11-27-90
Vol. 55 No. 228

federal register

Tuesday
November 27, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

11-27-90
Vol. 55 No. 228
Pages 49245-49388

federal register

Tuesday
November 27, 1990

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 714]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 23 through November 29, 1990. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 714 (7 CFR part 907) is effective for the period from November 23 through November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

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

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

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

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,070 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 89 percent of the total production in 1989-90. District 2 is located in the southern coastal area of California and represented 9 percent of 1989-90 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 1 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's estimate of 1990-91 production is 79,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 89,000 cars during the 1989-90 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee estimates that about 65 percent of the 1990-91 crop of 79,350 cars will be utilized in fresh domestic channels (51,250 cars), with the remainder being exported fresh (12 percent), processed (21 percent), or designated for other uses (2 percent). This compares with the 1989-90 total of 54,000 cars shipped to fresh domestic markets, about 61 percent of that year's crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions.

Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

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

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

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance producer revenue. Prices for navel oranges tend to be relatively

inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1990–91 season on July 10, 1990. The Committee revised its marketing policy at district meetings as follows: (1) Districts 1 and 4 on September 25, 1990, in Visalia, California; (2) District 3 on October 2, 1990, in Tempe, Arizona; and (3) District 2 on October 9, 1990, in Redlands California. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Pello. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on November 20, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with nine members voting in favor, one opposing, and one abstaining, that 1,500,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions, and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. The recommended amount of 1,500,000 cartons is the same as that specified for all districts in the Committee's October 9 revised shipping schedule. Of the 1,500,000 cartons, 1,420,000 cartons are allotted for District 1 and 80,000 cartons are allotted for District 3. Handlers in Districts 2 and 4 are not regulated as they have not yet begun to ship.

During the week ending on November 15, 1990, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,418,000 cartons compared with 1,540,000 cartons shipped during the week ending on November 16, 1989. Export shipments totaled 147,000 cartons compared with 184,000 cartons shipped during the week ending on November 16, 1989. Processing and other uses accounted for 263,000 cartons compared with 381,000 cartons shipped during the week ending on November 16, 1989.

Fresh domestic shipments to date this season total 2,621,000 cartons compared with 3,883,000 cartons shipped by this time last season. Export shipments total 198,000 cartons compared with 566,000 cartons shipped by this time last season. Processing and other use shipments total 486,000 cartons compared with 1,078,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on November 15, 1990, was $10.20 per carton based on a reported sales volume of 1,104,000 cartons compared with last week's average of $10.20 per carton on a reported sales volume of 436,000 cartons. The season average f.o.b. shipping point price to date is $10.20 per carton. The average f.o.b. shipping point prices for the week ending on November 16, 1989, was $8.60 per carton; the season average f.o.b. shipping point price at this time last year was $9.17.

The Department's Market News Service reported that, as of November 20, demand for California-Arizona navel oranges was "good" for first grade sizes 40 to 88, "light" for choice sizes 40 to 56, and "moderate" for all other grades and sizes. The market for all grades and sizes was reported as "about steady."

At the meeting, Committee members reported that maturity of the navel orange crop is still quite variable throughout the producing districts. Several Committee members reported that, despite the continued problems with maturity, packinghouses were finding a significant amount of fruit to ship. The majority of Committee members also indicated that demand at this time was slow. Committee members discussed the pros and cons of implementing volume regulation at this time. One Committee member favored open movement while the majority of Committee members favored the issuance of general maturity allotment.

According to the National Agricultural Statistics Service, the 1989–90 season average fresh equivalent on-tree price for California-Arizona navel oranges was $4.05 per carton, 64 percent of the season average parity equivalent price of $6.34 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1990–91 season average fresh on-tree price is estimated at $4.33 per carton, about 66 percent of the estimated fresh on-tree parity equivalent price of $6.56 per carton. It is currently estimated that there is a less than one percent probability that the 1990–91 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from November 23 through November 29, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

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

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1990–91 season was published in the September 6, 1990, issue of the **Federal Register** (55 FR 36653). That rule provided interested persons the opportunity to comment until October 9, 1990, on the need for regulation during the 1990–91 season, the proposed shipping schedule, and other factors relevant to the implementation of such regulations.

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

In addition, market information needed for the formulation of the basis for this action was not available until November 20, 1990, and this action needs to be effective for the regulatory week which begins on November 23, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective

time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. Section 907.1014 is added to read as follows:

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

§ 907.1014 Navel Orange Regulation 714.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 23 through November 29, 1990, is established as follows:

District 1 cartons/% (000)	District 2 cartons/% (000)	District 3 cartons/% (000)	District 4 cartons/% (000)	Total cartons (000)
1,420.0/94.7	.....	80.0/5.3	.....	1,500

Dated: November 21, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–27866 Filed 11–23–90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 745]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from November 25 through December 1, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATES: Regulation 745 (7 CFR part 910) is effective for the period from November 25 through December 1, 1990.

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

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

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

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

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

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's estimate of the 1990–91 production is 42,140 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990–91 production at 6,600 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,840 cars compared to the 9,436 cars produced last year. According to the National Agricultural Statistics Service, 1990–91 lemon production is expected to total 40,200 cars, 8 percent above the 1989–90 season and 1 percent more than the crop utilized in 1988–89.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its crop estimate of 42,140 cars, the Committee estimates that about 42.5 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,600 cars, about 44 percent of the total production of 37,881 cars in 1989–90. Fresh exports are projected at 20.1 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 37.4 percent compared with 34 percent of the 1989–90 crop.

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

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

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

The Committee submitted its marketing policy for the 1990–91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on November 20, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and, by a 12 to 1 vote, recommended that 290,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. This recommended amount is 15,000 cartons below the estimated projections in the Committee's current shipping schedule.

During the week ending on November 17, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 275,000 cartons compared with 304,000 cartons shipped during the week ending on November 18, 1989. Export shipments totaled 169,000 cartons compared with 175,000 cartons shipped during the week ending on November 18, 1989. Processing and other uses accounted for 315,000 cartons compared with 324,000 cartons shipped during the week ending on November 18, 1989.

Fresh domestic shipments to date for the 1990–91 season total 4,874,000 cartons compared with 4,684,000 cartons shipped by this time during 1989–90 season. Export shipments total 2,391,000 cartons compared with 2,536,000 cartons shipped by this time during the 1989–90. Processing and other use shipments total 4,205,000 cartons compared with 2,828,000 cartons shipped by this time during 1989–90.

For the week ending on November 17, 1990, regulated shipments of lemons to the fresh domestic market were 275,000 cartons on an adjusted allotment of 276,000 cartons which resulted in net undershipments of 1,000 cartons. Regulated shipments for the current week (November 18 through November 24, 1990) are estimated at 265,000 cartons on an adjusted allotment of 266,000 cartons. Thus, undershipments of 1,000 cartons could be carried over into the week ending on December 1, 1990.

The average f.o.b. shipping point price for the week ending on November 17, 1990, was $10.30 per carton based on a reported sales volume of 284,000 cartons compared with last week's average of $10.03 per carton on a reported sales volume of 313,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $14.33 per carton. The average f.o.b. shipping point price for the week ending on November 18, 1989, was $12.46 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.33 per carton.

The Department's Market News Service reported that, as of November 20, the demand for lemons is "moderate" and the market for lemons is "steady." At the meeting, several Committee members indicated that the market has stabilized somewhat. Some members of the Committee indicated that inventory buildup continues on second grade (115's and smaller fruit) and on first grade (165's and smaller) fruit. Another Committee member commented that there is "good action" on (140's and larger) first grade fruit. Several Committee members One Committee member stated that volume regulations cause a significant economic impact on both small growers and handlers and therefore, favored open movement. The Committee, by a 12 to 1 vote, recommended volume regulation for the week ending December 1, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990–91 season average fresh on-tree price is estimated at $8.83 per carton, 106 percent of the projected season average fresh on-tree parity equivalent price of $8.35 per carton. The California-Arizona 1989–90 season average fresh on-tree price is estimated at $9.02, 121 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from November 25 through December 1, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

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

In addition, market information needed for the formulation of the basis for this action was not available until November 20, 1990, and this action needs to be effective for the regulatory week which begins on November 25, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

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

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

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

2. Section 910.1045 is added to read as follows:

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

§ 910.1045 Lemon regulation 745.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 25 through December 1, 1990, is established at 290,000 cartons.

