 1.25, 2.5%, FM: 0, 1.25, 2.5, 5.0%/50 per group.	
Furan, 110-00-9	INTR	R. Irwin 919-541-3340	GAV	RM	R: 0, 2, 4, 8, M: 0, 5, 15 MG/KG/50 per group.	402
Mercuric Chloride, 7487-94-7	WOOD	K. Abdo 919-541-7819	GAV	RM	R: 0, 2.5, 5, M: 0, 5, 10 MG/KG/60 per group.	408
Naphthalene, 91-20-3	INTR	K. Abdo 919-541-7819	INHAL	M	0, 10, 30, 30 PPM/50 per group	410
Quercetin, 117-39-5	PHAR	J. Dunnick 919-541-4811	FEED	R	Rats only: 0, 1000, 1000, 4000 PPM/50 per group.	409
Resorcinol, 108-46-3	PHAR	R. Irwin 919-541-3340	GAV	RM	MR&M: 0, 112, 225 FR: 0, 50, 100, 150 MG/KG/60 per group.	403
Short-Term Toxicity Studies:						
2-(4-Aminophenyl)-6-Methyl-7-Benzothiazole Sulfonic Acid.	INTR	J. Bucher 919-541-4532	FEED	RM	R&M: 0, .25, .5, 1.0, 2.0, 4.0%	
Black Newsprint Ink, EMTDP-75	DYE	J. Mahler 919-541-0770	SP	RM	R&M: Untreated controls & neat application with USP mineral oil, printing ink mineral oil, letter press ink, & offset ink.	
Tert-Butyl Perbenzoate, 614-45-9	PLAS	H. Matthews 919-541-3252	GAV	RM	0, 30, 60, 125, 250, 500 MG/KG	
Cupric Sulfate, 7758-99-8	ELEC	J. Roycroft 919-541-3627	FEED	RM	R: 0, 500, 1000, 2000, 4000, 8000 PPM M: 0, 1000, 2000, 4000, 8000, 16000 PPM (10/S/S).	
5,6-Dichloro-2-Benzothiazolamine, 24072-75-1	INTR	J. Bucher 919-541-4532	FEED	RM	R: 0.0, 0.15, 0.38, 0.96, 2.4, 6.0, M: 0, 0.075, 0.15, 0.38, 0.96, 2.4 MG/G.	
Diethanolamine, 111-42-2	TEXTL	R. Melnick 919-541-4142	SP	RM	R&M: 0, 37.5, 75, 300, 600 MG/ML	
Diethanolamine 111-42-2	TEXTL	R. Melnick 919-541-4142	WATER	RM	MR: 0, .32, .63, 1.25, 2.5, 5.0MG/ML FR: 0, .16, .32, .63, 1.25, 2.5MG/ML Mice: 0, .63, 1.25, 2.5, 5.0, 10.0MG/ML	
Dimethylformamide, 68-12-2	SOLV	D. Lynch 919-541-8213	INHAL	RM	R&M: 0, 50, 100, 200, 400, 800 PPM	
Formic acid, 64-18-6	FUME	M. Thompson 919-541-0651	INHAL	RM	R&M: 0, 8, 16, 32, 64, 128 PPM/10/group	
Glyphosate, 1071-83-6	HERB	P. Chan 919-541-7561	FEED	RM	R&M: 0, 3125, 6250, 12500, 25000, 50000PPM/10 per group.	
1,6-Hexanediamine, Dihydrochloride, 6055-52-3	INTR	J. French 919-541-7790	INHAL	RM	R&M: 0, 1.6, 5, 16, 50, 160 MG/M3	
6-Methoxy-2-Benzothiazolamine, 1747-60-0	INTR	J. Bucher 919-541-4532	FEED	RM	0, .25, 4.0 MG/GM	
4-(6-Methyl-2-Benzothiazolyl)-Benzenamine, 92-36-4	INTR	J. Bucher 919-541-4532	FEED	RM	R: 0, .00625, .0125, .025, .05, .1%, M: 0, .0125, .025, .05, .1, .2%.	
Methyl Ethyl Ketone Peroxide, 1338-23-4	PLAS	E. Zeiger 919-541-4482	SP	RM	R&M: 0, 0.3, 1, 3, 10, 30%	
3-Methyl-6-Methoxy-2-Amino-Benzothiazolium Chloride.	INTR	J. Bucher 919-541-4532	FEED	RM	R&M: 0, 0.25, 0.5, 1.0, 2.0, 4.0 MG/G	

NTP TOXICOLOGY AND CARCINOGENESIS STUDIES CHEMICALS PROJECTED FOR PEER REVIEW—Continued

Chemical Name/CAS No.	Use	Study scientist	Route	Species	Exposure levels	NTP TR No.
Chemicals Tentatively Scheduled for Peer Review—June, 1991						
Long-Term Studies:						
Coumarin, 91-64-5.....	PHAR	J. Dunnick 919-541-4811	GAV	RM	R: 0, 25, 50, 100; M: 0, 50, 100, 200 MG/KG/60 & 70 per group respectively.	
2,3-Dibromo-1-Propanol, 96-13-9.....	FLAM	K. Abdo 919-541-7819	SP	RM	R: 0, 188, 375, M: 0, 88, 177 MG/KG/50 per group.	400
3,4-Dihydrocoumarin, 119-94-6.....	FOOD	J. Dunnick 919-541-4811	GAV	RM	R: 0, 150, 300, 600, M: 0, 200, 400, 800 MG/KG/50 per group.	
Diphenylhydantoin (Phenytoin), 57-41-0.....	PHAR	R. Chhabra 919-541-3386	FEED	RM	R: 0, 240, 800, 2400, MM: 0, 30, 100, 300, FM: 0, 60, 200, 600 PPM/50 per group.	404
HC Yellow 4, 52551-67-4.....	DYE	F. Kari 919-541-2926	FEED	RM	MR: 0, 0.25, 0.5%, FR&M: 0, 0.5, 1.0%/70 per group.	
P-Nitroaniline, 100-01-6.....	DYE	R. Irwin 919-541-3340	GAV	M	0, 3, 30, 100 MG/KG/50 per group.....	
O-Nitroanisole, 91-23-6.....	PHAR	R. Irwin 919-541-3340	FEED	RM	R: 0, 222, 666, 2000, M: 0, 666, 2000, 6000 PPM/50 per group.	
P-Nitrophenol, 100-02-7.....	PEST	R. Irwin 919-541-3340	SP	M	0, 40, 80, 175 MG/KG/60 per group.....	
Pentachloroanisole, 1825-21-4.....	PEST	R. Irwin 919-541-3340	GAV	RM	MR: 0, 10, 20, 40, FR&M: 0, 20, 40 MG/KG.	
Polybrominated Biphenyl Mixture (Firemaster FF-1), 67774-32-7.....	FLAM	R. Chhabra 919-541-3386	FEED	RM	0, 1, 3, 10, 30 PPM/50 per group.....	338
Polysorbate 80 (Glycol), 9005-65-6.....	PHAR	K. Abdo 919-541-7819	FEED	RM	0, 2.5, 5.0%/20 per group.....	
Talc, 14807-96-6.....	COSM	T. Goehl 919-541-7961	INHAL	RM	0, 6, 18 MG OF TALC/M3 of atmosphere.....	
Triamterene, 396-01-0.....	PHAR	J. Dunnick 919-541-4811	FEED	RM	R: 0, 150, 300, 600, M: 0, 100, 200, 400 PPM Restart mice: 0, 400 PPM/50 per group.	
Short-Term Toxicity Studies:						
Ethylene Glycol Monobutyl Ether (EGMBE), 111-76-2.....	SOLV	J. Dunnick 919-541-4811	WATER	RM	Core study: R&M: 0, 750, 1500, 3000, 4500, 6000 PPM/10 per group. Stop study: R: 0, 1500, 3000, 6000 PPM/30 per group.	
Ethylene Glycol Monoethyl Ether (EGMEE), 110-80-5.....	SOLV	J. Dunnick 919-541-4811	WATER	RM	Core study: R: 0, 1250, 2500, 5000, 10000, 20000, M: 0, 2500, 5000, 10000, 20000, 40000 PPM/10 per group. Stop study: R: 0, 5000, 10000, 20000 PPM/30 per group.	
Ethylene Glycol Monomethyl Ether (EGMME), 109-86-4.....	COSM	J. Dunnick 919-541-4811	WATER	RM	Core study: R: 0, 750, 1500, 3000, 4500, 6000, M: 0, 2000, 4000, 6000, 8000, 10000 PPM/10 per group. Stop study doses: R: 0, 1500, 3000, 6000 PPM/30 per group.	
2-Hydroxy-4-Methoxybenzophenone, 131-57-7.....	PHAR	H. Matthews 919-541-3252	FEED	RM	R&M: 0, 3125, 6250, 12500, 25000, 50000 PPM.	
2-Hydroxy-4-Methoxybenzophenone, 131-57-7.....	PHAR	H. Matthews 919-541-3252	SP	RM	R: 0, 12.5, 25, 50, 100, 200; M: 0, 22.75, 45.5, 91, 182, 364 MG/KG.	
Methyleugenol, 93-15-2.....	FOOD	D. Bristol 919-541-2756	GAV	RM	0, 10, 30, 100, 300, 1000 MG/KG plus Sham gavage group.	
Riddelliine, 23246-96-0.....	PHAR	P. Chan 919-541-7561	GAV	RM	R&M: 0, 0.33, 1.0, 3.3, 10.0, 25.0 MG/KG.....	
Sodium Cyanide, 143-33-9.....	FUME	R. Irwin 919-541-3340	WATER	RM	R&M: 0, 3, 10, 30, 100, 300 PPM 10 per group.	
Sodium Selenate, 13410-01-0.....	PEST	K. Abdo 919-541-7819	WATER	RM	3.75, 7.5, 15, 30, 60 PPM.....	
Sodium Selenite, 10102-18-8.....	FEED	K. Abdo 919-541-7819	WATER	RM	0, 2, 4, 8, 16, 32 PPM 10 per group.....	
Tetrachlorophthalic Anhydride, 117-08-8.....	FLAM	F. Kari 919-541-2926	GAV	RM	0, 94, 187, 375, 750, 1500 MG/KG.....	
Chemicals Tentatively Scheduled for Peer Review—October, 1991						
Long-term studies:						
1-Amino-2,4-Dibromoanthraquinone, 81-49-2.....	DYE	J. Huff 919-541-3780	FEED	RM	R: 0, .2, .5, 1.0, 2.0, M: 0, 1.0, 2.0 %/50 per group.	
Barium Chloride Dihydrate, 10326-27-9.....	DYE	J. Dunnick 919-541-4811	WATER	RM	0, 500, 1200, 2500 PPM.....	
Benzyl Acetate, 140-11-4.....	FOOD	K. Abdo 919-541-7819	FEED	RM	R: 0, 0.3, 0.6, 1.2%, M: 0, 0.033, 0.1, 0.3%/50 per group.	
O-Benzyl-P-Chlorophenol, 120-32-1.....	GERM	S. Eustis 919-541-3231	SP	M	Acetone control, DMBA/DMBA, DMBA/Acetone, DMBA/TPA, DMBA/BCP(1,10,30 MG/ML), TPA/TPA, BCP(100)/TPA, BCP/BCP, BCP(10)BCP(1,10,30).	
O-Benzyl-P-Chlorophenol, 120-32-1.....	GERM	S. Eustis 919-541-3231	GAV	RM	MR: 0, 30, 60, 120, FR: 0, 60, 120, 240, M: 0, 120, 240, 480 MG/KG/50 per group.	

NTP TOXICOLOGY AND CARCINOGENESIS STUDIES CHEMICALS PROJECTED FOR PEER REVIEW—Continued

Chemical Name/CAS No.	Use	Study scientist	Route	Species	Exposure levels	NTP TR No.
C.I. Direct Blue 218, 28407-37-6.....	DYE	K. Abdo 919-541-7819	FEED	RM	0, 1000, 3000, 10000 PPM/60 per group.....	
Diethyl Phthalate, 84-66-2.....	INTR	S. Eustis 919-541-3231	SP	RM	R: 0, 100, 300 M: 0, 7.5, 15, 30 UL/100 UL solution /50 per group.	
Diethyl Phthalate, 84-66-2.....	INTR	S. Eustis 919-541-3231	SP	M	100 UL (promotor) neat chemical.....	
Dimethyl Phthalate, 131-11-3.....	PLAS	S. Eustis 919-541-3231	SP	M	100 UL (promotor) neat chemical on unini- tiated and DMBA initiated skin.	
Manganese Sulfate Monohydrate, 10034-96-5.....	DYE	J. Dunnick 919-541-4811	FEED	RM	0, 1500, 5000, 15000 PPM/50 per group.....	
Methylene Chloride, 75-09-2.....	SOLV	G. Boorman 919-541-3440	GAV	R	Male rats only 0, 2.5, 5, 10 ML/KG/50 per group (corn oil), methylene chloride is same at all corn oil doses (500 MG/ KG). Testing the interaction of MC on corn oil.	
Promethazine Hydrochloride, 58-33-3...	PHAR	S. Eustis 919-541-3231	GAV	RM	R: 0, 8.3, 16.6, 33.3, FM: 0, 3.75, 7.5, 15.0, MM: 0, 11.25, 22.5, 45.0 MG/KG.	
1,2,3-Trichloropropane, 96-18-4.....	PNT	L. Burka 919-541-4667	GAV	RM	R: 0, 3, 10, 30, M: 0, 6, 20, 60 MG/KG.....	
Turmeric, Oleoresin (Curcumin), 8024-37-1.....	FOOD	S. Eustis 919-541-3231	FEED	RM	0, .2, 1.0, 5.0%.....	
Chemicals Tentatively Scheduled for Peer Review—February, 1992						
Long-Term Studies:						
1,3-Butadiene, 106-99-0.....	RUBR	R. Melnick 919-541-4142	INHAL	M	0, 6.25, 20, 62.5, 200, 625 PPM/50 per group.	
Tert-Butyl Alcohol, 75-65-0.....	PHAR	R. Maronpot 919-541-4861	WATER	RM	R: 0, 0.125, 0.25, 0.5%(M), 0, 0.25, 0.5, 1.0%(F), M: 0, 0.5, 1.0, 2.0% (M&F)/50 per group.	
Hexachlorocyclopentadiene, 77-47-4....	PEST	K. Abado 919-541-7819	INHAL	RM	R: 0, .01, .05, .2PPM M: 0, .01, .05, .2, .5PPM/50 per group.	
INIT/PROM Comparative mouse study (DMBA/TPA/BPO/MNNG) INIT/PROM.	PHAR	W. Eastin 919-541-7941	SP	MM	DMBA/Acetone (50, 25, 2.5UG), DMBA 2.5, TPA 5UG, BPO 20MG, DMBA/TPA (2.5, 2.5, 50UG/5UG), DMBA/BPO (2.5, 2.5UG/20MG) and MNNG/Acetone (1000, 500, 100UG), MNNG 100UG, TPA 5UG, BPO 20MG, MNNG/BPO (100, 500, 1000UG/20MG), MNNG/TPA (100, 1000UG/5UG).	
INIT/PROM Comparative mouse study (DMBA/TPA/BPO/MNNG) INIT/PROM.	PHAR	W. Eastin 919-541-7941	SP	MM	DMBA/ACETONE (25, 2.5, .25UG), DMBA 2.5, TPA 5UG, BPO 20MG, DMBA/TPA (.25, 2.5, 25/5UG), DMBA/BPO (2.5, 25UG/20MG) AND MNNG/ACETONE (1000, 500, 100UG), MNNG 100UG,TPA 5UG/BPO 20MG, MNNG/BPO (100, 500, 1000UG/20MG), MNNG/TPA (1000, 1000UG/5UG).	
INIT/PROM Comparative mouse study (DMBA/TPA/BPO/MNNG) INIT/PROM.	PHAR	W. Eastin 919-541-7941	SP	MM	DMBA/ACETONE 25, 2.5, .25UG; DMBA 2.5:TPA 1UG:BPO 20MG: DMBA/TPA (.25, 2.5, 25/1UG); DMBA/BPO (2.5, 25UG/20MG) AND MNNG/ACETONE (1000, 500, 100UG); MNNG 100UG:TPA 5UG:BPO 20MG: MNNG/BPO (100, 500, 1000UG/20MG).	
4,4-Thiobis (6-Tert-Butyl-M-Cresol), 96-69-5.....	RUBR	S. Eustis 919-541-3231	FEED	RM	R: 0, .05, .1, .25, M: 0, .025, .05, .1%.....	
Tricresyl Phosphate, 1330-78-5.....	PLAS	R. Irwin 919-541-3340	FEED	RM	R: 0, 75, 150, 300, 600, M: 0, 60, 125, 250 PPM/50 per group.	
Chemicals Tentatively Scheduled for Peer Review—June, 1992						
Long-Term Studies:						
Acetonitrile, 75-05-8.....	SOLV	J. Roycroft 919-541-3627	INHAL	RM	R: 0, 100, 200, 400 M: 0, 50, 100, 200 PPM/50 per group.	
Corn Oil, 8001-30-7.....	FOOD	G. Boorman 919-541-3440	GAV	R	0, 2.5, 5, 10 ML Corn oil/KG for 103 weeks./50 per group.	
Isobutyl Nitrite, 542-56-3.....	INTR	K. Abdo 919-541-7819	INHAL	RM	R&M: 0, 37, 75, 150 PPM.....	
Methylphenidate Hydrochloride, 299- 59-9.....	PHAR	J. Dunnick 919-541-4811	FEED	RM	R: 0, 100, 500, 1000 PPM. M: 0, 50, 250, 500 PPM/50 per group.	
Nickel (II) Oxide, 1313-99-1.....	INTR	W. Eastin 919-541-7941	INHAL	RM	R:0, .62, 1.25, 2.5 M: 0, 1.25, 2.5, 5.MG/ M3/50 per group.	
Nickel Sulfate Hexahydrate, 10101- 97-0.....	INTR	W. Eastin 919-541-7941	INHAL	RM	R: 0, 0.125, 0.25, 0.5 M: 0, .25, .5, 1.0 MG/M3 /50 per group.	
Nickel Sub sulfide, 12035-72-2.....	ENVH	W. Eastin 919-541-7941	INHAL	RM	R: 0, 0.075, 0.15 M: 0, 0.6, 1.2 MG/M3 / 60 per group.	
P-Nitrobenzoic Acid, 62-23-7.....	INTR	K. Abdo 919-541-7819	FEED	RM	0, 1250, 2500, 5000 PPM /60 per group.....	

NTP TOXICOLOGY AND CARCINOGENESIS STUDIES CHEMICALS PROJECTED FOR PEER REVIEW—Continued

Chemical Name/CAS No.	Use	Study scientist	Route	Species	Exposure levels	NTP TR No.
Safflower Oil, 8001-23-8	FOOD	G. Boorman 919-541-3440	GAV	R	0, 2.5, 5, 10 ML/KG/50 per group	
Scopolamine Hydrobromide, 114-49-8	PHAR	J. Roycroft 919-541-3627	GAV	RM	R&M: 0, 1, 5, 25 MG/KG /50 & 70 per group respectively. Diet restriction mice: 0.25 MG/KG.	
Tetrafluoroethylene, 116-14-3	FOOD	J. Roycroft 919-541-3627	INHAL	RM	M&FR: 0, 312, 625, 1250 MR: 0, 156, 312, 625 PPM /50 per group.	
1-Trans-Delta-9-Tetrahydrocannabinol, 1972-08-3	PHAR	J. Dunnick 919-541-4811	GAV	RM	R: 0, 12.5, 25, 50; M: 0, 125, 250, 500 MG/KG /50 per group.	
Tricaprylin, 538-23-8	FOOD	G. Boorman 919-541-3440	GAV	R	0, 2.5, 5, 10 ML/KG/50 per group	
Triethanolamine	DTRG	J. Roycroft 919-541-3627	SP	RM	MR: 0, 32, 63, 125; FR: 0, 63, 125, 250; M: 0, 100, 300, 1000 MG/KG/60 per group.	
Chemicals Tentatively Scheduled for Peer Review—October, 1992						
Long-Term Studies:						
Benzethonium Chloride, 121-54-0	GERM	W. Eastin 919-541-7941	SP	RM	R&M: 0, 0.15, 0.5, 1.5/MG/KG/50/group	
2,2-BIS(Bromomethyl)-1,3-Propanediol, 3296-90-0	FLAM	R. Irwin 919-541-3340	FEED	RM	R: 0, 2500, 5000, 10,000 PPM M: 0, 362, 625, 1250 PPM.	
T-Butylhydroquinone, 1948-33-0	FOOD	K. Abdo 919-541-7819	FEED	RM	R & M: 0, 0.125, 0.25, 0.5% in feed	
Codeine, 76-57-3	PHAR	D. Walters 919-541-3355	FEED	RM	R: 0, 400, 800, 1600; M: 0, 750, 3000, 6000 PPM/60/group.	
P-Cresidine, 120-71-8	DYE	R. Tennant 919-541-4141	FEED	MM	0, 2500, 5000 PPM	
D & C Yellow No. 11, 8003-22-3	DYE	W. Eastin 919-541-7941	FEED	R	0, 0.05, 0.17, 0.5%	
1,2-Dihydro-2,2,4-Trimethylquinoline (Monomer), 147-47-7	RUBR	J. Dunnick 919-541-4811	SP	RM	R: 36, 60, 100; M: 3.6, 6, 10 MG/KG/DAY; R: 60, 100 MG/KG/3-5X/WK; M: 6, 10 MG/KG/3-5X/WK.	
Nitromethane, 75-52-5	FUEL	J. Roycroft 919-541-3627	INHAL	RM	R: 0, 94, 188, 375, 750; M: 0, 188, 375, 750 PPM/50/group.	
Ozone, 10028-15-6	IND	G. Boorman 919-541-3440	INHAL	RM	0, 0.12, 0.5 & 1.0 PPM (50/S/S). 103 week study.	
Ozone, 10028-15-6	IND	G. Boorman 919-541-3440	INHAL	RM	R&M: 0, 0.5, & 1.0 PPM (50/S/S). 130 week study.	
Ozone/NNK 10028-15-6	TBCO	G. Boorman 919-541-3440	INHAL	R	MR Only: 0, 0.5 PPM ozone with 0, 0.1, 1.0 MG/KG NNK BY S.C. injection (20 weeks only).	
Reserpine 50-55-5	PHAR	R. Tennant 919-541-4141	FEED	MM	MTD and 1/2 MTD	
Salicylazosulfapyridine 599-79-1	PHAR	F. Kari 919-541-2926	GAV	RM	R: 84, 168, 337.5; M: 625, 1350, 2700 MG/KG/50 per group.	
Tetrahydrofuran 109-99-9	SOLV	J. Roycroft 919-541-3627	INHAL	RM	0, 200, 600, 1800 PPMD/(50/S/S)	

Abbreviations used:

USE Primary Use Category: COSM Cosmetics, Perfumes, Fragrances, Hair Preparations. DTRG Detergents and Cleansers. DYE As or in Dyes, Inks, and Pigments. ELEC In Electrical and/or Dielectric Systems. ENVH Environmental (Air/Water) Pollutants. FEED As or in Animal Feed or Feed Products. FLAM Flame Retardants. FOOD, Beverages, or Additives. FUEL As or in Fuel or oil Products. FUME Fumigants. GERM Germicides, Disinfectants, Antiseptics. HERB Herbicide(s). IND Industrial Uses. INTR Chemical Intermediate or Catalyst. LABC Unspecified Chemical Uses not Fitting into SOLV, INTR, or REAG categories. PEST Pesticides, General or Unclassified. PHAR Pharmaceuticals or Intermediates. PHOT Photography or related purposes. PLAS As or in Plastics. PNT Paint Ingredient. REAG Laboratory Reagent. RUBR Rubber Chemical. SOLV Vehicles and Solvents. TBCO Tobacco and Tobacco Products. TEXT In Manufacture of Textiles. WOOD In Wood Industry.

ROUTE Route of Administration: FEED Oral in Feed. GAV Oral, Gavage. INHAL Inhalation. IP/IJ Intraperitoneal Injection. SP Skin Paint. WATER Oral with Water. SPEC Species: R = Rats. M = Mice.

[FR Doc. 90-26385 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Carcinogenesis Studies of Trichloroethylene

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on carcinogenesis studies of trichloroethylene (TCE), an industrial solvent used for vapor degreasing and

cold cleaning of fabricated metal parts. Carcinogenesis studies of epichlorohydrin-free trichloroethylene were conducted by administering the test chemical in corn oil by gavage to groups of 50 male and 50 female F344/N rats and 50 B6C3F1 mice of each sex for 103 weeks. Dose levels were 500 and 1,000 mg/kg for rats and 1,000 mg/kg for mice.

Under the conditions of these studies, epichlorohydrin-free trichloroethylene caused renal tubular-cell neoplasms in male F344/N rats, produced toxic nephrosis in both sexes, and shortened

the survival time of males. This experiment in male F344/N rats was considered to be inadequate to evaluate the presence or absence of a carcinogenic response to trichloroethylene. For female F344/N rats receiving trichloroethylene containing no epichlorohydrin, there was no evidence of carcinogenicity. Trichloroethylene (without epichlorohydrin) was carcinogenic for B6C3F1 mice, causing increased incidences of hepatocellular carcinomas in males and females and hepatocellular adenomas in females.

Copies of Carcinogenesis Studies of Trichloroethylene (Without Epichlorohydrin) in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 243) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: October 25, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 90-26434 Filed 11-7-90; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Irrigation Project; Proposed Increase in Operation and Maintenance Rates

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

PURPOSE: Increase to the Blackfeet irrigation project operation and maintenance rates.

SUMMARY: The Bureau of Indian Affairs is proposing to increase the operation and maintenance rate of the Blackfeet Irrigation Project from \$7.75 to \$8.00 per assessable acre. Congressional Cost of Living and operation cost have increased in 1990 and are anticipated to increase in 1991.

The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year. Copies of the proposed 1991 budget may be acquired from the Superintendent of the Blackfeet Agency, Bureau of Indian Affairs, Browning, Montana 59417. A self addressed manila envelop with postage must be included when making your request.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

Interest and/or penalty fees will be assessed on all (Trust, and Fee assessed lands) delinquent operation and maintenance charges as prescribed in the 42 Bureau of Indian Affairs Manual and the Code of Federal Regulations, Chapter 4, Part 102. Government agencies, such as Federal, State and Tribal Governments are exempted from interest and/or penalty fees.

This notice will be published and posted at the following locations:

U.S. Post Offices

Browning, Mt. 59417
Cut Bank, Mt. 59427

Valier, Mt. 59486

Bureau of Indian Affairs

Blackfeet Agency, Browning, Mt. 59417
Newspaper

Glacier Reporter, Browning, Mt. 59417
Pioneer Press, Cut Bank, Mt. 59427

COMMENTS: All comments concerning the proposed 1991 operating and maintenance charges for the Blackfeet irrigation project must be in writing and addressed to the Superintendent of the Blackfeet Agency, Blackfeet Agency, Browning, Montana 59417 before the close of business on December 12, 1989.

APPEAL PROCESS: Chapter 25, part 2 of the Code of Federal Regulations outlines the appeal process for this administrative action. Appeals must be received by the Billings Area Director, Bureau of Indian Affairs, 316 North 26th St., Billings, Montana 59101 via the Superintendent of the Blackfeet Agency, before the close of business on December 12, 1989.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, chapter 25, part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior (Departmental Manual, chapter 3, part 230, (3.1 & 3.2)).

Richard Whitesell,

Billings Area Director.

[FR Doc. 90-26424 Filed 11-7-90; 8:45 am]

BILLINGS CODE 4310-02-M

Bureau of Land Management

[ES-970-00-4120-14-2410; KYES 41395]

Notice of Federal and State Competitive Coal Lease Offering by Sealed Bid; Kentucky Ridge State Forest, Bell County, Kentucky

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal sale.

SUMMARY: Notice is hereby given that as a result of an application filed by Cairnes Coal Company, Inc., Middlesboro, Kentucky (KYES-41395) for certain coal resources in the Kentucky Ridge State Forest, Bell County, Kentucky, these coal resources will be offered for competitive leasing by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1974 (61 Stat. 913, 30 U.S.C. 351-359), as amended. The Federal Government owns 75 percent of the coal reserves and the Commonwealth of Kentucky owns 25 percent. The applicant has

satisfactorily demonstrated under the emergency leasing regulation, 43 CFR 3425.1-4, and the regulations of the Commonwealth of Kentucky that if the coal deposits are not leased, they will be bypassed in the reasonably foreseeable future.

DATE AND ADDRESS: The sale will be held at 2:30 p.m., December 13, 1990 in the Capital Plaza Hotel, 405 Wilkinson Boulevard, Frankfort, Kentucky 40601. Bids may be submitted to the Bureau of Land Management (BLM), Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304 on or before 4 p.m., December 12, 1990. The bids should be sent by certified mail, return receipt. Sealed bids may be hand delivered at the sale location on December 13, 1990. BLM personnel will be present to accept bids in the sale room (Kentucky Ballroom No. 2) between 2-2:30 p.m. only. Any bids received after 2:30 p.m., December 13, 1990 will not be considered.

SUPPLEMENTARY INFORMATION: Bidders are requested to submit one bid for 100 percent of the minerals for the tract. The tract will be leased to the qualified bidder of the highest cash amount, provided that the high bid for the tract equals or exceeds the fair market value (FMV) of the tract as determined by the officer after the sale. The Department has established a minimum bid of \$100 per acre for the tract. The minimum bid is not to be considered as representing the amount for which the tract may actually be leased, since FMV will be determined in a separate postsale analysis. If identical sealed high bids are received, the tying high bidders will be asked to submit follow-up sealed bids until a high bid is received. All tie breaking bids must be submitted within 15 minutes following the authorized officer's announcement at the sale that identical high bids have been received. The successful qualified bidder for the tract will be awarded two leases; one for 75 percent of the tract's mineral interest from the Bureau of Land Management and one for 25 percent of the tract's mineral interest from the Commonwealth of Kentucky.

Coal Tract To Be Offered

The coal resources to be offered consists of all recoverable reserves in the following tract:

TRACT-1101-A (Metes and Bounds),
Kentucky Ridge State Forest, Bell
County, Kentucky

Containing 980 acres more or less.

There are three Coal seams: Highnite, Poplar Lick and Buckeye Springs.

The weighted coal average for the quality of the coal on the tract is as follows:

1. 4,335,500 tons of recoverable coal
2. 11,450 BTU's per pound
3. 21.5 Ash
4. 1.7 Moisture
5. 1.16 Sulphur

Rental and Royalty

Any lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre, or fraction thereof per year, and a royalty payable to the United States of 8 percent of the value of the coal shall be mined by underground methods. The value of the coal will be determined in accordance with 43 CFR 3485.2.

Notice of Availability

Bidding instructions and bidder qualifications are included in the Detailed Statement and Lease Sale. Copies of the Statement and of the proposed coal lease is available at the Bureau of Land Management, Eastern States Office and the Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206, (601) 977-5422. Case file documents are also available for public inspection at the Eastern States Office. For further information contact Ms. Ida V. Doup at (703) 461-1460.

Robert J. Bainbridge,
Acting State Director.

[FR Doc. 90-26528 Filed 11-7-90; 8:45 am]
BILLING CODE 4310-CJ-M

[ID-943-00-4212-13; IDI-26365]

Order Providing for Opening of Public Land; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order opens lands received in a private exchange to the land, mining, and mineral leasing laws.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been reconveyed to the United States:

Boise Meridian

- T. 5S., R. 3E.,
Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 5S., R. 4E.,
Sec. 9, E $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described contains 120.00 acres in Elmore County.

2. At 9 a.m. on December 6, 1990, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on December 6, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on December 6, 1990, the lands described in paragraph 1 will be opened to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 29, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-26437 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-01-4212-13; IDI-27085]

Order Providing for Opening of Public Land; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order opens lands received in a private exchange to the land, mining, and mineral leasing laws.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

1. In an exchange made under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been reconveyed to the United States:

Boise Meridian

- T. 9 N., R. 17 E.,
Sec. 27, Parcels A and C.

The area described contains 7.34 acres in Custer County.

2. At 9 a.m. on December 6, 1990, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on December 6, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on December 6, 1990, the lands described in paragraph 1 will be opened to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriations, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 29, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-26438 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

[AZ-20-00-4212-13; AZA-24408]

Arizona; Exchange of Public and Private Lands in Maricope, Yavapai and Yuma Counties

November 2, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of land.

SUMMARY: This action informs the public of the completion of an exchange between the United States and the Olympic Land Pleasant General Partnership. The United States conveyed 160 acres in Maricopy County and Olympic Lake Pleasant General Partnership transferred 1,085 acres in Yavapai and Yuma Counties.

FOR FURTHER INFORMATION CONTACT: Mary Jo Yoas, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640-5534.

SUPPLEMENTARY INFORMATION: On August 23, 1990, the Bureau of Land Management transferred the following described land by Patent No. 02-90-0026, under the exchange provisions of the Federal Land Policy and Management Act of October 21, 1976:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 2.,

Sec. 18, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described contains 160 acres in Maricopa County.

In exchange the surface of the following described land was transferred to the United States:

Gila and Salt River Meridian, Arizona

T. 9 N., R. 2 W.,

Sec. 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 3, E $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 6 S., R. 11 W.,

Sec. 10, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 23, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$;

Sec. 26, NW $\frac{1}{4}$.

The areas described aggregate 1,085 in Yavapai and Yuma Counties.

The purpose of this notice is to inform the public and interested State and local government officials of this exchange of public and private land.

The land transferred to the United States in this exchange will be administered by the Bureau of Land Management.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 90-26440 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-32-M

[AZ-921-00-4212-13; AZA-22775]

Arizona Exchange of Public and Private Lands in Mohave County

November 2, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange of land.

SUMMARY: This action informs the public of the completion of an exchange between the United States and Fred M. Jessop. The United States conveyed 165.87 acres and Fred M. Jessop transferred 361.20 acres, all in Mohave County.