Dated: November 21, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–27865 Filed 11–23–90; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Parts 1714, 1717, 1724, 1726, 1767, 1784, 1786, and 1787

Electric and Telephone Programs, Redesignation of Regulations

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule, redesignation.

SUMMARY: The Rural Electrification Administration (REA) is undertaking a project to simplify, clarify, and update Agency regulations. This project, when complete, will provide a more logical arrangement of Agency regulations to assist borrowers and others. One component of this project is to redesignate certain regulations and combine other regulations in order to have all policies, procedures, and requirements related to a subject in one regulation in the Code of Federal Regulations. On September 27, 1990, REA began this project by publishing the redesignation of several rules at 55 FR 39393. The project is continued with the rule published here.

EFFECTIVE DATE: This final rule is effective November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine D. Stockton, Jr., Assistant Administrator—Management, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 382–9552.

SUPPLEMENTARY INFORMATION: REA is amending 7 CFR chapter XVII by updating headings for reserved subparts in parts 1714, 1717, 1724, and 1726; by combining old parts 1784—Discounted Prepayments on REA, Notes, 1786—Prepayment of REA Guaranteed Federal Financing Bank Loans, and 1787—REA Privatization Demonstration Program into subparts of new part 1786—Prepayment of REA Guaranteed and Insured Loans to Electric and Telephone Borrowers; and by adding and reserving part 1767—Accounting Requirements for REA Electric Borrowers.

This action is simply a redesignation of these regulations with no change to substance. Therefore, no period for public comment is required. Changes to regulatory text are merely to update cross references and combine existing information from old parts into subparts of the new regulation.

For the information of interested parties, a distribution table follows for the parts, subparts, and sections redesignated:

Distribution Table

Old part or section	*New part or section*
1784	1786 subpart C
1784.1	1786.50
1784.2	1786.51
1784.3	1786.52
1784.4	1786.53
1784.5	1786.54
1784.6	1786.55
1784.7	1786.56
1784.8	1786.57
1784.9	1786.58
1784.10	1786.59
1784.11	1786.60
1784.12	1786.61
1786	1786 subpart B
1786.1	1786.25
1786.2	1786.26
1786.3	1786.27
1786.4	1786.28
1786.5	1786.29
1786.6	1786.30
1786.7	1786.31
1786.8	1786.32
1786.9	1786.33
1786.10	1786.34
1786.11	1786.35
1786.12	1786.36
1786.13	1786.37
1786.14	1786.38
1787	1786 subpart D
1787.1	1786.75
1787.2	1786.76
1787.3	1786.77
1787.4	1786.78
1787.5	1786.79
1787.6	1786.80
1787.7	1786.81
1787.8	1786.82
1787.9	1786.83
1787.10	1786.84
1787.11	1786.85
1787.12	1786.86

List of Subjects

7 CFR Parts 1714, 1724, 1726

Electric power, Loan programs—energy, Rural areas.

7 CFR Part 1717

Electric power, Investments, Loan programs—energy, Reporting and recordkeeping requirements.

7 CFR Part 1784

Electric power, Loan programs—communications, Loan programs—energy, Rural areas, Telephone.

7 CFR Parts 1786 and 1787

Alaska, Electric power, Federal Financing Bank, Loan programs—communications, Loan programs—energy, Rural areas, Telephone.

Therefore, under the authority of the Administrator, Rural Electrification Administration, REA amends 7 CFR chapter XVII as follows:

PART 1714—[AMENDED]

1. The authority citation for part 1714 continues to read as follows:

Authority: 7 U.S.C. 901–950b, Rural Electrification Act of 1936, as amended (Re Act); Pub. L. 99–591, Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

Subpart D—Alternate Loan Application Procedures for Distribution Borrowers

2. The heading for subpart D of part 1714 is revised to read as set forth above.

PART 1717—[AMENDED]

3. The authority citation for part 171 continues to read as follows:

Authority: 7 U.S.C. 901–950b; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development 7 CFR 2.72.

4. The subpart headings for subparts A, B, and C of part 1717 are removed, and the subparts are reserved.

PART 1724—[AMENDED]

5. The authority citation for part 1724 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*

6. Part 1724 is amended by adding headings to reserved subparts A through D as follows:

Subpart A—General [Reserved]

Subpart B—Architectural Services [Reserved]

Subpart C—Engineering Services [Reserved]

Subpart D—Electric System Planning [Reserved]

PART 1726—[AMENDED]

7. The authority citation for part 1726 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*

8. Part 1726 is amended by adding headings to reserved subparts A through F as follows:

Subpart A—General [Reserved]

Subpart B—Purchase of Materials and Equipment [Reserved]

Subpart C—Construction [Reserved]

Subpart D—Contract Closeout Procedures [Reserved]

Subpart E—Procurement Procedures [Reserved]

Subpart F—Modifications to REA Standard Contracts [Reserved]

PART 1786—[AMENDED]

9. The authority citation for part 1786 continues to read as follows:

Authority: 7 U.S.C. 901–950b; Title I, Subtitle B, Pub. L. 99–509; title I Pub. L. 100–202; Pub. L. 100–203; Title VI, Pub. L. 100-460; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small community and Rural development, 7 CFR 2.72.

PART 1786—PREPAYMENT OF REA GUARANTEED AND INSURED LOANS TO ELECTRIC AND TELEPHONE BORROWERS

10. The heading for part 1786 is revised to read as set forth above.

11. Sections in parts 1784, 1786, and 1787 are redesignated, a new subpart A is added and reserved, and new subpart headings are added to read as follows:

Old designation	*New designation*
	Part 1786.
	Subpart A—General [Reserved].
	1786.1—1786.24 [Reserved]
	Subpart B—Prepayment of REA Guaranteed Federal Financing Bank Loans
1786.1–1786.14	1786.25–1786.38
	1786.39–1786.49 [Reserved]
	Subpart C—Special Discounted Prepayments on REA Direct/Insured Loans
1784.1–1784.12	1786.50–1786.61
	1786.62–1786.74 [Reserved]
	Subpart D—REA Privatization Demonstration Prepayment Program for the State of Alaska
1787.1–1787.12	1786.75–1786.86

12. In newly designated part 1786 all references to "Part" or "part" are changed to read "subpart".

13. All internal references in newly designated part 1786 are revised as set forth in the redesignation table.

14. The first sentence of paragraph (a) of newly designated § 1786.30 is revised to read as follows:

§ 1786.30 Processing procedure.

(a) *Priority of Processing.* The determination of the order or method in which applications or portions of applications will be processed by REA pursuant to this subpart rests solely within the discretion of the Administrator. * * *

* * * * *

15. The heading of paragraph (a) of newly designated § 1786.80 is revised to read as follows:

§ 1786.80 Qualifications.

(a) *Borrowers.* * * *

* * * * *

PARTS 1784 AND 1787—[REMOVED]

16. Parts 1784 and 1787 are removed.

PART 1767—ACCOUNTING REQUIREMENTS FOR REA ELECTRIC BORROWERS [RESERVED]

17. Part 1767 is added and reserved to read as set forth above.

Dated: November 15, 1990.

Gary C. Byrne,

Administrator.