FOR FURTHER INFORMATION CONTACT:

John Gaudio, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640-5534.

SUPPLEMENTARY INFORMATION: On September 17, 1990, the Bureau of Land Management conveyed the following described land by Deed No. AZ-90-002, under the exchange provisions of the Federal Land Policy and Management Act of October 21, 1976:

Gila and Salt River Meridian, Arizona

T. 42 N., R. 6 W.,

Sec. 32, lots 3 and 4, W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 165.87 acres in Mohave County.

In exchange, the surface in the following described land was transferred to the United States:

Gila and Salt River Meridian, Arizona

T. 40 N., R. 6 W.,

Sec. 17, S $\frac{1}{2}$.

T. 41 N., R. 6 W.,

Sec. 5, lot 1.

The areas described aggregate 361.20 acres in Mohave County.

The purpose of this notice is to inform the public and interested State and local government officials of this exchange of public and private land.

The surface of the land transferred to the United States will be administered by the Bureau of Land Management. The mineral estate was already in Federal ownership, open to the operation of the mining and mineral leasing laws, and presently remains so.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 90-26441 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-32-M

[CACA 26721]

Realty Action; Modoc County, CA; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: CACA 26721; Correction of notice of realty action, exchange of public lands in Modoc County, California.

SUMMARY: The legal description of the public lands found suitable for exchange, as published in the Federal Register on October 25, 1990 is hereby corrected as follows:

In T.44N., R.14E., Mt. Diablo Meridian, California, the public lands in Section 32 are the N $\frac{1}{2}$ SW $\frac{1}{4}$, the W $\frac{1}{2}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$.

These lands are within the Susanville District, Bureau of Land Management.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 90-26642 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-40-M

[ID-943-01-4212-13; IDI-27085]

Issuance of Land Exchange Conveyance Document; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to Stanley L. Heiner and Geraldine M. Heiner, of Salt Lake City, Utah, 84117, for the following described land under section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian

T. 9 N., R. 17 E.,

Sec. 27, lot 2.

Comprising 6.47 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

T. 9 N., R. 17 E.,

Sec. 27, Parcels A and C.

Comprising 7.34 acres of private land.

The purpose of the exchange was to acquire non-federal land which has high public value for a trailhead to the White Cloud area and fee title to an access road. The public interest was well served through completion of this exchange.

The values of the federal land and the non-federal land in the exchange were each appraised at \$4,550.

Dated: September 25, 1990.

John Davis,

Deputy State Director for Operations.

[FR Doc. 90-26443 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

[MT-060-01-4212-02-50% MT-060-01-4333-02-50%]

Realty Action; Resource Management Plan Amendment Montana

AGENCY: Bureau of Land Management—Lewistown District, Interior.

ACTION: Notice is hereby given that the West HiLine Resource Management Plan will be amended by the Havre Resource Area, Havre, Montana.

(1) The Bureau of Land Management proposes exchanging public land with Jim and Norma Wood. This proposed exchange involves only surface estate. The public and private lands are located in Chouteau County.

(2) The Bureau of Land Management proposes selling public land to the Hill County Disposal Board. This proposed

sale involves only surface estate located in Blaine County. The proposed sale tract meets criteria 3 of section 203 of the Federal Land Policy and Management Act.

(Summary 1) The public will gain private lands adjacent to other public lands and consolidate wildlife habitat for upland game birds and mule deer.

(Summary 2) Blaine County will use the tract to establish controlled access to the adjacent sanitary landfill on county land.

Disposal of these lands was not analyzed in the "West HiLine Resource Management Plan (RMP)". Disposal of public lands with relatively low public value will help meet the management goals for the area where; (1) the public will gain private land and; (2) Blaine County will control access to their sanitary landfill. The Havre Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the environmental impacts of disposal of these tracts.

The following public lands will be analyzed by the exchange disposal criteria contained in the RMP.

Principal Meridian Montana

- (1) T. 25 N., R. 9 E., Section 11, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
- (2) T. 32 N., R. 17 E., Section 1, Lot 1.

DATES: Comments and recommendations will be received on or before December 10, 1990. Interested parties may request a copy of the environmental assessment from the BLM, Havre Resource Area, Drawer 911, Havre, MT 59501 on or after December 12, 1990. Comments should be submitted to the Bureau of Land Management, Havre Resource Area, Drawer 911, Havre, MT 595901 on or before January 12, 1990.

FOR COMMENTS AND FURTHER

INFORMATION CONTACT: Bureau of Land Management, Havre Resource Area, Drawer 911, Havre, MT 59501.

SUPPLEMENTARY INFORMATION: The exchange and sale tracts must meet the exchange/disposal and Federal Land Policy and Management Act criteria as presented in the "West HiLine Resource Management Plan," approved September 1988, before they can be added to the RMP sale or exchange tables.

Dated: November 2, 1990.

Wayne Zinne,
District Manager.

[FR Doc. 90-26439 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-DN-M

[ID-942-01-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., November 2, 1990.

The plat representing the dependent resurvey of portions of the Fourth Standard Parallel North through Ranges 23 and 24 East and west boundary, T. 18 N., R. 24 E., a portion of the east boundary and subdivisional lines, and the subdivision of section 1, T. 17 N., R. 23 E., Boise Meridian, Idaho Group No. 771, was accepted October 19, 1990.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 2, 1990.

Gary T. Oviatt,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 90-2644 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-00-4214-11; IDI-2377]

Proposed Continuation of Withdrawal, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Army, Corps of Engineers, proposes that the withdrawal of 7.17 acres for the Lower Granite Lock and Dam Project on the Snake River be continued for an additional 85 years. The land is still being used for the purpose for which it was withdrawn. The land would remain closed to surface entry and mining, but has been and would remain open to mineral leasing.

DATES: Comments should be received on or before February 6, 1991.

FOR FURTHER INFORMATION CONTACT:

Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The U.S. Department of the Army, Corps of Engineers, proposes that the existing land withdrawal made by Public Land Order No. 4680 be continued for a period of 85 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 35 N., R. 6 W.,

Sec. 12, unsurveyed island opposite lot 1.

The area described contains 7.17 acres in Nez Perce County.

The withdrawal is essential to fulfill the authorized requirements of this multiple-use civil works project, a man-made pool operated for navigation, hydropower, irrigation, recreation, fish and wildlife, and other public uses and benefits. The withdrawal closed the land to surface entry and mining but not to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the *Federal Register*. The existing withdrawal will continue until such final determination is made.

Dated: October 29, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-26445 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

[ID-943-00-4214-11; IDI-27277, IDI-27278, IDI-27652]

Proposed Continuation of Withdrawals, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Bureau of Reclamation, Department of the Interior, proposes that the withdrawal of 37.32 acres for the Acequia, Rupert, and Heyburn townsites in Minidoka County be continued for an additional 16 years. The lands are still being used for the purposes for which they were withdrawn. The lands would remain closed to surface entry and mining, but have been and would remain open to mineral leasing.

DATES: Comments should be received on or before February 6, 1991.

FOR FURTHER INFORMATION CONTACT:

Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The U.S. Bureau of Reclamation proposes that the existing land withdrawals made by Presidential Proclamation 25 and two Secretarial Orders each dated June 21, 1906, be continued for a period of 16 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The lands are described as follows:

Boise Meridian*IDI-27277 (Proclamation 25)*

Acequia Townsite

T. 9 S., R. 24 E.,

Sec. 1, United States Reserves—west side of Block 36, Main North Side Canal, and A Canal.

Rupert Townsite

T. 9 S., R. 24 E.,

Sec. 20, Public Reserve described on Sheet 6 of Rupert Townsite Plat;
Sec. 29, by metes and bounds.

Heyburn Townsite

T. 10 S., R. 23 E.,

Sec. 15, United States Reserve described on Sheets 5, 6, and 11 of Heyburn Townsite Plat.

IDI-27278 (SO 6/21/06)

Rupert Townsite

T. 9 S., R. 24 E.,

Sec. 20, Public Reserve Areas described on Sheets 3 and 6 of Rupert Townsite Plat;
Sec. 29, by metes and bounds.

IDI-27652 (SO 6/21/06)

Heyburn Townsite

T. 10 S., R. 23 E.,

Sec. 15, United States Reserve described on Sheet 6 of Heyburn Townsite Plat.

The areas described aggregate 37.32 acres in Minidoka County.

The withdrawals are essential for protection of substantial capital improvements and to provide for control, operation, and maintenance of the Minidoka Reclamation Project. The withdrawals closed the lands to surface entry and mining but not to mineral leasing. No change in the segregative effect or use of the lands is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A

report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued; and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: October 28, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-26446 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Mines**Meeting of the Advisory Committee on Mining and Mineral Resources Research**

The Advisory Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Tuesday, December 11, 1990, in the Connor Room, University Park Hotel, Salt Lake City, Utah. The proposed agenda is:

1. Welcome and introductions.
2. Approval of the minutes of the meeting of September 12, 1990
3. Review of 1990 legislation and outlook for 1991
4. Status of Committee initiatives and 1990 Update to the National Plan
5. Approval of 1990 grants
6. Review and approval of the Interim Report on the Mineral Industry Waste Treatment and Recovery Generic Mineral Technology Center
7. Review of the Interim Report on Pyrometallurgy Generic Mineral Technology
8. Review of the Comminution Generic Mineral Technology Center and consideration of the report of the review
9. Discussion of the National Materials Advisory Board's report on "Competitiveness of the Minerals and Metals Industry"
10. New business.

This meeting is open to the public with seating for visitors on a first come, first served basis. Written statements concerning agenda subjects and the operation of the mineral institutes program are welcome.

Visitors having written statements to put before the Committee or who wish to address the Committee should inform Dr. Ronald A. Munson, Chief, Office of Mineral Institutes, Bureau of Mines, Mail Stop 1020, 2401 E Street NW., Washington, DC 20241, phone (202) 634-1328, FAX (202) 634-2208, BITNET

MININSTS@GWUVM, no later than noon, Friday, December 7, 1990.

Dated: November 2, 1990.

T.S. Ary,

Director.

[FR Doc. 90-26359 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-53-M

Bureau of Reclamation**Central Valley Project California; Realty Action Competitive Sale of Federal Land**

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described tract of land has been identified for disposal under the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374), at no less than the appraised fair market value. The Bureau of Reclamation will accept bids on the land described below and will reject any bids for less than \$188,000, the appraised value.

DATE: January 16, 1991.

FOR FURTHER INFORMATION CONTACT: Bill Grangood, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA 95630; telephone (916) 988-1707.

SUPPLEMENTARY INFORMATION: The property is described as a tract of land in the Rancho de los Americanos being a portion of Tract One as described in the Grant Deed recorded in Book 69-10-21 at Page 25, and a portion of Tract One as described in the Grant Deed recorded in Book 69-05-02 at Page 753, and a portion of Parcel 3 (Unit 12) as described in Schedule "A" of the Judgement recorded July 3, 1952, in Book 2247 at page 437, all Official Records of Sacramento County, CA, containing an area of 2.35 acres, more or less.

The land will be offered for sale through the competitive bidding process. A sealed bid sale will be held at the Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA on January 16, 1991, at which time the sealed bids will be opened. Sealed bids will be accepted at the Folsom Office until close of business on January 15, 1991.

Reclamation may accept or reject any and all offers, or withdraw any land or interest in land for sale if, in the opinion of the Regional Director, consummation of the sale would not be fully consistent with the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374), or other applicable laws. Should the land remain unsold, it may be reoffered for sale at a later date as determined by the Regional Director in order to promote full and free

competition, the bid forms required for this sale contain a statement that the purchase price has been determined independently by the bidder; this statement must accompany each sealed bid.

The sale of the land is consistent with the Bureau of Reclamation land use planning, and it was determined that the public interest would best be served by offering this land for sale.

Resource clearances consistent with the National Environmental Policy Act requirements have been completed and approved. A Categorical Exclusion Checklist is available for public review at the Folsom office.

The quitclaim deed issued for the land sold will be subject to easements or rights-of-way existing or of record in favor of the public or third parties.

For a period of 60 days from the date of this notice, interested parties may submit comments to the Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825. Any adverse comments will be evaluated by the Regional Director who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the Regional Director, this Realty Action will become the final determination of the Department of the Interior.

Dated: October 30, 1990.

Neil W. Schild,

Acting Regional Director, Mid-Pacific Region,
Bureau of Reclamation.

[FR Doc. 90-26425 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-317]

Commission to Review Initial Determination of No Violation and Issuance of Commission Opinion

In the Matter of Certain Internal Mixing Devices and Components Thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in its entirety an initial determination (ID) issued by the presiding administrative law judge (ALJ) terminating the investigation in the above-captioned investigation. The Commission has determined to issue its own opinion affirming the holding of the ALJ terminating the investigation. The

Commission has also determined not to request further briefing at the present time.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Scott Andersen, 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 contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On October 3, 1990, the presiding ALJ issued an ID terminating the investigation on the basis, *inter alia*, of arbitration clauses in licensing agreements entered into by the parties. Petitions for review of the ID were filed by the complainant Farrel Corporation, respondents Pomini S.p.A. and Pomini Inc., and the Commission investigative attorneys.

By order of the Commission.

Issued: November 2, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-26435 Filed 11-7-90; 8:45 am]

BILLING CODE 7020-02-M

Ranitidine Hydrochloride: The Potential Impact on Domestic Competition in the Antulcer Drug Market of a Temporary Duty Suspension on Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for comments.

EFFECTIVE DATE: October 31, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth R. Nesbitt (202-252-1355), Energy and Chemicals Division, Office of Industries, U.S. International Trade Commission, Washington, DC 20436.

SUMMARY: Following receipt on October 16, 1990, of a request from the Committee on Finance of the U.S. Senate, the Commission instituted investigation No. 332-300 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide information pertaining to the potential impact on the domestic competition in the antiulcer duty market of suspending temporarily

the duty on U.S. imports of ranitidine hydrochloride.

In its request, the Committee stated that H.R. 1594, as passed by the Senate, provided for the suspension of the existing tariff on imports of ranitidine hydrochloride (provided for in subheading 2932.19.50 of the Harmonized Tariff Schedule). The Committee said the conference agreement on the Customs and Trade Act of 1990 (Pub. L. 101-382), which considered the provision, stated that the House conferees were unable to accept the provision because of strong opposition from domestic interests and the Administration. The Committee said that the conferees agreed, as part of the conference agreement, to request an ITC study of domestic competition in the antiulcer drug market to determine the potential impact of the provision. The Committee said that the House conferees also agreed to hold public hearings on this issue and that, pursuant to this commitment, the Subcommittee on Trade of the House Committee on Ways and Means held a hearing on September 24, 1990.

The Committee request that the Commission submit its report by January 18, 1991, and that the Commission provide opportunity for public comments.

WRITTEN SUBMISSION: Interested persons are invited to submit written statements concerning the investigation. Written submissions should be received by 5 p.m. on December 14, 1990, to be considered by the Commission for the report. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons.

All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

Issued: October 31, 1990.

Kenneth R. Mason,
Secretary.

[FR Doc. 90-26352 Filed 11-7-90; 8:45 am]

BILLING CODE 7020-02-M

United States-Canada Free-Trade Agreement: Probable Economic Effect on U.S. Industries and Consumers of Immediate Elimination of U.S. Tariffs on Certain Articles from Canada (Second Annual Report)

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on October 15, 1990, of a request from the U.S. Trade Representative (USTR) pursuant to authority delegated by the President, the Commission instituted investigation No. 332-299 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to advise the President, with respect to each dutiable article listed in Annex I of the USTR's notice published in the Federal Register of October 5, 1990 (55 FR 40964), of its judgment as to the probable economic effect of the immediate elimination of the U.S. tariff, under the United States-Canada Free-Trade Agreement, on domestic industries producing like or directly competitive articles, and on consumers.

USTR asked that the Commission provide its advice not later than 90 days after the Commission received the request, or in this case by January 14, 1991.

EFFECTIVE DATE: October 29, 1990.

FOR FURTHER INFORMATION CONTACT:

The Project Leader, Kate Bishop (202-252-1494), General Manufactures Division, Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel (202-252-1091). The media should contact Lisbeth Godley, Acting Director, Office of Public Affairs (202-252-1819). For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

- (1) Agricultural products, Mr. Fred Warren (202-252-1311)
- (2) Textiles and apparel, Ms. Mary Elizabeth Enfield (202-252-1455)
- (3) Chemical products, Mr. Larry Johnson (202-252-1351).
- (4) Minerals and metals, Mr. Vincent DeSapio (202-252-1435)
- (5) Machinery and equipment, Mr. William Greene (202-252-1405)

- (6) General manufactures, Mr. Carl Seastrum (202-252-1493)
- (7) Services and technology, Mr. John Kitzmiller (202-252-1387)

Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on (202-252-1810).

Background

The United States-Canada Free-Trade Agreement (CFTA), which entered into force on January 1, 1989, provides that all products of Canada imported into the United States and all products of the United States imported into Canada shall be free of duty by January 1, 1998. In the United States, it was approved and implemented by the United States-Canada Free-Trade Agreement Implementation Act of 1988.