[FR Doc. 90–27694 Filed 11–26–90; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

8 CFR Part 292

[Attorney General Order No. 1452–90]

Representation and Appearance

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: These revisions to 8 CFR 292.1 permit first and second year law students in clinical programs at accredited law schools to appear in immigration proceedings under certain specified circumstances. Such appearances shall be at the discretion of the deciding official and under professional supervision. This amendment expands the former regulation which authorized such appearances for third year law students only. In addition, law graduates not yet admitted to the bar may continue to represent clients in immigration proceedings with certain new limitations. A law graduate may appear under supervision of a licensed attorney or accredited representative, and only within the context of pro bono representation. As with law students, a law graduate is permitted to appear at the discretion of the deciding official.

The purpose of these revisions is to expand the pool of competent, properly supervised representatives for individuals who might not otherwise obtain such representation.

EFFECTIVE DATE: December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756–6470.

SUPPLEMENTARY INFORMATION: The revisions allow law students and law graduates under certain specified conditions to represent individuals before the Immigration and Naturalization Service, the Board of Immigration Appeals, and Immigration Judges.

The goal of the regulatory change is to expand competent, properly supervised pro bono representation for individuals

in immigration proceedings. This rule will increase the available number of representatives, while maintaining supervision over those individuals who are not yet admitted to the bar. Law students participating in a legal aid program or clinic conducted by the law school may not appear in immigration proceedings under the direct supervision of a faculty member or attorney, provided such representation is without remuneration.

Proposed regulations pertaining to law student representation were developed by the Executive Office for Immigration Review and were published in the **Federal Register** on March 22, 1990 (55 FR 10620), for public comment. The following is a description and brief discussion of the comments received.

Twenty comments were received regarding the appearance of first and second year law students. Seventeen were strongly in favor of the rule as proposed, and enthusiastic about the increased availability of representation for the poor.

One commenter suggested that law students who participate in a legal aid clinic which is not associated with a law school be included in the rule. After consideration, this suggestion was rejected, since it was felt that faculty or attorney participation within the school program will ensure the most appropriate supervision of student representatives. However, law graduates may appear while participating in an independent legal aid program, provided they are supervised by a licensed attorney or accredited representative.

Three negative comments were received regarding the appearance of first and second year law students. Only one was against the practice outright. One commenter suggests that the rule is "designed to be an expedient to accommodate financial considerations." The commenter did not offer an alternative for providing representation to those aliens who cannot afford to pay for representation. The suggestion was rejected, as it is clear that the focus of this rule is to provide representation to those whose financial means would otherwise not allow it.

Fifteen comments were received regarding representation by law graduates. Fourteen were strongly against the proposed rule eliminating law graduates as a class of representatives. While all the commenters agreed that unsupervised representation could lead to ineffective representation, the commenters stated that safeguards such as proper supervision and the discretion of the deciding official in allowing which representatives to appear would resolve any potential problems in this regard.

The commenters were further concerned that the elimination of representation by law school graduates would deprive those aliens needing pro bono representation from the very people who are most likely to participate in such programs.

The majority of commenters agreed that law school graduates should appear only within the context of pro bono representation. This would eliminate a need to set an arbitrary time limit on law graduates, as a law graduate without admission to the bar who wished to continue as a representative in a paid capacity could seek accredited status.

After considering the comments, the proposed rule eliminating the provision allowing law graduates without bar admission to practice was modified. The final rule will allow law graduates to appear in immigration proceedings under proper supervision, provided such appearance is without remuneration.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291.

List of Subjects in 8 CFR Part 292

Aliens, Immigration, Representation.

Accordingly, part 292 is amended as follows:

PART 292—REPRESENTATION AND APPEARANCES

1. The authority citation for part 292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1362.

2. Section 292.1 is amended by revising paragraph (a)(2) to read as follows:

§ 292.1 Representation of others.

(a) * * *.

(2) *Law students and law graduates not yet admitted to the bar.* A law student who is enrolled in an accredited law school, or a law graduate who is not yet admitted to the bar, provided that:

(i) He or she is appearing at the request of the person entitled to representation;

(ii) In the case of a law student, he or she has filed a statement that he or she is participating, under the direct supervision of a faculty member or an attorney, in a legal aid program or clinic conducted by the law school, and that he or she is appearing without direct or indirect remuneration;

(iii) In the case of a law graduate, he or she has filed a statement that he or she is appearing under the supervision of a licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration; and

(iv) The law student's or law graduate's appearance is permitted by the official before whom he or she wishes to appear (namely an Immigration Judge, district director, officer-in-charge, regional commissioner, the Commissioner, or the Board). The official or officials may require that a law student be accompanied by the supervising faculty member or attorney.

* * * * *

Dated: November 15, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 90-27717 Filed 11-26-90; 8:45 am]

BILLING CODE 1531-26-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 305

[Docket No. 900131-0031]

Variance in Cost of Grant Projects

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The purpose of this amendment to EDA's rule at 13 CFR 305.89 is to conform the rule's language to long-standing grant award terms and conditions. EDA's participation in a project is stated as dollar figure in the "Grant Agreement". That document also contains an estimate of total project costs. For the past several years the dollar amount and grant percentage figure have been identical (*i.e.*, dividing the EDA dollars by the estimated total project costs will result in the stated percentage). However, in prior years the percentage figure, in some cases, was higher than the figure arrived at by dividing the EDA Funding by total estimated project costs. This lack of consistency has led to confusion in situations where total project costs were less than originally estimated ("underrun" situations).

This amendment is designed to eliminate the confusion by defining a new term, "grant rate percentage", and explaining how EDA participation will be calculated in "underrun" situations.

In essence, the procedure restates existing EDA policy that, in underrun situations, both EDA and the grantee's share of project costs will be reduced proportionately (i.e., in the same ratio as they committed funds to the project).

DATES: *Effective Date:* November 27, 1990. Submit comments by January 28, 1991.

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

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

SUPPLEMENTARY INFORMATION: EDA is amending 13 CFR 305.89 to delete paragraphs (a) and (b) and replace them with language explaining that grant awards will provide for payment by EDA of the grant rate percentage, or the stated grant dollar amount, whichever is less. In no event will the grant rate percentage be exceeded.

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

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

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

Comments received by January 28, 1991, will be considered in promulgating a final rule.

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

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

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

List of Subjects in 13 CFR Part 305

Community development; Community facilities; Grant program—community development; Indians; Loan programs—community development.

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. The authority citation for part 305 continues to read as follows:

Authority: Section 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 305.89 is revised to read as follows:

§ 305.89 Variance in cost of grant projects.

(a) If the total eligible costs are equal to or exceed the amount stated in the "Grant Agreement", the grant disbursement will be the amount identified in the "Grant Agreement".

(b) If the total eligible project costs are less than the amount stated in the "Grant Agreement", the grant disbursement will be determined by multiplying the total eligible project costs by the "grant rate percentage".

(c) The "grant rate percentage" is determined by dividing the total estimated project costs stated in the "Grant Agreement" into the amount of EDA funding provided in the grant.

(d) For example, if the "Grant Agreement" provides that EDA will provide $50,000 for a project estimated to cost $100,000, the grant rate is 50% ($50,000 divided by $100,000). If the actual eligible project costs were $100,000, EDA would provide $50,000. If the actual project costs were $120,000 EDA would still provide $50,000. If the actual eligible project costs were only $80,000, EDA would provide $40,000 (50%×$80,000).

Dated: November 13, 1990.

L. Joyce Hampers,

Assistant Secretary for Economic Development.

[FR Doc. 90-27769 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-269-AD; Amdt 39-6788]

Airworthiness Directives; Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 707/720 series airplanes, which requires the implementation of a corrosion prevention and control program. This amendment is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes. These incidents have jeopardized the airworthiness of the affected airplanes. This condition, if not corrected, could result in degradation of the structural capabilities of the affected airplanes.