Article 401(5) of the CFTA provides that at the request of either government, the two governments are to undertake consultation to consider agreeing to accelerate the elimination of the duties on specific products in the schedule of each government. Section 201(b) of the CFTA Implementation Act grants the President, subject to certain requirements, the authority to proclaim any such agreed acceleration of the elimination of a U.S. duty. As required by section 103(a)(1)(B) of the CFTA Implementation Act, the USTR requested that the Commission provide the probable economic effect advice.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on December 3, 1990, and continuing, as required, on December 4 through 7. All persons will have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear not later than November 21, 1990. Prehearing briefs (original and 14 copies) should also be filed with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, not later than 5 p.m., November 21, 1990. Any post-hearing briefs must be filed by December 12, 1990.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on December 12, 1990. Commercial or financial information which a submitter desires the Commission to treat as

confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: October 31, 1990.

Kenneth R. Mason,
Secretary.

[FR Doc. 90-26353 Filed 11-7-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31747]

**Southern Railway Company—
Trackage Rights Exemption—
Louisville and Jefferson County
Riverport Authority**

The Louisville and Jefferson County Riverport Authority (Riverport) has agreed to grant local trackage rights in the Riverport Complex, near Louisville, KY, to Southern Railway Company (Southern) as follows: (a) The co-exclusive right with Paducah and Louisville Railway, Inc., to operate over the Lead Track, between valuation stations 7+59.50 and 34+96.00 (approximately 3,496 feet); and (b) the non-exclusive right to operate over (1) the Joint Portion Track, between valuation stations 34.96 and 86+93 (approximately 5,196 feet), (2) the Onsite Line, between valuation stations 86.93 and 50+61.23 (approximately 5,061 feet), and (3) the Port Rail Trackage.¹

The trackage rights were to become effective on October 26, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with

¹ These trackage rights will replace Southern's right to operate in the Riverport Complex under an agreement among Southern, Riverport, and Illinois Central Gulf Railroad, dated July 8, 1983. See Finance Docket No. 30273, *Illinois Central Gulf Railroad Company and Southern Railway Company—Construction Exemption—Jefferson County, KY* (not printed), served September 19, 1983.

the Commission and served on: F. Blair Wimbush, Norfolk Southern Corporation, 3 Commercial Place, Norfolk, VA 23510-2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978)*, as modified in *Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980)*.

Dated: October 31, 1990.

By the Commission, David M. Koonschik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-26450 Filed 11-7-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Madison, IN

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 31, 1990, a proposed consent decree in *United States and the State of Indiana v. City of Madison, Indiana*, Civil Action No. 90-156-C, was lodged with the United States District Court for the Southern District of Indiana. The proposed consent decree concerns a complaint filed by the United States that alleged violations of section 301 of the Clean Water Act, 33 U.S.C. 1311, at the City of Madison's wastewater treatment plants. The complaint alleges that the City of Madison discharged pollutants into navigable waters in excess of the limitations in its National Pollutant Discharge Elimination System ("NPDES") permits, and bypassed secondary treatment at its facilities in violation of its NPDES permit. The complaint seeks injunctive relief to require the City of Madison to comply with its NPDES permit and to pay civil penalties for past violations.

The consent decree requires the City of Madison to undertake plant construction upgrades at its facilities in order to come into compliance with its NPDES permits and the Clean Water Act. The City of Madison is also required to pay a civil penalty of \$30,000 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice,

Washington, DC 20530, and should refer to *United States and the State of Indiana v. City of Madison, Indiana*, D.J. Ref. 90-5-1-1-3352.

The proposed consent decree may be examined at the Region V Office of the United States Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$6.25 (25 cents per page reproduction cost) payable to "Consent Decree Library." In requesting a copy, please refer to the referenced case name and the D.J. Ref. number.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-26426 Filed 11-7-90; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Reuben H. Dawson, M.D.; Denial of Application

On April 16, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Reuben H. Dawson, M.D. of 5000 Nannie H. Burroughs Avenue, NE., Washington, DC 20019, proposing to deny his application, executed on April 13, 1989, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Dr. Dawson's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was sent to Dr. Dawson by registered mail. More than thirty days have passed since the Order to Show Cause was received by Dr. Dawson and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Reuben H. Dawson, M.D. is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that between September 5, 1980 and March 6, 1981, an undercover officer of the District of Columbia, Metropolitan Police Department, went to Dr. Dawson's office on approximately 22 separate occasions.

On each occasion, the undercover officer received a prescription for Biphemine, a Schedule II controlled substance, for no legitimate medical purpose. No medical examination was ever performed. On many occasions, Dr. Dawson would also issue the undercover officer prescriptions for Biphemine in names of individuals whom Dr. Dawson had never seen. The officer would merely present Dr. Dawson with a note listing her name, as well as the fictitious names, the number of prescriptions and the amount of Biphemine she wanted.

On December 17, 1982, a Federal grand jury in the United States District Court for the District of Columbia returned a 22 count indictment charging Dr. Dawson with the illegal distribution of a Schedule II controlled substance in violation of 21 U.S.C. 841(a)(1). On April 6, 1983, after entering a guilty plea, Dr. Dawson was convicted of one count of the indictment and was placed on probation for a period of three years. As a condition of probation, Dr. Dawson's District of Columbia medical license was revoked. Dr. Dawson presently possesses an unrestricted license to practice medicine in the District of Columbia.

No evidence of explanation or mitigating circumstances has been offered on behalf of Dr. Dawson. Based on the above, the Administrator concludes that Dr. Dawson's registration with the Drug Enforcement Administration would be inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application for registration, executed on April 13, 1989, by Reuben H. Dawson, M.D., be, and it hereby is, denied.

Dated: November 1, 1990.

Robert C. Bonner,

Administrator.

[FR Doc. 90-26403 Filed 11-7-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90-95)]

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 December 10, 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 (2700-0012), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (703) 271-5542.

Reports

Title: Aeronautics and Space Report.

OMB number: 2700-0012.

Type of request: Extension.

Frequency of report: On occasion.

Type of respondent: Businesses or other for profit, non-profit institutions, small businesses or organizations.

Number of respondents: 580.

Responses per respondent: 1.

Hours per response: 0.3.

Annual responses: 580.

Annual burden hours: 174.

Abstract-need/uses: NASA produces video tapes each month to report status of its programs and research underway. These tapes are mailed to TV stations throughout the country for use as public service programming or as news features. This "post-card" report is used to measure the effectiveness of the tapes and provides the date and time they were aired.

Dated: October 31, 1990.

D. A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 90-26401 Filed 11-07-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice (90-94)]

Advisory Committee on the Future of the U.S. Space Program; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Advisory Committee on the Future of the U.S. Space Program (hereafter referred to as the "Advisory Committee").

DATES: November 19, 1990, 1 p.m. to 7 p.m.; and November 20, 1990, 1 p.m. to 7 p.m.

ADDRESSES: The George Washington Room, Academic Center, George Washington University, 801 22nd Street NW., Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Bain, Code ADA-1, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2409.

SUPPLEMENTARY INFORMATION: The Vice President, in his capacity as head of the National Space Council, has determined that it is appropriate for the National Aeronautics and Space Administration to establish the Advisory Committee to look into the future of the U.S. space program. The Advisory Committee will report to the Vice President and the NASA Administrator on the future of the U.S. space program, to include various projects, objectives, and methods to implement those projects and objectives for the coming decades. The Advisory Committee is chaired by Mr. Norman R. Augustine and is composed of 12 members, selected from a cross section of qualified individuals with an extensive knowledge of space activities and broad technical and managerial expertise.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 50 persons including Advisory Committee members and other participants. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Interested members of the public are encouraged to send written comments regarding the work of the Advisory Committee to Mr. Norman R. Augustine, Chairman and Chief Executive Officer, Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20817.

TYPE OF MEETING: Open.

Agenda

Monday, November 19, 1990

1 p.m.—Introductory remarks.

1:10 p.m.—Receive perspectives of national experts and review implications of selected studies on major space programs.

7 p.m.—Adjourn.

Tuesday, November 20, 1990

1 p.m.—Receive perspectives of national experts and review implications of selected studies on major space programs.

7 p.m.—Adjourn.

Dated: November 2, 1990.

John W. Gaff,

Advisory Committee Management Officer,
National Aeronautics and Space
Administration.

[FR Doc. 90-26402 Filed 11-7-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literary Publishing Section) to the National Council on the Arts will be held on November 28, 1990 from 2 p.m.—5:30 p.m., November 29—30 from 9 a.m.—5:30 p.m. and December 1 from 9 a.m.—3 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 1 from 12 noon—3 p.m. The topics will be guideline review and policy discussion.

The remaining portions of this meeting on November 28 from 2 p.m.—5:30 p.m., November 29—30 from 9 a.m.—5:30 p.m. and December 1 from 9 a.m.—12 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof,

of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 90-26427 Filed 11-07-90; 8:45 a.m.]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestras section) to the National Council on the Arts will be held on November 27, 1990 from 9 a.m.-6:30 p.m., November 28 from 9 a.m.-8:30 p.m., November 29 from 9 a.m.-10 p.m., November 30 from 9 a.m.-7 p.m. and December 1 from 9 a.m.-3:30 p.m. in room 716, M-09 and M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 1 from 1:30 p.m.-3:30 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on November 27 from 9 a.m.-6:30 p.m., November 28 from 9 a.m.-8:30 p.m., November 29 from 9 a.m.-10 p.m., November 30 from 9 a.m.-7 p.m. and December 1 from 9 a.m.-1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant

applicants. In accordance with the determination of the Chairman of October 19, 1990, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-26428 Filed 11-7-90; 8:45 a.m.]

BILLING CODE 7537-01-M

Opera-Musical Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (New American Works Section) to the National Council on the Arts will be held on November 27-30, 1990 from 9 a.m.-6 p.m. in room M-07 and M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 27 from 9 a.m.-9:45 a.m. and November 30 from 10 a.m.-12 noon. The topics will be introductory remarks and guidelines and policy discussion.

The remaining portions of this meeting on November 27 from 9:45 a.m.-6 p.m., November 28-29 from 9 a.m.-6 p.m. and

November 30 from 9 a.m.-10 a.m. and 12 noon-6 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-26429 Filed 11-7-90; 8:45 a.m.]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of each permit application

received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of a permit application received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 10, 1990. The permit application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

Applicant 90-34

Mary A. Olson, Science Museum of Minnesota, 30 East Tenth Street, St. Paul, Minnesota 55101.

Activity for which permit requested

Taking. Import into USA. The applicant proposes to salvage dead specimens of seals on an opportunity basis. Specimens will be returned to the Science Museum of Minnesota for scientific study and educational display.

Location

Antarctica (various locations).

Dates

December 1990–October 1992.

Charles Myers,

Permit Officer.

[FR Doc. 90-26354 Filed 11-7-90; 8:45 am]

BILLING CODE 7555-01-M

BBS Task Force Looking to the 21st Century Public Hearing and Meeting

The National Science Foundation announces the following:

Name: Biological, Behavioral and Social Sciences Task Force Looking to the 21st Century.

Date and time: Public Hearing/November 29 and 30, 1990 9 a.m. to 5 p.m. each day. Task Force Meeting/December 1, 1990 9 a.m. to 4 p.m.

Place: Key Bridge Marriott, Arlington, Virginia.

Type of meeting: Open.

Contact person: Dr. Mary E. Clutter, Assistant Director, Biological, Behavioral and Social Sciences, (202) 357-9854, room 506, National Science Foundation, Washington, DC 20550.

Summary of minutes: May be obtained from the contact person.

Purpose of task force: To examine the organizational structure of BBS and to evaluate the adequacy and effectiveness of that structure to respond to new research opportunities and scientific challenges in the future.

Public hearing agenda: Professional societies and associations will present testimony related to the purpose of the task force. Requests from the general public to testify on the announced subject will be accepted at the start of each hearing day; some time will be allocated at the end of each hearing day for scheduling these requests.

Task force meeting agenda: Saturday, December 1, the task force will hold a meeting to synthesize findings from the hearing and to draft an outline of a final report.

Dated: November 5, 1990.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 90-26453 Filed 11-7-90; 8:45 am]

BILLING CODE 7555-01-M

Council for Continental Scientific Drilling; Meeting

The National Science Foundation announces the following:

Name: Council For Continental Scientific Drilling.

Date: November 27 and 28, 1990.

Time: 8:30 a.m. to 5 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Contact person: Dr. Ian D. MacGregor, Acting Division Director, Division of Earth Sciences, Room 602, National Science Foundation, Washington, DC, (202) 257-7958; and Donald W. Klick, ICG/CSD Executive Secretary, 922 National Center, U.S. Geological Survey, Reston, VA 22092, (703) 648-6346.

Summary minutes: May be obtained from the Contact Person at the above address.

Purpose of meeting: To establish organizational structure, procedures, schedule, and other aspects for undertaking in overview of the U.S. Continental Scientific Drilling Program (CSDP) which is being coordinated by the Interagency Coordinating Group for Continental Scientific Drilling (ICG/CSD), and to become familiar with the current U.S. CSDP.

Agenda: Briefings on accomplishments, current activities, and future plans of the DOE, NSF, and USGS CSDP programs; discussions and determinations of organizational structure, procedures, schedule, and related matters for U.S. CSDP overview by the Council for CSD.

Dated: November 5, 1990.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 90-26452 Filed 11-7-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee to the Directorate for Education and Human Resources; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee to the Directorate for Education and Human Resources.

Date and time: Thursday, November 29, 1990, 9 a.m.–5 p.m. Friday, November 30, 1990, 9 a.m.–5 p.m.

Place: National Science Foundation, room 540, Washington, DC

Type of Meeting: Open.

Contact person: Dr. Peter E. Yankwich, Executive Secretary, Directorate for Education and Human Resources, National Science Foundation, Washington, DC 20550, (202) 357-7926.

Summary minutes: May be obtained from contact person listed above.

Purpose of committee: To provide advice and recommendations concerning NSF support for education and human resources.

Agenda: Review of FY 1991 Programs and Initiatives Review of FY 1992 Programs and Initiatives Strategic Planning for FY 1993 and Beyond.

Dated: November 5, 1990.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 90-26451 Filed 11-7-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Political Science, Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Political Science.

Date/time: November 28–29, 1990; 9 a.m. to 5 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., room 523, Washington DC 20550.

Type of meeting: Part Open—November 29, 10–11 p.m. Closed remainder.

Contact persons: Dr. William T.E. Mishler, Program Director, (202) 357-9406, Political Science, Division of Social and Economic National Science Foundation, Washington, DC 20550, room 336.

Purpose of meeting: To provide advice and recommendations concerning support for research in political science.

Agenda: Open—general discussion of trends and opportunities in political science. Closed portion—To review and evaluate research proposals.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Dated: November 5, 1990.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 90-26454 Filed 11-7-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-352 and 50-353]

Philadelphia Electric Co.; Correction Notice

On October 17, 1990, the Federal Register published the Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 42105, for the Limerick Generating Station, Units 1 and 2, (application dated October 11, 1989 and April 9, 1990), the Amendment Nos. read "146 and 9". The correct Amendment Nos. should have been "46 and 9".

Dated at Rockville, Maryland, this 31st day of October 1990.

For the Nuclear Regulatory Commission.
Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-26404 Filed 11-7-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 17836; International Series Rel. No. 186; 812-7614]

The Chile Fund, Inc., et al.; Application

November 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: The Chile Fund, Inc., The Indonesia Fund, Inc., The Latin America Investment Fund, Inc., and The Portugal Fund, Inc.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and Rule 12d3-1.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting them to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3-1.

FILING DATE: The application was filed on October 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 27, 1990, and should be accompanied by proof of service on the applicants, 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 5th Street NW., Washington, DC 20549. Applicants, c/o BEA Associates, Inc., One Citicorp Center, 153 E. 53rd Street, 58th Floor, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (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 from the SEC's Public Reference Branch.

Applicants' Representations

1. Each applicant is a closed-end management investment company registered under the Act. BEA Associates, Inc. acts as investment adviser to each applicant. In addition, Salomon Brothers Asset Management, Inc. acts as co-investment adviser with BEA Associates, Inc. to the Latin America Investment Fund, Inc.

Applicants request that any order issued on the application also apply to any other registered investment company or series thereof for which BEA Associates, Inc. or an affiliate thereof, or BEA Associates, a general partnership that will shortly succeed to the business of BEA Associates, Inc., or an affiliate thereof, acts as investment adviser or principal underwriter.

2. Applicants seek to be able to diversify their portfolios further by being permitted to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

3. Applicants seek relief from section 12(d)(3) of the Act and Rule 12d3-1 thereunder to invest in securities of foreign securities companies to the extent allowed in the proposed amendments to Rule 12d3-1. See Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). Proposed amended Rule 12d3-1 would, among other things, facilitate the acquisition by applicants of equity securities issued by foreign securities companies. Applicants' proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended Rule 12d3-1.

Applicants' Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of Rule 12d3-1 provides that "any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since the definition of "margin security" as it is applied to foreign issuers is generally much more restrictive than for securities traded in the United States markets, securities issued by many foreign securities firms would not meet this test. Accordingly, applicants seek an exemption from the "margin security" requirements of Rule 12d3-1.

2. Proposed amended Rule 12d3-1 provides that the "margin security"

requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicants' Condition

Applicants agree to the following condition in connection with the relief requested:

Applicants will comply with the proposed amendments to Rule 12d3-1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), as they are currently proposed, and as they may be repropoed, adopted, or amended.

For the commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-26361 Filed 11-7-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17837; 812-7982]

Bando McGlocklin Capital Corp.; Application

November 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: Bando McGlocklin Capital Corporation ("Applicant").

RELEVANT 1940 ACT SECTIONS: Exemption requested under sections 6(c), 17(d), and 23(c)(3) of the Act and Rule 17d-1 thereunder from the provisions of section 17(d), 18(d) and 23 (a), (b), and (c).

SUMMARY OF APPLICATION: Applicant, a licensed small business investment company, seeks an order permitting it to offer its key employees deferred equity compensation in the form of stock options.

FILING DATE: The application was filed on August 24, 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 November 26, 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 5th Street NW., Washington, DC 20549. Applicant, 13555 Bishops Court, Brookfield, Wisconsin 53005.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Staff Attorney, at (202) 272-3026, or Max Berueffy, Branch Chief, at (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) 738-1400).

Applicant's Representations

1. Applicant is a registered closed-end, diversified management investment company, licensed as a small business investment company ("SBIC") under the Small Business Investment Act of 1958. It has outstanding 2,044,253 shares of Common Stock quoted on NASDAQ. On September 13, 1990, Applicant filed a registration statement on Form N-5 pursuant to which it proposes to offer up to 1,380,000 shares in an underwritten public offering (the "Proposed Offering").

2. On July 25, 1990 and August 17, 1990, Applicant's Board of Directors approved its 1990 Incentive Stock Option Plan ("Plan") to induce key employees of Applicant to remain employed by the Applicant and to increase their incentive and personal interest in Applicant's welfare. The Plan provides for the grant of options to purchase shares of Applicant's Common Stock up to an amount equal to the sum of 25,000 shares plus 20% of the shares of Common Stock issued in the Proposed Offering. Only key employees of Applicant are eligible to receive options. The Plan provides that if an option granted under the Plan expires or is terminated unexercised, the shares of Common Stock covered will again be available for the grant of additional options under the Plan. Notwithstanding the foregoing, not more than 121,440 shares may be issued to one participant

pursuant to the exercise of options granted under the Plan.

3. Applicant currently has four key employees, its three executive officers and its senior loan officer, who would be presently eligible to receive options. It is anticipated that the senior loan officer will be granted options to purchase 12,500 shares of Applicant's Common Stock and Applicant's three executive officers will be granted options in proportion to their current salaries in the aggregate amount of 20% of the shares to be issued in the Proposed Offering. The remaining options will be held in reserve for grants to junior loan officers upon their attaining key employee status.

4. Applicant's three executive officers are responsible for making Applicant's investment as well as for making all executive and operational decisions. Their performance directly affects Applicant's performance and the value of Applicant's Common Stock. Applicant's senior loan officer actively participates in the loan approval process but does not have loan approval authority. Thus, to a lesser extent, this employee's performance also directly affects the value of Applicant's Common Stock. It would be inconsistent with the purposes of the Plan to grant Applicant's other employees stock options since no matter how competently they performed their duties, their performance would probably not affect the value of the Applicant's Common Stock.

5. The Plan will be administered by the Compensation Committee of Applicant's Board of Directors. The Compensation Committee consists of three directors who are not "interested persons" of Applicant as defined in section 2(a)(19) of the Act. Members of the Committee are not eligible to receive options under the Plan.

6. All of the options to be granted pursuant to the Plan are intended to be incentive stock options within the meaning of section 422A of the Internal Revenue Code ("Code"), and as such, are subject to the following restrictions:

(a) The Plan must state the aggregate number of shares which may be issued pursuant to the exercise of options and the class of employees eligible to receive options and must further be approved by the shareholders.

(b) All options must be granted within 10 years of the date the Plan was adopted. Applicant anticipates that substantially all of the options will be granted upon receipt of the requested order.

(c) Options may not be exercised after the expiration of 10 years from the date the option is granted.

(d) The exercise price of the options may not be less than the fair market value of the underlying stock on the date of grant. Under the Plan, options granted on the date of the Proposed Offering will be granted at the public offering price. All other options will be granted at the last quoted sale price on the date of grant or if there is no sale on such date, the mean between the closing bid and asked quotations.

(e) An optionee may not transfer the options other than by will or the laws of descent and distribution. The options may be exercised during the lifetime of the optionee, only by the optionee.

(f) Options may not be granted to persons owning more than 10% of the voting power of the outstanding shares of Applicant's Common Stock at the time the option is granted.

(g) The aggregate fair market value (determined at the time the option is granted) of the stock with respect to which options are exercisable for the first time by an individual in any calendar year may not exceed \$100,000. Moreover, the Plan provides for a ten year vesting schedule permitting only 10% of the options to be exercised in the calendar year subsequent to the date of grant and providing for proportional increases in subsequent years.

7. The Plan does not provide for the grant of stock appreciation rights. However, the Plan does permit the exercise price of an option to be paid in cash or by tendering previously acquired shares of stock, valued at the fair market value. In placing a fair market value on previously acquired shares of Applicant's Common Stock, Applicant will utilize the same standards as are used in determining the fair market value at the time of the grant of the option.

8. The Plan provides that options will terminate on the earlier of: The expiration date; termination of employment by the optionee or by the Applicant for cause; three months following termination of employment, without cause, other than by reason of death or disability; or one year following termination of employment by reason of death or disability as defined in section 22(e)(3) of the Code. If the employee ceases to be employed on a full-time basis by the Company, any option not exercised will be proportionately cancelled as determined by the Committee based on the number of hours actually worked by the employee.

9. The Compensation Committee may determine in its sole discretion that an adjustment in the number or kind of shares reserved for issuance pursuant to the Plan but not yet covered by options or of the stock subject to options is

necessary, or an adjustment in the option price in each stock option agreement is necessary because of a change in the number or kind of outstanding shares of stock of the Applicant whether through reorganization, recapitalization, stock split-up, combination of shares, merger or consolidation, or any other change in the number or kind of outstanding shares of stock.

Applicant's Legal Analysis

1. Section 18(d) of the Act prohibits the issuance of stock options except those issued ratably to a class of security holders with an exercise period of up to 120 days or in exchange for warrants in connection with a reorganization. Applicant does not satisfy these requirements. In addition, absent an exemption, Applicant's stock option plan would be prohibited under section 23(a) of the Act, which generally prevents a registered closed-end investment company from issuing any of its securities for services. Furthermore, section 23(c) generally prohibits the purchase by a registered closed-end investment company of any securities of which it is the issuer. Thus, to the extent that payment for stock options with previously acquired shares of Applicant's Common Stock is considered to be a "purchase" by Applicant of its own securities, section 23(c) would prohibit the transaction.

2. Section 17(d) and Rule 17d-1 also prohibit an affiliated person of a registered investment company from participating in or effecting a transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the registered company is a participant absent an order from the SEC. Rule 17d-1 includes stock option plans in the definition of "joint enterprise or joint arrangement or profit sharing plan." Thus, these provisions may prohibit any stock option plan absent an order from the SEC.

3. Applicant is unable to rely on the existing SEC order permitting SBICs to issue stock options to their employees (Investment Company Act Release No. 6523 (May 14, 1971)) or on Rule 17d-1(d) under the Act because both specifically provide that the options granted must be "qualified stock options" under section 422 of the Code and must conform to the requirements of 13 CFR 805(b) adopted by the Small Business Administration. "Qualified stock options" were eliminated in 1976 and 13 CFR 805(b) was significantly amended (as well as renumbered 13 CFR 705(b)) in 1982. Thus, although the incentive stock options that will be issued under the

Plan and that meet the requirements of section 422A of the Code are substantially the same as the earlier "qualified stock options", they have minor differences which are fully described in the application.

4. The SEC granted a prior order (Investment Company Act Release Nos. 15905 (August 3, 1987) (notice), 15958 (September 2, 1987) (order) ("1987 Order")) to permit Applicant to issue stock options under its 1987 Incentive Stock Option Plan ("1987 Plan"). The Plan is similar to the 1987 Plan with the following exceptions: (a) The maximum number of shares which may be issued pursuant to the Plan may be as high as 310,000 whereas the 1987 Plan Provided for the issuance of 150,000 shares; and (b) options under the Plan vest over a ten year period whereas options granted under the 1987 Plan vest over a four year period.

5. The limitations on the issuance of stock options under the Plan will to a large extent protect investors against dilution of their pro rata interests in Applicant. The Plan will not only be approved by Applicant's shareholders, but any options granted under the Plan will be approved by a majority of Applicant's directors who are not "interested persons" of Applicant and who cannot participate in the Plan. In addition, Applicant will conduct a review similar to that required by the order in Investment Company Act Release No. 14594 (June 21, 1985), as amended in Investment Company Act Release No. 15496 (December 23, 1986), if it subsequently grants options which have been reserved for future grants or which become available through the expiration or termination of previously granted options prior to their exercise. These protections are similar to those the SEC previously found consistent with the purposes and policies of the Act, and even greater than those that Congress imposed on stock options to be issued by business development companies in section 61(a)(3)(B) of the Small Business Investment Incentive Act of 1980.

6. The limited stock options granted under the Plan will offer no opportunity for a change in control of Applicant or quick sale at a profit, and will not be transferable. The existence and nature of stock options granted by Applicant will be fully disclosed in accordance with the standards or guidelines adopted by the Financial Accounting Standards Board for operating companies and the requirements of the SEC, and will be neither so extensive nor so complex as to make the financial statements of Applicant or management

remuneration more difficult to understand.

7. As an SBIC, all of Applicant's investments (other than investments in idle funds) must be made in small businesses, the securities of which will not be publicly traded. Moreover, all of Applicant's investments in small businesses consist of non-convertible secured loans. Under these circumstances, Applicant submits that it is difficult to conceive a scenario in which Applicant's portfolio investments could create a short-term artificial increase in Applicant's stock.

8. For the foregoing reasons, Applicant claims any adverse impact on investor interests by the Plan will be minimal, and will be more than outweighed by the benefits to investors that will result from permitting Applicant to compete for top quality personnel on a more equal footing with its competitors. Applicant competes primarily with banks and other entities which are not investment companies registered under the Act. These organizations are able to offer stock options to employees and have an advantage over Applicant in attracting and retaining highly qualified personnel. In order for Applicant to compete on a more equal basis with such organizations, it has to have personnel as competent as such organizations, and in order to attract and retain such personnel Applicant must be able to offer comparable compensation packages. Accordingly, Applicant believes that the application satisfies the conditions specified in section 6(c) of the Act, section 17(d) and Rule 17d-1 thereunder, and section 23(c)(3).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-28362 Filed 11-7-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 35-25186]

Filings

November 2, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 26, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy of the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities Corp., et al. (70-7525)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and General Portfolios Corporation ("GPC"), Mellon Bank Center, Tenth and Market Streets, Wilmington, Delaware 19001, a wholly-owned subsidiary of GPU, have filed an application-declaration under sections 9(c)(3) and 12(b) of the Act and rule 45 thereunder.

GPU proposes to make a cash capital contribution of \$10 million to GPC on or before December 31, 1990 for the proposed purchase by GPC of \$10 million aggregate principal amount of 9.9% convertible subordinated debentures due 2005 ("Debentures") to be issued by California Energy Company, Inc. ("CE"). CE is a California corporation incorporated to explore and develop geothermal resources in California for electric power production. CE currently operates three qualifying facilities, within the meaning of the Public Utility Regulatory Policies Act of 1978, with approximately 240 MW of capacity.

The Debentures which GPC proposes to purchase will (1) Bear interest, payable semi-annually, at the rate of 9.9%, (2) be convertible into shares of CE common stock at a price equal to the lesser of 120% of the closing price of CE's common stock on the closing date or \$10.00 per share, subject to adjustment for certain dilution events, provided, however, that the conversion price shall not be less than the average of the closing prices of CE's common stock for the period August 15, 1990 through November 15, 1990, and (3) be redeemable by CE beginning October 1, 1995 at 107% of their face value and at

declining premiums thereafter until September 30, 2000 and at face value after September 30, 2000 until maturity.

American Electric Power Co., Inc. et al. (70-7776)

American Electric Power Company, Inc. ("AEP"), a registered holding company, AEP Generating Company ("Generating"), both located at 1 Riverside Plaza, Columbus, Ohio 43215, Appalachian Power Company ("Appalachian"), 40 Franklin Road, SW., Roanoke, Virginia 24011, Columbus Southern Power Company ("Columbus"), 215 North Front Street, Columbus, Ohio 43215, Indiana Michigan Power Company ("Indiana"), One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801, Kanawha Valley Power Company ("Kanawha"), 301 Virginia Street East, Charleston, West Virginia 25327, Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, Kingsport Power Company ("Kingsport"), 40 Franklin Road, SW., Roanoke, Virginia 24011, Michigan Power Company ("Michigan"), P.O. Box 413, Three Rivers, Michigan 49093, Ohio Power Company ("Ohio"), 301 Cleveland Avenue, SW., Canton, Ohio 44701 and Wheeling Power Company ("Wheeling"), 51 Sixteenth Street, Wheeling, West Virginia 26003, subsidiaries of AEP, have filed an application-declaration under sections 6(a), 6(b), 7 and 12(b) of the Act and rules 45 and 50(a)(5) thereunder.

During the period from January 1, 1991 through December 31, 1993, AEP, Appalachian, Columbus, Indiana, Kentucky and Ohio propose to issue short-term notes to banks and to issue and sell commercial paper to dealers in commercial paper ("Commercial Paper") in aggregate principal amounts not to exceed \$100 million, \$200 million, \$200 million, \$200 million, \$100 million and \$200 million, respectively, outstanding at any one time. Generating, Kanawha, Kingsport, Michigan and Wheeling propose to issue short-term notes to banks in aggregate principal amounts not to exceed \$60 million, \$10 million, \$15 million, \$15 million and \$15 million, respectively, outstanding at any one time (all short-term notes proposed to be issued herein are hereinafter collectively referred to as "Notes"). AEP, Appalachian, Columbus, Indiana, Kentucky and Ohio request that the proposed issuance and sale of Commercial Paper be excepted from the competitive bidding requirements of rule 50 pursuant to rule 50(a)(5).

Notes to be issued to banks will mature in not more than 270 days after

the date of issuance or renewal, provided that no such Notes shall mature later than June 30, 1994. The Notes will be sold under various lines of credit with different terms. The total annual cost of borrowings under all such bank lines is estimated to be not greater than the effective rate for borrowings bearing interest at the prime commercial rate with compensating balances of up to 10% of the line of credit. The maximum effective annual interest cost will not exceed 125% of the prime commercial rate in effect from time-to-time.

The Commercial Paper will be in the form of promissory notes in denominations of not less than \$50,000, and of varying maturities, with no maturity more than 270 days after the date of issue. The Commercial Paper will not be prepayable prior to maturity and will be sold directly to a dealer at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity.

In addition, AEP requests authorization from January 1, 1991 through December 31, 1993 to make cash capital contributions from time-to-time to provide equity capital of up to \$40 million for Columbus, \$10 million for Kentucky and up to \$3 million each to Kingsport, Michigan and Wheeling.

The proceeds of the short-term debt will be used to pay the general obligations of the companies, including expenditures incurred in various construction projects and for other corporate purposes.

American Electric Power Co., Inc. (70-7777)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, and its service company subsidiary, American Electric Power Service Corporation ("Service"), 1 Riverside Plaza, Columbus, Ohio 43215, have filed a declaration under section 12(b) of the Act and Rule 45 thereunder.

The American Electric Power Company System Retirement Plan provides pensions for employees of associates of American, including Service. Service proposes to adopt an Excess Benefits Plan ("Excess Benefits Plan") and has entered into certain deferred compensation and employment agreements under which certain unfunded employee benefits are payable. Service anticipates adopting similar additional employee benefits in the future. In order to avoid constructive receipt of income for federal income tax

purposes, such plans and agreements are not and will not be funded. For the purpose of providing greater assurance of payment of these unfunded benefits to the beneficiaries, AEP proposes to guarantee Service's obligation to pay any benefits under the Excess Benefits Plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-26458 Filed 11-7-90; 8:45 am]

BILLING CODE 9010-01-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Proposed New Routine Uses

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed new routine uses for TVA-12, "Travel History Records—TVA."

SUMMARY: This publication gives notice, as required by the Privacy Act, of TVA's intention to establish new routine uses for the system of records entitled TVA-12, "Travel History Records—TVA." Details of the proposed new routine uses are described below. The full text of TVA-12 appears at 55 FR 34826, August 24, 1990.

DATES: Comments must be received by December 10, 1990.

ADDRESSES: Comments should be sent to Ronald E. Brewer, Privacy Act Officer, Tennessee Valley Authority, Edney Building 4W 06B, Chattanooga, Tennessee 37402-2801.

FOR FURTHER INFORMATION CONTACT: Ronald E. Brewer, 615-751-2520.