DATES: Effective December 31, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington, 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th Floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Shardul R. Panchal, Airframe Branch, Seattle Aircraft Certification Office, ANM-120S, telephone (206) 227-2870. Mailing address: 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all Boeing Model 707/720 series airplanes,

which requires the implementation of a corrosion control program, was published as a Supplemental Notice of Proposed Rulemaking (NPRM) in the Federal Register on August 2, 1990 (55 FR 31393).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. The Supplemental NPRM was published simultaneously with similar Supplemental NPRM's on this subject relating to Boeing Model 727, 737, and 747 series airplanes. The comments received in response to all of these NPRM's were similar; however, in some cases, comments were submitted with respect to one model and not the others. Nevertheless, because the comments and the FAA's responses to those comments may be helpful in providing additional guidance in understanding the FAA's intent in this action, all of the comments and the FAA's responses are discussed in the preambles of each of the final rules resulting from those NPRM's.

Several commenters objected generally to several of the requirements proposed in the Supplemental Notice of Proposed Rulemaking (NPRM) because they are contrary to the requirements for controlling corrosion recommended by the Airworthiness Assurance Task Force (AATF), of which FAA representatives are members. The FAA considers that these objections may be based on a misunderstanding of the AATF's role in the development of this AD. The AATF, as an advisory committee, has provided invaluable assistance to the FAA in providing guidance with respect to the technical content of the corrosion prevention and control program, and the FAA has adopted its recommendations in this regard in total. However, with respect to the means of implementing and ensuring compliance with the program, as discussed in detail below, the FAA has gone beyond the recommendations in order to ensure that operators will be aware of the specific actions for which they will be held accountable, and to enable the FAA to take appropriate action to ensure compliance. In accordance with the Federal Advisory Committee Act, the FAA is required to make independent determinations with regard to these matters, and it would be inappropriate to adopt recommendations which are determined to be indefinite as to timing and responsibility.

The Air Transport Association (ATA) of America, on behalf of its member operators, commented that a better approach for this corrosion AD would have been to follow the example of the Supplemental Structural Inspection Document (SSID) AD (reference AD 85-12-01-R1, Amendment 39-5439, (51 FR 36002, October 8, 1986)). The ATA regards that AD as preferable in that it provides operators the flexibility to make minor adjustments without seeking FAA approval. The FAA does not concur. Although both the SSID AD and this AD action are similar in that they involve complex revisions to the operators' maintenance programs, they differ in several significant ways. The SSID program is not a self-contained method for addressing aging fleet problems; it serves as sampling and monitoring tool to provide the FAA with information needed to issue additional AD's defining corrective action when problems are discovered. On the other hand, the corrosion prevention and control program required by this AD is intended to be self-contained and, in addition to information gathering, addresses the nature of corrective action necessary when problems are discovered. The purpose of this program is to maintain corrosion levels at Level 1 or better, whereas the purpose of the SSID AD was simply to detect fatigue problems so that additional corrective action could be required. This difference necessitates the greater complexity and detail of this AD action in defining terms of compliance. Further, fatigue cracking, which is addressed by the SSID program, is a problem generally experienced similarly by airplanes, regardless of operational environment and, therefore, it is appropriate to address that problem through follow-on ADs applicable to the entire fleet. Since corrosion, on the other hand, is highly dependent upon the operational environment, it is appropriate to address it through individualized adjustments to an operator's corrosion prevention and control program.

Several operators commented that the rule removes the PMIs from their primary role as the single point of FAA oversight for the operators' maintenance program. The FAA does not concur. The PMIs will continue to serve as FAA's critical link with the operators. Their oversight responsibilities in this AD, as in other AD's, will not be minimized by the requirements of this AD; however, engineering support will be provided by the Seattle Aircraft Certification Office (ACO).

The manufacturer commented that references to the Boeing Corrosion Prevention and Control Program document (hereinafter referred to as the "Boeing document") should be corrected to read, "Revision A." The FAA concurs. Revision A provides further clarification and editorial changes to the Boeing Document and includes the optional appendices which are not subject to the requirements of this AD. The final rule has been revised accordingly.

Several commenters noted that proposed paragraph A. should be revised to indicate that the appendices to the Boeing Document are optional. The FAA does not concur that any additional revision to the final rule is necessary. The Boeing Document clearly indicates that the appendices are provided as options or for guidance.

One commenter stated that, since the Boeing Document does not require repair of level 1 or 2 corrosion prior to further flight, this AD action is an over-reaction in requiring operators to do so. The commenter recommended that Level 1 and 2 corrosion be, "repaired on a timely basis." Another commenter requested that the phrase, "all structure (found corroded or cracked * * *)," be changed to read "all primary or all significant structure," in proposed paragraph A. This commenter also requested that the terms "corrosion and cracks," as stated in paragraph A., be defined further. The FAA concurs in part with these comments. It appears that the commenters are concerned that paragraph A. as proposed would require corrective actions beyond those which are currently required for findings of corroded or cracked structure. Upon reevaluation, the FAA has determined that the unsafe condition to which this AD is addressed is the inadequacy of existing corrosion control programs to detect corrosion in a timely manner; there is no basis at this time for concluding that existing maintenance practices are inadequate to address corrosion once it is found. Therefore, with regard to corrective action for specific findings of cracks and corrosion, the FAA intends that existing sound maintenance practices, as already required under FAR part 43, continue to be followed. Accordingly, including a requirement for such repair or other corrective action in this AD is unnecessary, and that requirement has been deleted from the final rule. A Note has been added to inform the public of the need to comply with part 43 in addressing cracks and/or corrosion found as result of the inspections required by this AD. Further, the Note following proposed paragraph A., relating to repairs done in accordance with SFAR 36, has been deleted as unnecessary.

Several commenters requested that proposed paragraph A. be revised to

permit adoption of a corrosion control program that is "equivalent to that defined in" the Boeing Document in order to avoid the necessity for obtaining FAA approval of deviations from the specific program defined in the Document. The FAA does not concur. In order to ensure equivalency, the FAA has determined that it is necessary for it to review proposed deviations; allowing operator discretion in determining equivalency would essentially preclude the FAA from taking appropriate action to ensure compliance if it subsequently determines that the operator's program is not equivalent.

One commenter noted that the non-destructive inspection (NDI) acceptable methods specified in the Note in proposed paragraph A. should include the manufacturer's non-destructive testing manuals; this would eliminate confusion generated by the wording in the Note stating, "standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13." The FAA does not concur that additional clarification is necessary. FAR 43.13 currently allows the use of the manufacturer's non-destructive testing manuals.

One commenter remarked that the Note in proposed paragraph B., which would require FAA review and approval of data submitted to substantiate that Level 3 corrosion is not typical of the operator's fleet, was in direct contradiction to the Boeing Document. This commenter stated that the process of FAA reviewing isolated cases may take too long, while the remainder of the operator's fleet may be in jeopardy. The FAA does not concur. As discussed above, in order to ensure the adequacy of operators' determinations, it is necessary for the FAA to review and approve them; without such approval, an operator could not be held accountable for an improper determination that a Level 3 corrosion finding was non-representative. Further, the FAA has committed to responding to Level 3 corrosion as expeditiously as possible to avoid adversely affecting safety. Finally, assuming the adequacy of proposed adjustments and their substantiation, the FAA's role will be limited to general oversight, and the associated workload should not be excessive. Therefore, delays are not inherent in this review and approval process.

The manufacturer implied that proposed paragraph B., which addresses findings of Level 3 corrosion, is unnecessary in that such findings must be reported in accordance with FAR 121.703 and corrective actions (such as schedule adjustments) must be adopted in accordance with proposed paragraph G. Other commenters also suggested that the reporting requirements of proposed paragraph B. are redundant of those of FAR 121.703. The FAA does not concur. With regard to the reporting requirement, the purpose and content of the reports required by this paragraph are different from the general requirement of FAR 121.703; reports under this paragraph are intended to provide the FAA with information regarding not just the specific finding of corrosion, but the status of the operator's fleet and schedule adjustments. With regard to the requirement for schedule adjustments, the urgency associated with findings of Level 3 corrosion is such that the FAA considers it necessary to review and approve the operator's plans to identify any other such corrosion in its fleet; without such approval, an operator could not be held accountable for failing to inspect the remainder of its fleet expeditiously.

Numerous commenters requested that proposed paragraph B.1. be revised to change the word "found" to read "determined," and to change the word "finding" to read "determination." These changes would give operators additional time to consult with the manufacturer before commencement of the 7-day compliance period for additional actions. The FAA concurs. The FAA recognizes that some time may pass between discovery of corrosion and the determination that it is Level 3 corrosion, and that additional time will then be needed either to inspect the remainder of the operator's fleet or to develop a plan for such inspections. Therefore, it is appropriate that the compliance time start at the time the determination is made. However, the FAA will monitor the time experienced by operators between the discovery and determination of Level 3 corrosion to ensure that operators continue to respond with the necessary urgency. The FAA considers the degree of urgency associated with findings of Level 3 corrosion to be equivalent to that associated with findings of unsafe conditions warranting the issuance of emergency ADs. Therefore, if it is found that timely determinations are not being made, the FAA may propose further rulemaking to address this concern. Paragraph B.1. of the final rule has been revised to reflect that the 7-day compliance time commences upon the determination of Level 3 corrosion.

One commenter noted that the requirements of proposed paragraph B.1.a., which would require operators to submit a report of Level 3 corrosion findings to the FAA and to inspect the affected area on all Model 707/207 aircraft in the operator's fleet within 7 days, would ground operators with large fleets. The FAA does not concur. The requirements of paragraph B.1.a. were intended as an option for operators with small fleets. Operators with large fleets have the option of accomplishing the requirements of paragraph B.1.b. (which involves submitting a proposal for adjustment to the schedule for performing tasks in that area on remaining aircraft in the fleet, or submitting data substantiating that the Level 3 corrosion found is an isolated case).

Several commenters requested that the requirements of proposed paragraph B. to address the remainder of the operator's fleet upon a finding of Level 3 corrosion be narrowed to apply only to other "affected" airplanes of the operator's fleet. The FAA does not concur. As with the operator's determinations of appropriate schedule adjustments, the FAA considers it necessary to review and approve the operator's determination that airplanes are not "affected;" without such approval, an operator could not be held accountable for an incorrect determination.

One commenter questioned whether proposed paragraph B.1.a. would require an operator to inspect the remainder of its fleet within 7 days if the FAA rejected its proposed schedule adjustments submitted in accordance with paragraph B.1.b. The FAA considers the proposed language to be clear. Paragraph B.1.a. and B.1.b. provide distinct options to the operator. If the operator chooses to submit proposed schedule adjustments which the FAA subsequently determines to be inadequate, the FAA may then impose adjustments in accordance with paragraph B.2.; however, the operator would not be required to comply with the 7-day requirement of paragraph B.1.a.

One commenter requested that the words "Level 3 corrosion" be added to proposed paragraph B.1.a. to clarify that the reporting requirement is for Level 3 corrosion only, and not for all corrosion. The FAA concurs. The final rule has been revised accordingly.

Two commenters requested clarification regarding the requirement of proposed paragraph B.1.b.(1) to submit proposed adjustments to the schedule for "implementing the program." The FAA concurs. The final rule has been revised to refer to the adjusted schedule for "performing the

tasks" in the relevant area, which more accurately reflects the subject of the adjusted schedule.

Several commenters suggested that proposed paragraphs B.1.b. (1) and (2) lack sufficient guidance as to what constitutes sufficient "substantiating data," or what constitutes an acceptable "adjustment to a maintenance program." Without this information, they were concerned that they would not be able to make submissions that would be acceptable to the FAA. The FAA does not concur. The data necessary to substantiate proposed schedule adjustments is the same as that relied upon by the operator in the exercise of sound engineering judgment when developing those proposals. Substantiating data that supports the operator's proposed schedule should include age of equipment, number of flight hours, conditions in the operational environment, and other pertinent data to support the operator's proposal. If the data substantiates that schedule adjustments are unnecessary to ensure timely detection of Level 3 corrosion on certain or all airplanes in the remainder of the operator's fleet, then the FAA would approve the operator's proposal not to make such adjustments.

Another commenter requested that the words "Level 3" in proposed paragraph B.1.b.(2) be replaced with the phrase, "corrosion of potential urgent airworthiness concern." The commenter stated that this would eliminate confusion resulting from different definitions of "Level 1, 2, and 3" corrosion. The FAA does not concur. It is not the FAA's intent to introduce different definitions of these terms and, in accordance with paragraph A. of the AD, the definitions contained in the Boeing Document are required to be incorporated into the operator's maintenance program. The sole purpose of paragraph B.1.b.(2) is to provide the FAA with a means to ensure the correctness of an operator's determination that severe corrosion is not typical.

Several operators requested that proposed paragraph B.2. be deleted because it would allow the Seattle ACO to impose its own program, rather than responding to the operator's proposed adjustments. Another commenter requested that proposed paragraph B.1.b.(2) be revised to include a provision whereby operators would have the opportunity to negotiate with the FAA in the event the FAA rejects the operator's substantiating data. The FAA does not concur. As discussed above, where an operator presents proposed adjustments and substantiating data showing that those adjustments will establish an acceptable level of safety, the FAA will approve the proposal. However, if the FAA determines that the proposed adjustments are inadequate, it may impose different adjustments, in accordance with paragraph B.2. Prior to doing so, it would necessarily discuss the practicability of any such adjustments with the operator. Ultimately, however, the FAA must retain the authority to determine what adjustments are necessary to ensure that an acceptable level of safety is maintained.

Several commenters contended that proposed paragraph B.3. (requiring operators to revise the maintenance program within 7 days to include adjustments approved by the FAA when Level 3 corrosion is found) was unnecessary because the one-time inspection required by paragraph B.1.b.(1) would not require an adjustment to the operator's maintenance program; therefore, the requirements of paragraph B.3. could be fulfilled by those of proposed paragraph G. The FAA does not concur. The purposes of paragraphs B. and G. are different: Paragraph B. is intended to address the short-term problem of ensuring that other Level 3 corrosion is found expeditiously, whereas paragraph G. is intended to address the longer-term problem of ensuring that maintenance programs are changed to prevent the occurrence of severe corrosion in the future. A revision to the FAA-approved maintenance program is the only means to enable the FAA to take appropriate action to ensure compliance with the adjustments to the program.

Several commenters stated that the 7-day compliance time required by proposed paragraph B.3. is unrealistic because of the amount of time required to revise work cards, to obtain approval for a revised program from the PMI, and to publish revised manuals. Commenters requested that additional time, ranging from 15 days to 10 weeks, be allowed for incorporating the changes into the maintenance program. The FAA concurs in part. As discussed previously, the FAA regards Level 3 corrosion findings as being the equivalent of unsafe conditions for which emergency AD action is appropriate. That type of AD frequently requires action on the entire fleet within 10 days or fewer. Therefore, in general, the FAA does not consider the 7-day requirement to be unreasonable. Nevertheless, the purpose of the requirement of paragraph B.3. is to enable the FAA to take appropriate action to ensure compliance with the schedule adjustments. The FAA has determined that enforceability will not be affected so long as the operator revises its maintenance program prior to the accomplishment of the first task specified in the adjusted schedule. Therefore, the final rule has been revised to require an operator to revise its maintenance program prior to time specified in the adjusted schedule for accomplishing the first task. Of course, operators are permitted to perform tasks prior to the time specified in the schedule.

Several commenters requested that the words "at least (quarterly)" be inserted in the reporting requirement of proposed paragraph D. to provide flexibility to the operators in complying with this requirement. The FAA concurs; adding the suggested wording will in no way change the intent of the reporting requirement. The final rule has been revised accordingly.