TVA-12

SYSTEM NAME

Travel History Records—TVA.

CATEGORIES OF RECORDS IN THE SYSTEM

Travel advance requests, travel expense vouchers and supporting documentation, travel charge card program records and reports, and travel orders. Records supporting relocation expense claims also include Government Bills of Lading, real estate sales agreements and settlements, Federal Truth-In-Lending disclosure statements, lease agreements, receipts for loss of rental deposit, and relocation income tax allowance documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

5 U.S.C. 5701-5709, and related Federal travel regulations; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To TVA contractors and subcontractors engaged at TVA's direction who are providing support services to TVA's travel charge card program.

Louis S. Grande,

Vice President, Information Services.

[FR Doc. 90-28430 Filed 11-07-90; 8:45 am]

BILLING CODE 8120-02-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Flying Boat, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 90-11-1, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Flying Boat, Inc., is fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 19, 1990.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-2337.

Dated: November 2, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-26365 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-82-M

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Greater Rockford Airport, Rockford, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Greater Rockford Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Greater Rockford Airport Authority. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Greater Rockford Airport were in compliance with applicable requirements effective March 23, 1990. The proposed noise compatibility program will be approved or disapproved on or before April 24, 1991.

EFFECTIVE DATE: The effective date of the FAA's start of its review of the associated noise compatibility program is October 26, 1990. The public comment period ends December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL-611, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694-7538. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for the Greater Rockford Airport which will be approved or disapproved on or before April 24, 1991. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Greater Rockford Airport, effective on October

26, 1990. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 24, 1991.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, room 261, Des Plaines, Illinois 60018.

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, room 260, Des Plaines, Illinois 60018.

Greater Rockford Regional Airport, 2 Airport Circle, Rockford, Illinois 61109.

Division of Aeronautics, Illinois Department of Transportation, Capital Airport, Springfield, Illinois 62706.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Des Plaines, Illinois, October 26, 1990.

James H. Washington,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 90-26391 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-873]

Lykes Bros. Steamship Co., Inc.; Application for a Waiver To Permit Certain Foreign-Flag Operations

By application dated October 31, 1990, Lykes Bros. Steamship Co., Inc. (Lykes), requests a waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act). Without a waiver, the Act prevents the ownership or chartering of foreign flag vessels by contractors receiving operating-differential subsidy (ODS). Lykes seeks a waiver pursuant to § 804(b) for the duration of its Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB-451, due to special circumstances and good cause.

Granting of the waiver will permit Lykes to replace existing U.S.-flag subsidized vessels which are nearing the end of their subsidizable lives and to seize the opportunities for growth and diversification available to Lykes in light of current economic and defense realities. Should the waiver requested be granted, Lykes would contemplate operating up to ten multi-purpose, self-sustaining foreign-flag vessels in various U.S. trades to Africa, Australasia, the Middle East and South Asia, and South America.

Lykes contemplates the purchase or charter of six vessels in 1991 and four vessels in 1992. Lykes would not object to a conditional approval requiring Lykes to transfer vessels purchased under this application to U.S. flag subsidized service in the event that ODS Reform Legislation, essentially in the form of S. 2773, were to pass in 1991 and the vessels purchased by Lykes were found to be eligible for subsidy payments and the carriage of preference cargoes.

According to Lykes, if reform legislation were to pass in Calendar Year 1991 as provided for above, the 1992 authorities would lapse. Existing authorities approved under this application would otherwise be unaffected by passage of legislation.

Lykes claims that any vessels purchased by Lykes would be operated under the flag of a country which qualifies under the Maritime Administration's definition of Effective U.S. Control and Lykes will use its reasonable best efforts to charter vessels under the flag of such countries.

Lykes maintains that it has endeavored for many years, without success, to find opportunities to build economically viable, subsidy eligible vessels in the United States.

Furthermore, Lykes has actively pursued the acquisition of existing U.S.-flag, U.S.-built vessels to fulfill its operational requirements. While certain U.S.-built vessels have been acquired in recent years it appears that under current circumstances no such vessels are or will be available to satisfy Lykes' requirements.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on 11/21/90. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies))

By Order of the Maritime Administrator.

Dated: November 5, 1990.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 90-28436 Filed 11-7-90; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Advisory Committee for the Preservation of the Treasury Building; Meeting

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10 of Public Law 92-463, this notice announces the date of the next meeting and the agenda for consideration by the Advisory Committee for the Preservation of the Treasury Building.

DATES: The next meeting of the Advisory Committee for the Preservation of the Treasury Building is set for November 19, 1990 at 2 p.m. in room 4125 of the Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC.

SUPPLEMENTARY INFORMATION: Agenda items for the November 19, 1990 meeting of the Advisory Committee for the Preservation of the Treasury Building will include:

1. Welcome
2. Overview of Secretary Salmon P. Chase Suite restoration
3. Overview of President Andrew Johnson Suite restoration
4. Update and review of fundraising goals

PUBLIC PARTICIPATION: The meeting is open to the public. Owing to security procedures in place at the Treasury Building and limited conference space, it is necessary for anyone planning to attend the meeting to call in advance in order to be admitted to the building. Persons other than advisory committee members who plan to attend should contact Debbie Miller at 202-566-8409 no later than November 16, 1990 to be admitted to the meeting.

If you would like to have the committee consider a written statement, please call 202-566-8409 or write Debbie Miller, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Dated: November 1, 1990.

Linda M. Combs,

Assistant Secretary (Management).

[FR Doc. 90-26363 Filed 11-7-90; 8:45 am]

BILLING CODE 4810-25

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held November 14, 1990 in room 600, 301 4th Street SW., Washington, DC from 10:30 a.m. to 12 p.m.

The Commission will meet with Ms. Paula Dobriansky, Associate Director, Bureau of Programs, Mr. Greg Guroff, Chairman, Director's Task Force for Soviet Affairs and Mr. Rick Ruth, Executive Assistant to USIA Director Gelb and Vice Chairman, Director's Task Force for Soviet Affairs, and Ms. Gail Becker, Chief, Development and Production Division (Soviet Exhibits), for briefings and discussion of public diplomacy policy and programs.

Please call Gloria Kalamets, (202) 619-4468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: November 2, 1990.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 90-26376 Filed 11-7-90; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 217

Thursday, November 8, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, November 14, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Advisory Opinion:

1990-19—Gordon M. Strauss on behalf of the Suarez Corporation

1990-22—Lyn Utrecht on behalf of the Blue Cross and Blue Shield Association ("BCBSA")

Administrative Matters

DATE AND TIME: Wednesday, November 14, 1990, to convene after open meeting.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTRACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,
Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 90-26620 Filed 11-6-90; 3:16 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m. November 19, 1990.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the October 15, 1990, Board meeting.

2. Thrift Savings Plan activity report by the Executive Director.
3. Quarterly review of investment policy.
4. Executive compensation.

CONTRACT PESON FOR MORE

INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Date: November 5, 1990.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 90-26532 Filed 11-6-90; 1:41 pm]

BILLING CODE 6760-01-M

SECURITIES AND EXCHANGE COMMISSION Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities Exchange Commission will hold the following meeting during the week of November 5, 1990.

A closed meeting will be held on Tuesday, November 6, 1990, at 2:00 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 6, 1990, at 2:30 p.m., will be:

Formal orders of investigation.

Chapter 11 proceeding.

Consideration of *amicus* participation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272-3077.

Dated: November 5, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-26581 Filed 11-6-90; 1:42 pm]

BILLING CODE 8010-01-M

NATIONAL COUNCIL ON DISABILITY

Quarterly Meeting

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Council on Disability. This notice also describes the functions of the National Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (P.L. 94-409).

DATES:

November 26, 1990, 8:30 a.m. to 5:00 p.m.

November 27, 1990, 8:30 a.m. to 5:00 p.m.

November 28, 1990, 8:30 a.m. to 5:00 p.m.

LOCATION: Raddison Mark Plaza Hotel, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT:

National Council on Disability, 800 Independence Avenue, SW, Suite 814, Washington, D.C. 20591, (202) 267-3846, TDD: (202) 267-3232

The National Council on Disability is an independence federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95-602 in 1978), the National Council was initially an advisory board within the Department of Education. In 1984, however, the National Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Public Law 98-221).

The National Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting individuals with disabilities and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR). In addition, the National Council is mandated to provide guidance to the President's Committee on Employment of People With Disabilities.

The meeting of the National Council shall be open to the Public. The proposed agenda includes:

Report from Chairperson and Executive Committee

Update on NIDRR
Update on Prevention
Update on ADA
Committee Meetings/Committee Reports
Strategic planning
National Symposium: Writing Employment
Policies for Persons with Disabilities
Unfinished Business
New Business

Announcements
Adjournment

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, DC on November 5, 1990.

Dr. Harold W. Snider,
Deputy Executive Director.
[FR Doc. 90-26525 Filed 11-5-90; 5:14 pm]

BILLING CODE 6820-B5-M

Corrections

Federal Register

Vol. 55, No. 217

Thursday, November 8, 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.

COMMODITY FUTURES TRADING COMMISSION

Statutory Interpretation Concerning Certain Hybrid Instruments

Correction

In notice document 90-8321 beginning on page 13582 in the issue of Wednesday, April 11, 1990, make the following corrections:

1. On page 13586, in the 3rd column, in the 35th and 39th lines, "independent" should read "dependent".

2. On page 13587, in the first column, in the ninth line, "independent" should read "dependent".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 522

Employment of Learners

Correction

In rule document 90-25991 beginning on page 46466 in the issue of Friday, November 2, 1990, make the following corrections:

1. On page 46466, in the second column, in the 7th line "increase" should read "increases".

§ 522.24 [Corrected]

2. On page 46467, in the first column, in § 522.24(c), in the fourth line and in § 522.24(d), in the last line "and" should read "an".

§ 522.35 [Corrected]

3. On the same page, in the same column, in § 522.35(a), in the fourth line "and" should read "an".

§ 522.43 [Corrected]

4. On the same page, in the second column, in § 522.43(a)(4), in the

penultimate line "and" should read "an".

5. In § 522.43(a)(9), on the same page, in the third column, in the second line, "and" should read "an".

6. In § 522.43(d), on the same page, in the 19th line from the bottom of the paragraph "for" should read "forth".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 91, and 135

[Docket No. 25812; Amdt. Nos. 23-41, 91-220, 135-38]

RIN 2120-AC14

Small Airplane Airworthiness Review Program Amdt. No. 5

Correction

In rule document 90-25343 beginning on page 43306, in the issue of Friday, October 26, 1990, make the following corrections:

1. On page 43306, in the second column, in the 12th line, "CE-83-1" should read "CE-84-1".

2. On page 43307, in the first column, in the last paragraph, in the sixth line, "each" should read "such" and in the 11th line, "redue" should read "reduce".

3. On the same page, in the second column, in the third complete paragraph, in the third line, "and 15.1317, should read "and 25.1317".

4. On page 43308, in the first column, in the second complete paragraph, in the 10th line, "only" was misspelled, and in the 12th line, after "regulatory" insert "evaluation, this section also contains the regulatory".

5. In the next paragraph, in the first line "The" should read "This".

6. On the same page, in the second column, in the 11th and 14th lines "critically" should read "criticality".

§ 23.1309 [Corrected]

7. On page 43309, in the first column, in § 23.1309, paragraph (a)(2) should end with a period (.).

§ 23.1309 [Corrected]

8. On the same page, in the second column, in § 23.1309(b)(3), in the fourth line, "make" should read "take".

§ 23.1309 [Corrected]

9. On the same page, in the same column, in § 23.1309, paragraph (b)(4)(i), should end with a semicolon (;).

§ 23.1309 [Corrected]

10. On the same page, in the third column, in § 23.1309(d), in the first line, "determining" was misspelled.

§ 23.1311 [Corrected]

11. On page 43310, in the first column, in § 23.1311(b), in the second line, "§ 23.1301 (a)," should read "23.1303 (a)."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-199-AD; Amdt. 39-6781]

Airworthiness Directives; Airbus Industrie Model A320-231 Series Airplanes

Correction

In rule document 90-24780 beginning on page 42356, in the issue of Friday, October 19, 1990, make the following correction:

§ 39.13 [Corrected]

On page 42357, in the first column, in the eighth line from the bottom, "S999.0085/90," should read "ST/999.0085/90,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 553

[Docket No. 90-25; Notice 1]

RIN 2127-AD78

Reconsideration of Rules; Effect on Judicial Review

Correction

In proposed rule document 90-25755 beginning on page 45825 in the issue of Wednesday, October 31, 1990, in the third column, under **DATES**, in the 5th line "adopted" was misspelled, and in the last line, "November 30, 1990."

should read "30 days after publication of that rule in the Federal Register."

BILLING DE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

Advisory Commission on the Future Structure of Veterans Health Care; Meeting

Correction

In notice document 90-25526 appearing on page 43436 in the issue of

Monday, October 29, 1990, make the following correction:

On page 43436, in the second column, under the heading of the document, in the fifth and sixth lines, "December 11 and 21, 1990." should read "December 11 and 12, 1990."

BILLING CODE 1505-01-D

Section of text, possibly a title or introductory paragraph, located in the upper portion of the page.

Section of text, possibly a title or introductory paragraph, located in the middle portion of the page.

Section of text, possibly a title or introductory paragraph, located in the lower portion of the page.

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Section of text, possibly a title or introductory paragraph, located in the lower portion of the page.

Department of the Interior

Thursday,
November 8, 1990

Part II

Department of the Interior

Bureau of Indian Affairs

Receipt of Petition for Federal
Acknowledgment of Existence as Indian
Tribe; Notice

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Receipt of Petition for Federal
Acknowledgment of Existence as
Indian Tribe; Meherrin Indian Tribe**

October 22, 1990.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the

Meherrin Indian Tribe, c/o Patrick Riddick, P.O. Box 508, Winton, North Carolina 27986.

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on August 2, 1990, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the

same basis as other information in the Bureau of Indian Affairs' files. Such submissions will be provided to the petitioner upon receipt by the Bureau. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 2614-MIB, 1849 C Street NW., Washington, DC 20240, Phone: (202) 208-3592.

Patrick A. Hayes,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 90-26423 Filed 11-7-90; 8:45 am]

BILLING CODE 4310-02-M

Food and Drug Administration

Thursday
November 8, 1990

Part III

**Department of
Health and Human
Services**

Food and Drug Administration

**21 CFR Parts 312, 314, and 320
Retention of Bioavailability and
Bioequivalence Testing Samples; Final
Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312, 414, and 320

[Docket No. 89N-0367]

Retention of Bioavailability and Bioequivalence Testing Samples

AGENCY: Food and Drug Administration.

ACTION: Interim rule; opportunity for public comment.

SUMMARY: The Food and Drug Administration (FDA) is issuing interim regulations to amend its current bioavailability/bioequivalence regulations to require the retention for a specified period of reserve samples of the drug products used to conduct bioavailability or bioequivalence studies of drug products, and when specifically requested, to release the reserve samples to FDA. The requirement applies to manufacturers who conduct in-house bioavailability and bioequivalence testing and to testing facilities who conduct such testing under contract for a drug manufacturer. This action is intended to help ensure bioequivalence between generic drugs and their brand-name counterparts and to help the agency investigate more fully instances of possible fraud in bioavailability and bioequivalence testing. FDA is issuing these regulations as an interim rule with opportunity for public comment.

DATES: Interim rule effective November 8, 1990; comments by January 7, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION:**I. Background**

The approval and marketing of generic drug products have increased greatly since passage in 1984 of the Drug Price Competition and Patent Term Restoration Act. This new law facilitated the entry into the marketplace of generic versions of pioneer drugs first approved after 1962 whose patents had expired. This marked increase in the availability of generic drug products has led to controversy about equivalency between a generic

drug product and its brand-name counterpart.

Approval of generic drug products is based in part on a comparison of the in vivo bioavailability of the generic drug product with the brand-name drug product. The manufacturer of the generic drug product must demonstrate bioequivalence through studies in humans showing that its product's rate and extent of absorption do not differ from those of the brand-name product that was initially approved. If such a demonstration is made, the generic and brand-name drug products can be expected to have the same therapeutic effect when administered to patients under the conditions specified in the labeling. If the drug products do not present a known or potential bioequivalence problem, and there is sufficient clinical experience with the drug, bioequivalence may be demonstrated by meeting an appropriate in vitro test (i.e., dissolution). In still other cases, the bioequivalence of a drug product may be self-evident, such as in a drug product that is a solution, but not a suspension, for oral or intravenous administration.

FDA publishes annually, with monthly updates, a listing entitled Approved Drug Products with Therapeutic Equivalence Evaluations (the list) (also commonly referred to as the "Orange Book"). The list, which is publicly available, contains approved prescription drug products, and for those drug products that are available from more than one manufacturer, FDA's evaluation as to their therapeutic equivalence. FDA evaluates as therapeutically equivalent only those drug products that have the same active ingredients, dosage forms, and strengths, and that the agency has determined to be bioequivalent.

Because of the controversy about the comparability of generic drug products and their brand-name counterparts, FDA sponsored a public bioequivalence hearing from September 29 to October 1, 1986. This hearing provided a forum for all interested persons to express their views on the scientific principles and procedures the agency uses to make a finding of bioequivalence between immediate release solid oral dosage forms.