On commenter viewed the requirements of proposed paragraph E., concerning FAA approval of the schedule for certain changes in the repeat inspection/task intervals, as overly restrictive, which may prove to be counter-productive by focusing resources on areas of lower priority. The FAA does not concur. The purpose of this paragraph is to prevent those operators that currently have rigorous corrosion control programs from downgrading them. Since those programs are presumably based on the operator's service experience, and since the Boeing Document presents a program based on average fleetwide experience, it may be that the Boeing Document would not provide an acceptable level of safety for that operator. The alternate means of compliance provision in paragraph H. of the final rule provides the opportunity for any operator to submit an alternative procedure to the FAA that would provide an acceptable level of safety.

One commenter requested that the rule be revised to permit the PMI, rather than the Manager of the Seattle ACO, to approve (1) Extensions to the compliance time of proposed paragraph C., (2) increases in the repeat inspection intervals in proposed paragraph E., (3) the operator's schedule for performing tasks on newly acquired airplanes (as required by proposed paragraph F.2.), and (4) proposed corrective actions if corrosion is found to exceed Level 1 (as required by proposed paragraph G.1.). The FAA does not concur. The PMI's serve as FAA's critical link with the operators, and their oversight responsibilities will not be minimized in

this AD action. However, the staff of the ACO provides the engineering support necessary to evaluate whether extensions to compliance times, increases in repeat inspection intervals, schedules for newly acquired airplanes, and proposed corrective actions will maintain an acceptable level of safety.

Several commenters stated that proposed paragraph F., concerning adding airplanes to an air carrier's operations specifications, was unnecessary and should be deleted. As an alternative, one commenter suggested a pro-rated implementation process wherein the old program would be merged into the new program. The FAA does not concur. Paragraph F. is necessary to ensure that newly acquired airplanes are inspected within a period of time commensurate with their likely exposure to corrosion. Since this AD merely requires the adoption of a corrosion control program and, apart from paragraph F., does not dictate the order in which individual airplanes are to be inspected, it is possible that, without this paragraph, newly acquired airplanes may simply "go to the end of the line" under the new owner's program even if they were likely candidates for severe corrosion. Regarding airplanes that have previously been operated under maintenance programs complying with this AD, since each operator's program will reflect its own operating environment, the only conservative approach is to require the first inspection by the new owner to be conducted in accordance with the more restrictive of the two operators' programs.

Another commenter requested that proposed paragraphs F.2. be deleted entirely and that all newly acquired airplanes be phased-in in accordance with proposed paragraph F.1. The FAA does not concur. Paragraph F.1. and F.2. are exclusive of one another. If an airplane has been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.1. If an airplane has never been operated under a FAA-approved maintenance program, then it would follow the requirements of paragraph F.2. Assuming it has been operated under an equivalent corrosion control program adopted in accordance with the requirements of another airworthiness authority, that fact would obviously be critical in substantiating a proposed schedule under paragraph F.2. If it has not been operating under such a program, its corrosion status must be determined before it is added to the operator's operations specifications.

One commenter requested that the words "first (task)" in proposed paragraph F.1. be changed to "initial" for purposes of clarity and consistency with paragraph F.2. The FAA concurs. This editorial change serves to clarify the rule. The final rule has been changed accordingly.

Several commenters recommended that proposed paragraph G. be deleted since Level 2 corrosion is not an airworthiness concern. One commenter further stated that the Seattle ACO should not even be involved in this non-airworthiness issue. Another operator commented that the FAA does not have the manpower to be responsive to the workload that will be generated by the requirements of proposed paragraphs G.1. and G.2. The FAA does not concur with these commenters. As defined in the Boeing Document, Level 2 corrosion, while not urgent, is an airworthiness concern and, to the extent that corrosion control programs must be revised to prevent its recurrence, the FAA has determined that those revisions must be subject to FAA engineering review (via the Seattle ACO) to ensure the adequacy of the corrective actions. Assuming the adequacy of proposed corrective actions, the FAA's role will be limited to general oversight, and the associated workload should not be excessive.

One commenter requested that the words "* * * and is determined to be representative of the operators fleet" be added to proposed paragraph G. to permit operators to forego program adjustments when a single finding is not representative of the operator's fleet. The FAA does not concur. As previously explained in the preamble to the Supplemental NPRM, if corrosion is not representative, then a means to reduce corrosion to Level 1 or better will have already been implemented in accordance with paragraph A. of the AD, and no further corrective action may be necessary. For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an area based on previous findings, no additional corrective action may be necessary. In reviewing the reports submitted in accordance with paragraph D. of the AD, the FAA will monitor the effectiveness of the operators' means to reduce corrosion. If the FAA determines that an operator has failed to implement adequate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph. To clarify the FAA's intent in this regard, paragraph G.1. has been revised to read: "Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes discussed above. These changes will neither increase the economic burden on any operator, nor increase the scope of the rule.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

There are approximately 400 Model 707/720 series airplanes of the affected design in the worldwide fleet. It is estimated that 74 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 manhours per area to accomplish the required actions. There are 126 areas called out in the Boeing Document and, for an average labor cost of $40 per manhour, the total cost to inspect each airplane is estimated to be $80,640. Based on these figures, the total cost impact of the AD on U.S. operators for the estimated 6-year average inspection cycle is $5,967,360.

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

For the reasons discussed above, I certify that this action: (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) 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 final evaluation has

been prepared for this action and is contained in the Rules 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, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 11.89.

§ 39.13 [Amended]

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

Boeing: Applies to all Model 707/720 series airplanes, certificated in any catgegory. Compliance required as indicated, unless previously accomplished.

Note: This AD references Boeing Document Number D6–54928, "Aging Airplane Corrosion Prevention and Control Program, Model 707/720," Revision A, dated July 28, 1989, for inspection procedures, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

To control corrosion, accomplish the following:

A. Within one year after the effective date of this AD, revise the FAA-approved mainteance program to include the corrosion control program specified in Boeing Document Number D6–54928, "Aging Airplane Corrosion Prevention and Control Program Model 707/720," Revision A, dated July 28, 1989, (hereinafter referred to as "the Document").

Note: All structure found corroded or cracked as a result of an inspection conducted in accordance with this paragraph must be addressed in accordance with FAR part 43.

Note: Where non-destructive inspection (NDI) methods are employed, in accordance with section 4.1 of the Document, the standards and procedures used must be acceptable to the Aministrator in accordance with FAR 43.13.

Note: Procedures identified in the Document as "optional" are not required to be accomplished by this AD.

B. 1. If, as a result of any inspection conducted in accordance with the program required by paragraph A. above, Level 3 corrosion is determined to exist in any area, accomplish one of the following within 7 days after such determination:

a. Submit a report of any findings of Level 3 corrosion to the Manager of the Seattle Aircraft Certification Office (ACO) and inspect the affected area on all Model 707/720 aircraft in the operator's fleet; or

b. Submit for approval to the Manager of the Seattle ACO one of the following:

(1) Proposed adjustments to the schedule for performing the tasks in that area on remaining airplanes in the operator's fleet, which are adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for those adjustments; or

(2) Data substantiating that the Level 3 corrosion found is an isolated occurrence and that no such adjustments are necessary.

Note: Notwithstanding the provision of section 1.1. of the Document that would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

Note: As used throughout this AD, where documents are to be submitted to the Manager of the Seattle ACO, the document should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO. The Seattle ACO will not respond to the operator without the PI's comments or concurrence.

2. The FAA may impose adjustments other than those proposed, upon a finding that such adjustments are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

3. Prior to the compliance time specified for the first task required in the adjusted schedule approved under paragraph B.1. or B.2. of this AD, revise the FAA-approved maintenance program to include those adjustments.

Note: The reporting requirements of this paragraph and of paragraph D., below, do not relieve operators from reporting corrosion as required by FAR 121.703.

C. To accommodate unanticipated scheduling requirements, it is acceptable for a repeat inspection inverval to be increased by up to 10% but not to exceed 6 months. The cognizant FAA Principal Inspector (PI) must be informed, in writing, of any extension.