A major concern expressed at the bioequivalence hearing was whether the current adverse drug reaction reporting system is capable of detecting therapeutic failures of drug products. The agency established a Task Force to evaluate the recommendations made at the hearing. In a report released on February 29, 1988 (53 FR 6036), the Task Force identified significant issues raised

at the bioequivalence hearing and made recommendations for agency action. The Task Force report recommended that FDA improve its procedures to detect and evaluate reports of drug product therapeutic failures that could be indicative of product inequivalence.

In the Federal Register of July 10, 1989 (54 FR 28872), FDA proposed regulations implementing the statutory requirements contained in Title I of the Drug Price Competition and Patent Term Restoration Act of 1984. The proposal provides for the submission of ANDA's for generic versions of drug products. In that proposal, FDA proposed to revise its regulations concerning the reporting of therapeutic failures of drug products. The proposed revisions would clarify that all reports of therapeutic failure be submitted to FDA and that applicants report to FDA any significant increase in frequency of reports of therapeutic failure. The intent of this proposed revision was to facilitate the identification of possible therapeutic failures with both generic and brand-name drug products and to obtain evidence to confirm or refute reports of therapeutic inequivalence between generic drugs and their brand-name counterparts.

The agency reviews and evaluates documented reports of drug product therapeutic failure and other adverse drug reactions attributed to the substitution of one drug product for another when the two products have been rated therapeutically equivalent, including reports of no drug effect and reports of toxicity. As part of the agency's followup to reports of drug product therapeutic failure, FDA may repeat the bioavailability or bioequivalence testing or perform other appropriate analyses.

The agency also thoroughly investigates any situation where FDA has reason to believe fraud was involved in performing a bioavailability or bioequivalence study. Such fraud would include intentionally misrepresenting the identity of a sample of a proposed drug product provided to a testing facility for purposes of performing a bioavailability or bioequivalence study, and submission by the applicant to FDA of falsified data. For example, FDA has recently found that, in several instances, an applicant used disguised innovators' products rather than its own proposed product as the test products in certain bioequivalence studies.

To investigate more fully any potential problem with generic drugs or incidents of suspected fraud in performing a bioavailability or

bioequivalence study by the applicant or a contract testing facility, FDA may need to perform in its own laboratories assays or bioequivalence testing with samples of the proposed drug product and of the reference standard used in a bioavailability or bioequivalence study. Currently, an applicant seeking approval to market a drug product under a full new drug application or a generic version of a pioneer drug product under an abbreviated new drug application or an application described by section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(b)(2)) may perform the required bioavailability or bioequivalence testing in-house or may utilize extramural contract testing facilities. An extramural contract testing facility is referred to in the interim rule as a contract research organization because it falls within the definition of that term under 21 CFR 312.3(b). If the testing is performed under contract, the applicant provides the contract research organization with samples of the proposed drug product (test article) and of the reference standard. In either case, there is currently no requirement that the applicant or contract research organization retain reserve samples of the test article and the reference standard used in performing the bioavailability and bioequivalence testing. Thus, the samples may be discarded after the applicant has obtained approval of its full or abbreviated new drug application for the test product. If the agency needs to obtain samples of the test article and reference standard that were used in specific bioavailability or bioequivalence study to repeat the testing procedures or perform other analyses, there is no assurance that the samples will be available.

Bioequivalence and bioavailability data are a critical component of FDA's approval of new drug products, especially generic drug products. To provide adequate assurance that the bioequivalence and bioavailability results upon which FDA bases approval are reliable, FDA has concluded that samples of the tested products must be available for later analysis. Therefore, the agency is establishing a requirement that applicants and contract research organizations retain reserve samples of any test article and reference standard used in performing a bioavailability study submitted in support of the approval of a full new drug application or used in performing a bioequivalence study required for abbreviated new drug application approval or submitted in support of the approval of a 505(b)(2)

application, and release such samples to FDA upon request. This requirement would apply to bioequivalence and bioavailability studies involving new drugs and antibiotics for human use. This action is only one of several programs FDA is initiating to address the problem of fraud and misrepresentation in the drug approval process, an action that may be achieved within FDA's current constraints. The agency may institute additional measures or propose new requirements if necessary to strengthen the integrity of the drug approval process.

As described further below, FDA is issuing these regulations as an interim rule, effective immediately, with an opportunity for public comment.

II. Provisions of the Regulations

The agency concludes that it has authority pursuant, *inter alia*, to sections 505 and 701(a) of the act (21 U.S.C. 355 and 371(a)), to promulgate regulations to assure the reliability of bioequivalence and bioavailability testing intended to support approval of new drug applications, by requiring those who conduct the studies to retain reserve samples of the tested products and by amending the regulations specifying the grounds for refusing to approve applications and withdrawing approval of applications to include a refusal to permit an inspection or to submit a reserve sample when requested by FDA. Under section 701(a) of the act, the Commissioner has authority to promulgate regulations for the efficient enforcement of the act. In the past, the Commissioner has used this authority to promulgate good laboratory practice regulations (21 CFR part 58) under which laboratories conducting nonclinical studies intended to support research or marketing applications submitted to FDA are required to follow certain procedures and maintain records and test samples to ensure the reliability of the test results. These regulations were adopted to ensure that FDA could carry out its statutory obligation to evaluate the safety of the products for which marketing applications were submitted (see 41 FR 51206 and 51216; November 19, 1976). The Commissioner's authority under sections 701(a) and 505(i) of the act has also been used to issue regulations governing the conduct of clinical investigations of drugs (21 CFR part 312), which are intended, among other things, to ensure the validity and reliability of study results submitted to FDA in support of new drug applications. The Commissioner's authority to issue regulations governing the validity of data developed in clinical studies has been upheld by the Supreme

Court. *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). The Commissioner's authority to impose recordkeeping and reporting requirements on contract research organizations that carry out clinical studies has also been upheld. *Leo Winter v. Department of Health and Human Services*, 497 F. Supp. 429 (D.D.C. 1980). The agency has therefore concluded that it has sufficient authority under sections 505 and 701(a) of the act to promulgate regulations requiring the retention of bioavailability and bioequivalence reserve samples for the purpose of assuring the validity of study results submitted to the agency in support of new drug applications.

Bioequivalence and bioavailability studies may be conducted in vivo or in vitro. In vitro and animal in vivo bioequivalence and bioavailability studies are within the scope of the good laboratory practice regulations, and are in some cases already subject to a requirement that reserve samples of the test article be retained (21 CFR 58.105 and 58.195). With respect to in vitro studies and in vivo studies in animals, this rule will codify in 21 CFR part 320 specific requirements with respect to retention of reserve samples of test articles used in all bioequivalence and bioavailability studies, specify a different period of retention of reserve test samples than in 21 CFR part 58, and require the testing facility to release the reserve test samples to FDA on request. Any additional requirements applicable to such studies under 21 CFR part 58 will remain in effect.

FDA is establishing new §§ 320.32 and 320.63 in 21 CFR part 320, under subparts B and C, respectively, to require any applicant who performs in-house bioavailability or bioequivalence testing for new drug product approval or any testing facility that performs such bioavailability or bioequivalence testing under contract for an applicant to retain a reserve sample of each test article and reference standard that is representative of each sample of the test article and the reference standard provided by the applicant for use in the testing. Under the rule, the applicant or contract testing facility will retain a sufficient quantity of each reserve sample to permit FDA to perform five times all of the release tests required in the application or supplemental application. As noted above, FDA may need to repeat the bioavailability or bioequivalence testing or perform other appropriate analysis as part of the agency's followup to reports of drug product therapeutic failure. The reserve samples will be required to be retained for a period of at least 5 years

following the date on which a full or abbreviated new drug application or supplemental application is approved, or, if such application or supplemental application is not approved, at least 5 years following the date of completion of a bioavailability or bioequivalence study. The public is specifically invited to comment on whether FDA's retention period is appropriate. In addition, each reserve sample is required to be adequately identified so that the reserve sample can be positively identified as having come from the same sample as used in the specific bioavailability or bioequivalence study. Each reserve sample is also required to be stored under conditions that will maintain the product's integrity, identity, strength, quality, and purity.

Ordinarily, an FDA investigator will collect the reserve samples at the place of storage during a preapproval inspection of the applicant's facilities and of any contract research organization that conducts bioavailability or bioequivalence testing for the applicant. This will permit inspection by FDA of the storage conditions. In some instances, FDA may request delivery by other methods if a sample collection by agency personnel is impractical. At the time of such a request, FDA will ask the applicant or contract research organization to send reserve samples directly to a specified office in FDA (e.g., to the agency's district laboratory where the samples would be tested). To further deter fraudulent practices in bioavailability and bioequivalence testing, the agency intends to randomly sample reserve samples.

The agency notes that resource considerations may impose limits on the number of samples that the agency can collect and test. Therefore, if FDA has not collected or requested delivery of a reserve sample, the reserve sample must be retained for at least the 5-year period discussed above. Likewise, if FDA has not collected the entire reserve sample or if FDA has not requested delivery of an entire reserve sample, the remaining sample must be retained for the 5-year period.

Upon release of the reserve samples to FDA, the applicant or contract research organization shall provide a written assurance that the reserve samples came from the same samples as used in the specific bioavailability or bioequivalence study identified by the agency. The assurance shall be executed by an individual authorized to act for the applicant or contract research organization in releasing the reserve samples to FDA.

The agency is aware that a U.S. applicant may contract with a foreign testing facility to perform bioavailability or bioequivalence testing, or a foreign applicant may conduct its own studies or use a foreign testing facility. Reserve samples from this testing must also be available to FDA for analysis. Where FDA has reason to believe fraud was involved in performing a bioavailability or bioequivalence study, a foreign testing facility may be asked to consent to FDA inspection or to submit to FDA reserve samples of the products used in the study. The agency advises all applicants who utilize foreign testing facilities to conduct bioavailability and bioequivalence studies that may be submitted to FDA in support of the approval of an application or abbreviated application to consider inclusion in the contract agreement with the testing facility provisions regarding FDA inspection and submission of reserve samples. FDA solicits comment on appropriate measures to ensure agency access to samples of drugs tested in foreign testing facilities.

As noted above, the agency has additional authority under section 505(i) of the act to impose conditions upon the conduct of clinical investigations to assure the reliability of study results. With respect to bioequivalence and bioavailability studies in humans, this rule imposes the requirement that sponsors and contract research organizations retain reserve test samples as a condition for obtaining an investigational new drug application (IND) under part 312 or an exemption from the requirements of part 312. Section 312.57(c) of the rule requires a sponsor of an IND to retain reserve samples of products used in bioequivalence or bioavailability studies in accordance with new § 320.32. Section 320.31 currently exempts from the requirements of part 312 many bioequivalence and bioavailability studies. This rule adds as a condition for such an exemption that the sponsor, or any contract research organization to whom the sponsor delegates responsibility to conduct a bioequivalence or bioavailability study, retain reserve samples of the test article and reference standard and release them upon request to FDA in accordance with new § 320.32.

In light of recent experience, the agency has concluded that adequate information concerning the conduct of a required bioequivalence and bioavailability study, including inspection of test samples and related records, may be essential to assess the validity and reliability of the results of

that study. In many cases, access to test samples and the records related to the conduct of the bioequivalence study may provide the only evidence linking a marketed product to the tested product. Consequently, when an applicant or testing facility fails to retain samples or to release those samples to FDA, or refuses to permit inspection of the facilities and records related to the bioequivalence or bioavailability study, FDA may have insufficient information to conclude that the study supporting the application reliably demonstrates bioequivalence or bioavailability.

For a not-yet-approved drug, this lack of reliable information of bioequivalence or bioavailability constitutes a basis to refuse to approve the drug on the grounds that the application does not contain sufficient information to show bioequivalence under section 505(j)(3)(F) of the act, or that the application lacks sufficient information to demonstrate safety and effectiveness under sections 505 (d)(2) and (d)(3) of the act. For an approved drug, a newly discovered question about the reliability of the bioequivalence or bioavailability information in the application constitutes a basis to withdraw approval of the application on the grounds that there is a lack of substantial evidence of effectiveness and that the drug is not shown to be safe, under section 505 (e)(2) and (e)(3) of the act.

Therefore, this rule at § 314.125(b)(17) adds as a reason for refusing to approve an application, and at § 314.150(b)(9) as a circumstance under which the agency has discretion to withdraw approval of an application, refusal to permit an inspection of the facilities or records relevant to a bioequivalence or bioavailability study contained in the application or to submit reserve samples when requested by the agency.

The agency has concluded that the addition of these grounds for disapproving or withdrawing approval of an application is necessary for the enforcement of the agency's responsibility to ensure that drugs prescribed and administered to patients are safe and effective. As noted, experience has shown that inspection of test samples and related records is sometimes essential to carry out the agency's obligation to determine that a proposed or marketed product has in fact undergone the testing required by statute for approval. Moreover, FDA has been unable to identify any legitimate reason for a refusal to permit access to test samples or related records. These provisions recognize that a refusal to permit access or inspection

compromises the agency's ability to assure the public of the safety and effectiveness of the product. The provisions are intended to prevent applicants from refusing access and at the same time asserting the right to market drug products whose safety and effectiveness are in question.

Other offices and agencies such as the General Accounting Office and the Office of the Inspector General may have independent access to certain records of FDA-regulated entities. These interim regulations govern only FDA's authority to carry out its responsibilities under the act and do not limit the authority of other agencies, pursuant to their own authorizing statutes, to obtain samples retained under these regulations.

The agency also is considering whether additional requirements are necessary to ensure that the integrity of the reserve samples is not compromised during the retention period. Therefore, FDA is soliciting comments on the following questions:

1. Should the reserve samples be required to be stored in an area where access is controlled and that is separate from the testing area?

2. Should the testing facility be required to appoint a sample custodian who is responsible for proper storage of the reserve samples and release for analysis when requested by FDA?

3. How should the reserve samples be packaged during the retention period to ensure that sample integrity is not compromised? For example, should the package be required to be sealed in some manner to prevent tampering?

FDA will carefully consider comments received on these issues before reaching any final decision on whether to impose further requirements with respect to maintaining reserve sample integrity.

III. Effective Date and Opportunity for Public Comment

For the reasons described below, FDA is issuing these regulations as an interim rule, with an opportunity for public comment.

The requirements established in this interim rule are intended to make available to FDA reserve samples of tested products for analysis to ensure that the bioavailability and bioequivalence results upon which FDA bases approval are reliable. Bioequivalence and bioavailability are a critical component of FDA's approval of new drug products, especially generic drug products. Passage of the Drug Price Competition and Patent Term Restoration Act of 1984 (the Act) resulted in an acceleration of the number of generic drug reviews and the

time periods for evaluating and approving new generic drugs. This Act also increased the market availability of important and more affordable generic drugs. Because of fraud and submission by applicants to FDA of falsified data during the past year, the integrity of FDA's generic drug approval process and the safety and effectiveness of generic drugs have been questioned. It is clearly in the public interest to move quickly to restore and maintain the integrity of the generic drug approval system and to restore the public's confidence in generic drugs. The purpose of these regulations is to ensure that samples of tested drugs are preserved for future inspection by FDA. If FDA proposed these requirements and offered an opportunity for comment before the requirements went into effect, applicants would be given an opportunity to destroy any existing samples that might reveal fraud or wrongdoing. Because advance notice of these requirements could thereby defeat the purpose of the regulations and because the public interest demands prompt reform to ensure the integrity of the generic drug approval system, the agency finds that it would be contrary to the public interest to delay implementation of these requirements pending notice and an opportunity for comment. FDA believes, however, that it should invite and consider public comment on the requirements, in accordance with its administrative practices and procedures regulations (21 CFR 10.40).

Interested persons may, on or before January 7, 1991, submit to the Dockets Management Branch (address above) written comments regarding this interim rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IV. Economic Impact

FDA has examined the regulatory impact and regulatory flexibility implications of the interim rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354). This rule would impact most on contract research organizations that, prior to the generic drug investigation, did not retain reserve samples. We believe, however, that many of these organizations now are retaining reserve samples. The rule would also have some impact on foreign applicants who conduct in-house testing and foreign contract research organizations. The

magnitude of the economic impact for manufacturers and contract research organizations (foreign and domestic) resulting from this rule would depend on the number of bioavailability and bioequivalence studies conducted for applicants who are seeking marketing approval for drug products. This parameter cannot be reliably calculated to permit a quantification of the true economic impact. The agency, however, concludes that additional costs resulting from this rule will be negligible, and to the limited extent that they may occur, will likely be more than offset by the societal benefits of this rule, i.e., the added assurance that FDA's drug approval process functions effectively to ensure that only safe and effective drug products enter the marketplace. The agency has determined that this interim rule is not a major rule as defined in Executive Order 12291 and certifies that the rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 314

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

21 CFR Part 320

Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 312, 314, and 320 are amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

1. The authority citation for 21 CFR part 312 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353,

355, 356, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

2. Section 312.57 is amended by adding new paragraph (c) to read as follows:

§ 312.57 Recordkeeping and record retention.

(c) A sponsor shall retain reserve samples of any test article and reference standard used in a bioequivalence or bioavailability study and release the reserve samples to FDA upon request, in accordance with, and for the period specified in, § 320.32 of this chapter.

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

3. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 376).

4. Section 314.125 is amended by adding paragraph (b)(17) to read as follows:

§ 314.125 Refusal to approve an application.

(b) * * *
(17) The applicant or contract research organization that conducted a bioavailability or bioequivalence study contained in the application refuses to permit an inspection of facilities or records relevant to the study by a properly authorized officer or employee of the Department of Health and Human Services or refuses to submit reserve samples of the drug products used in the study when requested by FDA.

5. Section 314.150 is amended by adding paragraph (b)(9) to read as follows:

§ 314.150 Withdrawal of approval of an application.

(b) * * *
(9) That the applicant or contract research organization that conducted a bioavailability or bioequivalence study contained in the application refuses to permit an inspection of facilities or records relevant to the study by a properly authorized officer or employee of the Department of Health and Human Services or refuses to submit reserve samples of the drug products used in the study when requested by FDA.

FART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

6. The authority citation for 21 CFR part 320 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, 357, 371).

7. Section 320.31 is amended by revising the introductory text of paragraph (a), paragraphs (c) and (d), and by removing paragraphs (e) and (f) to read as follows:

§ 320.31 Applicability of requirements regarding an "Investigational New Drug Application."

(a) Any person planning to conduct an in vivo bioavailability study in humans shall submit an "Investigational New Drug Application" (IND) if either:

(c) The provisions of parts 50, 56, and 312 of this chapter are applicable to any bioavailability study conducted under an IND.

(d) A bioavailability study in humans other than one described in paragraphs (a) through (c) of this section is exempt from the requirements of part 312 of this chapter if the following conditions are satisfied:

(1) The person conducting the study, including any contract research organization, shall retain reserve samples of any test article and reference standard used in the study and release the reserve samples to FDA upon request, in accordance with, and for the period specified in, § 320.32, and;

(2) An in vivo bioavailability study in humans shall be conducted in compliance with the requirements for institutional review set forth in part 56 of this chapter, and informed consent set forth in part 50 of this chapter.

8. New § 320.32 is added to Subpart B to read as follows:

§ 320.32 Retention of bioavailability samples.

(a) The applicant of an application or supplemental application submitted under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or, if bioavailability testing was performed under contract, the contract research organization, shall retain an appropriately identified reserve sample of the drug product for which the applicant is seeking approval (test article) and of the reference standard used to perform an in vivo bioavailability study required for approval of the application or supplemental application that is representative of each sample of the test article and reference standard provided by the applicant for the testing. Each

reserve sample shall consist of a sufficient quantity to permit FDA to perform five times all of the release tests required in the application or supplemental application.

(b) Each reserve sample shall be adequately identified so that the reserve sample can be positively identified as having come from the same sample as used in the specific bioavailability study.

(c) Each reserve sample shall be scored under conditions that will maintain the sample's integrity, identify, strength, quality, and purity and shall be retained for a period of at least 5 years following the date on which the application or supplemental application is approved, or, if such application or supplemental application is not approved, at least 5 years following the date of completion of the bioavailability study in which the sample from which the reserve sample was obtained was used.

(d) Authorized FDA personnel will ordinarily collect reserve samples directly from the applicant or contract research organization at the storage site during a preapproval inspection. If authorized FDA personnel are unable to collect samples, FDA may require the applicant or contract research organization to submit the reserve samples to the place identified in the agency's request. If FDA has not collected or requested delivery of a reserve sample, or if FDA has not collected or requested delivery of any portion of a reserve sample, the applicant or contract research organization shall retain the sample or remaining sample for the 5-year period specified in paragraph (c) of this section.

(e) Upon release of the reserve samples to FDA, the applicant or contract research organization shall provide a written assurance that the reserve samples came from the same samples as used in the specific bioavailability or bioequivalence study identified by the agency. The assurance shall be executed by an individual authorized to act for the applicant or contract research organization in releasing the reserve samples to FDA.

9. New § 320.63 is added to Subpart C to read as follows:

§ 320.63 Retention of bioequivalence samples.

The applicant of a full or abbreviated application or a supplemental application submitted under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or, if bioequivalence testing was performed under contract, the contract research organization shall

retain reserve samples of any test article and reference standard used in conducting an in vivo or in vitro bioequivalence study required for approval of, or submitted in support of the approval of, the full or abbreviated application or supplemental application. The applicant or contract research organization shall retain the reserve samples in accordance with, and for the period specified in, § 320.32 and shall release the reserve samples to FDA upon request in accordance with § 320.32.

James S. Benson,

Acting Commissioner of Food and Drugs.

Dated: July 2, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 90-26484 Filed 11-7-90; 8:45 am]

BILLING CODE 4160-01-M

1875

The first part of the year was spent in the
 study of the history of the country and
 the progress of the various branches of
 science and literature. The second part
 was devoted to the study of the
 natural history of the country and the
 progress of the various branches of
 science and literature. The third part
 was devoted to the study of the
 natural history of the country and the
 progress of the various branches of
 science and literature. The fourth part
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federal register

Thursday
November 8, 1990

Part IV

Department of Defense

Department of the Army

32 CFR Part 589

**Compliance With Court Orders by
Personnel and Command Sponsored
Family Members; Final Rule**

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 589

Compliance With Court Orders by Personnel and Command Sponsored Family Members

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces a new policy, which had not previously been published in the Federal Register, on compliance with court orders by personnel and command sponsored family members. This new policy is required to implement Public Law 100.45, National Defense Authorization Act, and title 10, U.S.C. section 814, and Department of Defense Directive 5525.9, Compliance of DOD Members, Employees, and Family Members Outside the United States With Court Orders. This part is Army implementation of DOD 5525.9, which requires cooperation with courts and Federal, state and local officials in enforcing court orders pertaining to military personnel and DOD employees serving outside the United States as well as their command sponsored family members.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Office of the Deputy Chief of Staff for Personnel, ATTN: DAPE-MPE-DR, Mr. Librado Rivas, Washington, DC 20310-0300, telephone: (703) 697-1012/2403.

SUPPLEMENTARY INFORMATION: This part will appear as chapter 11 of the consolidated Army Regulation 614-XX. AR 614-XX prescribes policies pertaining to permanent change of station (PCS) moves, overseas tour lengths, unit deployment, volunteers, deletions and deferment from overseas assignment instructions, curtailments, extensions, consecutive overseas tours, eligibility for overseas service, stabilization of tour lengths for military personnel, and compliance with Court Orders. This regulation supersedes AR 614-5, Stabilization of Tours; AR 614-6, Permanent Change of Station Policy; and AR 614-30, Overseas Service.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than \$100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 589

Army, court, and personnel.

Accordingly, 32 CFR part 589 is added to read as follows:

PART 589—COMPLIANCE WITH COURT ORDERS BY PERSONNEL AND COMMAND SPONSORED FAMILY MEMBERS

Sec.

- 589.1 Definitions.
- 589.2 Policy.
- 589.3 Applicability.
- 589.4 General.

Authority: Public Law 100.456 and 10 U.S.C., 814.

§ 589.1 Definitions.

(a) *Court.* Any judicial body in the United States with jurisdiction to impose criminal sanctions of a DoD member, employee, or family member.

(b) *DoD Employee.* A civilian employed by a DoD Component, including an individual paid from nonappropriated funds, who is a citizen or national of the United States.

(c) *DoD Member.* An individual who is a member of the Armed Forces on active duty and is under the jurisdiction of the Secretary of a Military Department, regardless whether that individual is assigned to duty outside that Military Department.

§ 589.2 Policy.

(a) This part (chapter) implements procedural guidance in Department of Defense Directive 5525.9, "Compliance of DoD members, employees, and family members outside the United States with court orders." This guidance applies to all soldiers and Department of the Army and Nonappropriated Fund (NAF) civilian employees serving outside the United States, as well as to their command sponsored family members.

(b) DODD 5525.9 requires DoD cooperation with courts and federal, state, and local officials in enforcing court orders pertaining to military

personnel and DoD employees serving outside the United States, as well as their command sponsored family members, who—

- (1) Have been charged with or convicted of any felony.
- (2) Have been held in contempt of a court for failure to obey a court order, or
- (3) Have been ordered to show cause why they should not be held in contempt for failing to obey a court order.

This guidance does not affect the authority of Army officials to cooperate with courts and federal, state, or local officials, such as is currently described in Army Regulation 27-3, Legal Services, Army Regulation 190-9, Military Absentee and Deserter Apprehension Program, and Army Regulation 608-99, Family Support, Child Custody, and Paternity, in enforcing orders against soldiers and employees in matters not discussed below. The guidance below does not authorize Army personnel to serve or attempt to serve process from U.S. courts on military or DoD employees overseas. (See also AR 27-40, Litigation, paragraph 1-7.)

§ 589.3 Applicability.

This section applies to the following personnel:

(a) Army personnel on active duty or inactive duty for training in overseas areas. This includes the National Guard when federalized.

(b) Department of the Army civilian employees, including Nonappropriated Fund Instrumentalities (NAFI) employees.

(c) Command sponsored family members of Army personnel or Department of the Army civilian employees.

§ 589.4 General.

(a) Courts of federal, state, or local officials desiring to initiate a request for assistance pursuant to this section must forward the request, with appropriate court orders, as follows:

- (1) For soldiers and members of their family, to the soldier's unit commander of Office, Deputy Chief of Staff for Personnel (ODCSPER), ATTN: DAPE-MP (703-695-2497); and
- (2) For Department of the Army civilian employees and members of their family, to the servicing civilian personnel office for the employee's command, or ODCSPER, ATTN: DAPE-CPL (703-697-4429).
- (3) Nonappropriated Fund (NAF) employees and members of their family, to the servicing civilian personnel office for the employee's command, or ODCSPER, ATTN: CFSC-HR-P (703-325-9461).

(b) Upon receipt of such requests for assistance concerning courts orders described in paragraph (a) of this section and AR 190-9, commanders/supervisors, with the advice of their servicing Judge Advocates and legal advisors, will take action as appropriate as outlined below:

(1) Determine whether the request is based on an order issued by a court of competent jurisdiction. An "order issued by a court of competent jurisdiction" is an order that appears valid on its face and is signed by a judge.

(2) If the order appears valid on its face and is signed by a judge, attempt to resolve the matter in a timely manner to the satisfaction of the court without the return of, or other action affecting, the soldier, Army civilian employee, or family member. Due regard should be given to mission requirements, applicable international agreements, and ongoing DoD investigations or courts-martial.

(3) If the matter cannot be resolved, afford the subject of the court order a reasonable opportunity to provide evidence of legal efforts to resist the court order or otherwise show legitimate cause for noncompliance. If it is determined that efforts to provide such evidence or to show cause for noncompliance warrant a delay in taking further action, a request for delay, not to exceed 90 days, must be sought from the Secretary of the Army. Such requests, fully setting forth the reasons justifying delay and the estimated delay necessary, will be forwarded within 30 days directly to ODCSPER, ATTN: DAPE-MP (for military personnel and their family members or ODCSPER, ATTN: DAPE-CPL (for Army civilian employees and their family members) or ODCSPER, ATTN: CFSC-HR-P (for NAF employees and their family members). These offices must promptly forward the request for delay to the Assistant Secretary of Army (Manpower and Reserve Affairs) ASA(M&RA), for approval. If a delay is approved, ASA(M&RA) will promptly notify the Assistant Secretary of Defense (Force Management and Personnel) ASD (FM&P), copy furnished General Counsel, Department of Defense (GC, DOD).

(4) If one, the matter cannot be resolved, and two, it appears that noncompliance with the request to return the individual, or to take other action involving a family member or DA or NAF employee is warranted by all the facts and circumstances of the particular case, and three, the court order does not pertain to any felony or

to a contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the custody of a parent or another person awarded custody by court order, the matter will be forwarded, for soldiers or their family members to the soldier's general court-martial convening authority or, for army civilian or NAF employees or their family members, to the fairest general officer or civilian equivalent in the employee's chain of command, for a determination as to whether the request should be complied with. In those cases in which it is determined that noncompliance with the request is warranted, copies of that determination will be forwarded directly to the appropriate office noted in § 589.4(b)(3) and to HQDA, DAJA-CL, pursuant to Chapter 6, AR 190-9.

(5) If one, the matter cannot be resolved, and two, it appears that noncompliance with the request to return the individual is warranted by all the facts and circumstances of the particular case, and three, the court order pertains to any felony or to a contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of a court or the custody of a parent or another person awarded custody by court order, a request for exception to policy will be forwarded directly to the appropriate office listed in § 589.4(b)(3) with an information copy to HQDA, DAJA-AL, within 30 days unless a delay has been approved by ASA(M&RA). The offices listed in § 589.4(b)(3) must forward the request for an exception promptly through ASA(M&RA) to ASD(FM&P) for decision, copy furnished to General Counsel, DOD.

(c) If requests for military personnel cannot be resolved without return of the individual, and denial of the request as outlined in this section is not warranted, the individual will be ordered pursuant to section 721, Public Law 100-456 and DODD 5525.9 to the appropriate U.S. part of entry at government expense, provided the federal, state, or local authority requesting the individual provides travel expenses including a prepaid transportation ticket or equivalent and an escort, if appropriate, from the port of entry to the appropriate jurisdiction. Absent unusual circumstances, requesting parties will be notified at least 10 days before the individual is due to return. Guidance concerning use of military law enforcement personnel to effect the return of military personnel to U.S. civil authorities may be obtained from the U.S. Army Military Policy Operations Agency (MOMP-O).

(d) In accordance with DoD policy, military personnel traveling pursuant to a contempt order or show cause order, as described in this part and in AR 614-XX is entitled to full transportation and per diem allowances. However, this does not alleviate the requesting parties' requirement to pay travel expenses from the appropriate U.S. port of entry. Any travel expenses received from the requesting party must be deducted from the soldier's entitlement to travel and per diem allowances. The soldier will be returned in a temporary duty (TDY) status, unless a permanent change of station (PCS) is appropriate.

(e) If requests for Army civilian and NAF employees cannot be resolved and denial of the request as outlined in this section is not warranted, the individual will be strongly encouraged to comply with the court order. Failure to comply with such orders by an Army civilian or NAF employee, if all criteria are met, is a basis for withdrawal of command sponsorship and adverse action against the employee, to include removal from federal service. Proposals to take disciplinary/adverse actions must be coordinated with the appropriate civilian personnel office (CPO) and the servicing Judge Advocate or legal advisor and forwarded for approval to the first general officer or civilian equivalent in the employee's chain of command. A copy of the final action taken on the case must be forwarded to HQDA, ATTN: DAPE-CPL, or ATTL: CFSC-HR-P (for NAF employees).

(f) If the request is based upon a valid court order pertaining to a family member of a soldier or Army civilian or NAF employee, the family member will be strongly encouraged to comply with the court order if denial of the request as outlined in this part is not warranted, unless the family member can show legitimate cause for non-compliance with the order, considering all of the facts and circumstances, failure to comply may be basis for withdrawal of command sponsorship.

(g) Failure of the requesting party to provide travel expenses for military personnel, Army civilian or NAF employees, or their command sponsored family members as specified in this section, is grounds to be recommended denial of the request for assistance. The request must still be forwarded through DAPE-MP (for military personnel and their family members) or DAPE-CPL (for Army civilian employees and their

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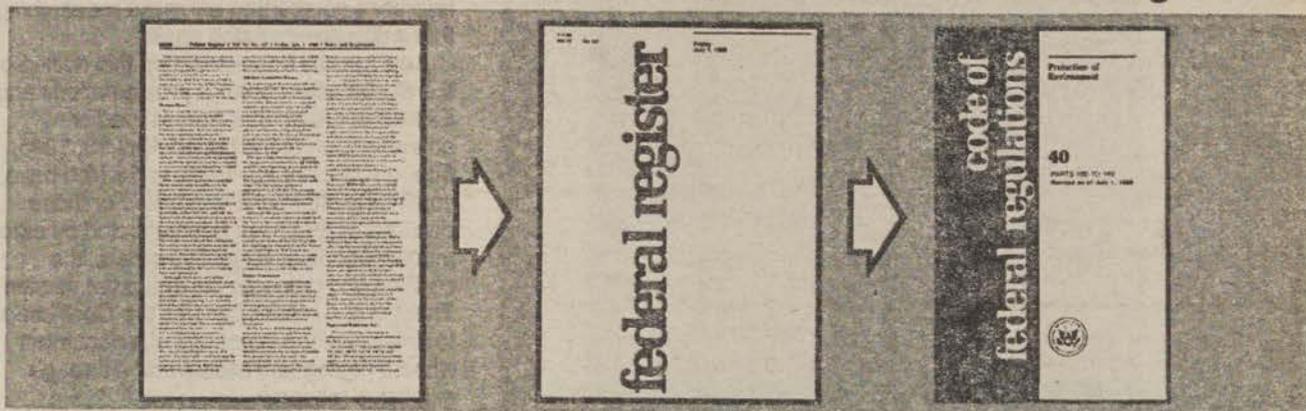
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