Note: Except as provided in this paragraph, notwithstanding section 3.1., paragraph 4. of the Document, all extensions to any compliance time must be approved by the Manager of the Seattle ACO.

D. Report forms for Level 2 corrosion and a follow-up report for Level 3 corrosion must be submitted at least quarterly in accordance with section 5.0 of the Document.

E. If the repeat inspection or task intervals of an operator's existing corrosion inspection program are shorter than the corresponding intervals in section 4.3 of the Document, they may not be increased without specific approval of the Manager of the Seattle ACO.

F. Before any airplane that is subject to this AD can be added to an air carrier's operations specifications, a program for the accomplishment of tasks required by this AD must be established in accordance with the following:

1. For airplanes that have previously been operated under an FAA-approved maintenance program, the initial task on each area to be accomplished by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

2. For airplanes that have not previously been operated under an FAA-approved maintenance program, each initial task required by this AD must be accomplished either prior to the airplane's being added to the air carrier's operations specifications, or in accordance with a schedule approved by the Manager, Seattle ACO.

G. If corrosion is found to exceed Level 1 on any inspection after the initial inspection, the corrosion control program for the affected area must be reviewed and means implemented to reduce corrosion to Level 1 or better.

1. Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO.

2. Within 30 days after the corrective action is approved, revise the FAA-approved maintenance program to include the approved corrective action.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The requirements shall be done in accordance with Boeing Document Number D6–54928, "Aging Airplane Corrosion Prevention and Control Program, Model 707/720," Revision A, dated July 28, 1989. The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport

Airplane Directorate, Northwest Mountain Region, 1601 Lind Avenue SW., 5th Floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

This amendment becomes effective December 31, 1990.

Issued in Renton, Washington, on November 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-27800 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-268-AD; Amdt. 39-6787]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which requires the implementation of a corrosion prevention and control program. This amendment is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes. These incidents have jeopardized the airworthiness of the affected airplanes. This condition, if not corrected, could result in degradation of the structural capabilities of the affected airplanes.

DATES: Effective December 31, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, Seattle Aircraft Certification Office, ANM-120S, telephone (206) 227-2772. Mailing address: 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all Boeing Model 727 series airplanes, which requires the implementation of a corrosion control program, was published as a Supplemental Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on August 2, 1990 (55 FR 31395).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. The Supplemental NPRM was published simultaneously with similar Supplemental NPRM's on this subject relating to Boeing Model 707/720, 737, and 747 series airplanes. The comments received in response to all of these NPRM's were similar; however, in some cases, comments were submitted with respect to one model and not the others. Nevertheless, because the comments and the FAA's responses to those comments may be helpful in providing additional guidance in understanding the FAA's intent in this action, all of the comments and the FAA's responses are discussed in the preambles of each of the final rules resulting from those NPRM's.

Several commenters objected generally to several of the requirements proposed in the Supplemental Notice of Proposed Rulemaking (NPRM) because they are contrary to the requirements for controlling corrosion recommended by the Airworthiness Assurance Task Force (AATF), of which FAA representatives are members. The FAA considers that these objections may be based on a misunderstanding of the AATF's role in the development of this AD. The AATF, as an advisory committee, has provided invaluable assistance to the FAA in providing guidance with respect to the technical content of the corrosion prevention and control program, and the FAA has adopted its recommendations in this regard in total. However, with respect to the means of implementing and ensuring compliance with the program, as discussed in detail below, the FAA has gone beyond the recommendations in order to ensure that operators will be aware of the specific actions for which they will be held accountable, and to enable the FAA to take appropriate action to ensure compliance. In accordance with the Federal Advisory Committee Act, the FAA is required to make independent determinations with regard to these matters, and it would be inappropriate to adopt recommendations which are determined to be indefinite as to timing and responsibility.

The Air Transport Association (ATA) of America, on behalf of its member operators, commented that a better approach for this corrosion AD would have been to follow the example of the Supplemental Structural Inspection Document (SSID) AD [reference AD 84-21-05, Amendment 39-4920, (49 FR 38931, October 2, 1984)]. The ATA regards that AD as preferable in that it provides operators the flexibility to make minor adjustments without seeking FAA approval. The FAA does not concur. Although both the SSID AD and this AD action are similar in that they involve complex revisions to the operators' maintenance programs, they differ in several significant ways. The SSID program is not a self-contained method for addressing aging fleet problems; it serves as a sampling and monitoring tool to provide the FAA with information needed to issue additional AD's defining corrective action when problems are discovered. On the other hand, the corrosion prevention and control program required by this AD is intended to be self-contained and, in addition to information gathering, addresses the nature of corrective action necessary when problems are discovered. The purpose of this program is to maintain corrosion levels at Level 1 or better, whereas the purpose of the SSID AD was simply to detect fatigue problems so that additional corrective action could be required. This difference necessitates the greater complexity and detail of this AD action in defining terms of compliance. Further, fatigue cracking, which is addressed by the SSID program, is a problem generally experienced similarly by airplanes, regardless of operational environment and, therefore, it is appropriate to address that problem through follow-on ADs applicable to the entire fleet. Since corrosion, on the other hand, is highly dependent upon the operational environment, it is appropriate to address it through individualized adjustments to an operator's corrosion prevention and control program.

Several operators commented that the rule removes the PMIs from their primary role as the single point of FAA oversight for the operators' maintenance program. The FAA does not concur. The PMIs will continue to serve as FAA's critical link with the operators. Their oversight responsibilities in this AD, as in other AD's, will not be minimized by the requirements of this AD; however, engineering support will be provided by the Seattle Aircraft Certification Office (ACO).

The manufacturer commented that references to the Boeing Corrosion

Prevention and Control Program document (hereinafter referred to as the "Boeing Document") should be corrected to read, "Revision A." The FAA concurs. Revision A provides further clarification and editorial changes to the Boeing Document and includes the optional appendices which are not subject to the requirements of this AD. The final rule has been revised accordingly.

Several commenters noted that proposed paragraph A. should be revised to indicate that the appendices to the Boeing Document are optional. The FAA does not concur that any additional revision to the final rule is necessary. The Boeing document clearly indicates that the appendices are provided as options or for guidance.

One commenter stated that, since the Boeing Document does not require repair of Level 1 or 2 corrosion prior to further flight, this AD action is an over-reaction in requiring operators to do so. The commenter recommended that Level 1 and 2 corrosion be, "repaired on a timely basis." Another commenter requested that the phrase, "all structure [found corroded or cracked * * *]," be changed to read "all primary or all significant structure," in proposed paragraph A. This commenter also requested that the terms "corrosion and cracks," as stated in paragraph A., be defined further. The FAA concurs in part with these comments. It appears that the commenters are concerned that paragraph A. as proposed would require corrective actions beyond those which are currently required for findings of corroded or cracked structure.Upon reevaluation, the FAA has determined that the unsafe condition to which this AD is addressed is the inadequacy of existing corrosion control programs to detect corrosion in a timely manner; there is no basis at this time for concluding that existing maintenance practices are inadequate to address corrosion once it is found. Therefore, with regard to corrective action for specific findings of cracks and corrosion, the FAA intends that existing sound maintenance practices, as already required under FAR part 43, continue to be followed. Accordingly, including a requirement for such repair or other corrective action in this AD is unnecessary, and that requirement has been deleted from the final rule. A Note has been added to inform the public of the need to comply with part 43 in addressing cracks and/or corrosion found as result of the inspections required by this AD. Further, the Note following proposed paragraph A., relating to repairs done in accordance with SFRA 36, has been deleted as unnecessary.

Several commenters requested that proposed paragraph A. be revised to permit adoption of a corrosion control program that is "equivalent to that defined in" the Boeing Document in order to avoid the necessity for obtaining FAA approval of deviations from the specific program defined in the Document.

The FAA does not concur. In order to ensure equivalency, the FAA has determined that it is necessary for it to review proposed deviations; allowing operator discretion in determining equivalency would essentially preclude the FAA from taking appropriate action to ensure compliance if it subsequently determines that the operator's program is not equivalent.

One commenter noted that the non-destructive inspection (NDI) acceptable methods specified in the Note in proposed paragraph A. should include the manufacturer's non-destructive testing manuals; this would eliminate confusion generated by the wording in the Note stating, "standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13." The FAA does not concur that additional clarification is necessary. FAR 43.13 currently allows the use of the manufacturer's non-destructive testing manuals.

One commenter remarked that the Note in proposed paragraph B., which would require FAA review and approval of data submitted to substantiate that Level 3 corrosion is not typical of the operator's fleet, was in direct contradiction to the Boeing Document. This commenter stated that the process of FAA reviewing isolated cases may take too long, while the remainder of the operator's fleet may be in jeopardy. The FAA does not concur. As discussed above, in order to ensure the adequacy of operator's determinations, it is necessary for the FAA to review and approve them; without such approval, an operator could not be held accountable for an improper determination that a Level 3 corrosion finding was non-representative. Further, the FAA has committed to responding to Level 3 corrosion as expeditiously as possible to avoid adversely affecting safety. Finally, assuming the adequacy of proposed adjustments and their substantiation, the FAA's role will be limited to general oversight, and the associated workload should not be excessive. Therefore, delays are not inherent in this review and approval process.

The manufacturer implied that proposed paragraph B., which addresses findings of Level 3 corrosion, is unnecessary in that such findings must be reported in accordance with FAR 121.703 and corrective actions (such as schedule adjustments) must be adopted in accordance with proposed paragraph G. Other commenters also suggested that the reporting requirements of proposed paragraph B. are redundant of those of FAR 121.703. The FAA does not concur. With regard to the reporting requirement, the purpose and content of the reports required by this paragraph are different from the general requirement of FAR 121.703; reports under this paragraph are intended to provide the FAA with information regarding not just the specific finding of corrosion, but the status of the operator's fleet and schedule adjustments. With regard to the requirement for schedule adjustments, the urgency associated with findings of Level 3 corrosion is such that the FAA considers it necessary to review and approve the operator's plans to identify any other such corrosion in its fleet; without such approval, an operator could not be held accountable for failing to inspect the remainder of its fleet expeditiously.

Numerous commenters requested that proposed paragraph B.1. be revised to change the word "found" to read "determined," and to change the word "finding" to read "determination." These changes would give operators additional time to consult with the manufacturer before commencement of the 7-day compliance period for additional actions. The FAA concurs. The FAA recognizes that some time may pass between discovery of corrosion and the determination that it is Level 3 corrosion, and that additional time will then be needed either to inspect the remainder of the operator's fleet or to develop a plan for such inspections. Therefore, it is appropriate that the compliance time start at the time the termination is made. However, the FAA will monitor the time experienced by operators between the discovery and determination of Level 3 corrosion to ensure that operators continue to respond with the necessary urgency. The FAA considers the degree of urgency associated with findings of Level 3 corrosion to be equivalent to that associated with findings of unsafe conditions warranting the issuance of emergency ADs. Therefore, if it is found that timely determinations are not being made, the FAA may propose further rulemaking to address this concern. Paragraph B.1. of the final rule has been

revised to reflect that the 7-day compliance time commences upon the determination of Level 3 corrosion.

One commenter noted that the requirements of proposed paragraph B.1.a., which would require operators to submit a report of Level 3 corrosion findings to the FAA and to inspect the affected area on all Model 727 aircraft in the operator's fleet within 7 days,would ground operators with large fleets. The FAA does not concur. The requirements of paragraph B.1.a. were intended as an option for operators with small fleets. Operators with large fleets have the option of accomplishing the requirements of paragraph B.1.b. (which involves submitting a proposal for adjustment to the schedule for performing tasks in that area on remaining aircraft in the fleet, or submitting data substantiating that the Level 3 corrosion found is an isolated case).

Several commenters requested that the requirements of proposed paragraph B. to address the remainder of the operator's fleet upon a finding of Level 3 corrosion be narrowed to apply only to other "affected" airplanes of the operator's fleet. The FAA does not concur. As with the operator's determinations of appropriate schedule adjustments, the FAA considers it necessary to review and approve the operator's determination that airplanes are not "affected;" without such approval, an operator could not be held accountable for an incorrect determination.

One commenter questioned whether proposed paragraph B.1.a. would require an operator to inspect the remainder of its fleet within 7 days if the FAA rejected its proposed schedule adjustments submitted in accordance with paragraph B.1.b. The FAA considers the proposed language to be clear. Paragraphs B.1.a. and B.1.b. provide distinct options to the operator. If the operator chooses to submit proposed schedule adjustments which the FAA subsequently determines to be inadequate, the FAA may then impose adjustments in accordance with paragraph B.2.; however, the operator would not be required to comply with the 7-day requirement of paragraph B.1.a.

One commenter requested that the words "Level 3 corrosion" be added to proposed paragraph B.1.a. to clarify that the reporting requirement is for Level 3 corrosion only, and not for all corrosion. The FAA concurs. The final rule has been revised accordingly.

Two commenters requested clarification regarding the requirement of proposed paragraph B.1.b.(1) to submit proposed adjustments to the schedule for "implementing the program." The FAA concurs. The final rule has been revised to refer to the adjusted schedule for "performing the tasks" in the relevant area, which more accurately reflects the subject of the adjusted schedule.

Several commenters suggested that proposed paragraphs B.1.b. (1) and (2) lack sufficient guidance as to what constitutes sufficient "substantiating data," or what constitutes an acceptable "adjustment to a maintenance program." Without this information, they were concerned that they would not be able to make submissions that would be acceptable to the FAA. The FAA does not concur. The data necessary to substantiate proposed schedule adjustments is the same as that relied upon by the operator in the exercise of sound engineering judgment when developing those proposals. Substantiating data that supports the operator's proposed schedule should include age of equipment, number of flight hours, conditions in the operational environment, and other pertinent data to support the operator's proposal. If the data substantiates that schedule adjustments are unnecessary to ensure timely detection of Level 3 corrosion on certain or all airplanes in the remainder of the operator's fleet, then the FAA would approve the operator's proposal not to make such adjustments.

Another commenter requested that the words "Level 3" in proposed paragraph B.1.b.(2) be replaced with the phrase, "corrosion of potential urgent airworthiness concern." The commenter stated that this would eliminate confusion resulting from different definitions of "Levels 1, 2, and 3" corrosion. The FAA does not concur. It is not the FAA's intent to introduce different definitions of these terms and, in accordance with paragraph A. of the AD, the definitions contained in the Boeing Document are required to be incorporated into the operator's maintenance program. The sole purpose of paragraph B.1.b.(2) is to provide the FAA with a means to ensure the correctness of an operator's determination that severe corrosion is not typical.

Several operators requested that proposed paragraph B.2. be deleted because it would allow the Seattle ACO to impose its own program, rather than responding to the operator's proposed adjustments. Another commenter requested that proposed paragraph B.1.b.(2) be revised to include a provision whereby operators would have the opportunity to negotiate with the FAA in the event the FAA rejects the operator's substantiating data. The FAA does not concur. As discussed above, where an operator presents proposed adjustments and substantiating data showing that those adjustments will establish an acceptable level of safety, the FAA will approve the proposal. However, if the FAA determines that the proposed adjustments are inadequate, it may impose different adjustments, in accordance with paragraph B.2. Prior to doing so, it would necessarily discuss the practicability of any such adjustments with the operator. Ultimately, however, the FAA must retain the authority to determine what adjustments are necessary to ensure that an acceptable level of safety is maintained.

Several commenters contended that proposed paragraph B.3. (requiring operators to revise the maintenance program within 7 days to include adjustments approved by the FAA when Level 3 corrosion is found) was unnecessary because the one-time inspection required by paragraph B.1.b.(1) would not require an adjustment to the operator's maintenance program; therefore, the requirements of paragraph B.3. could be fulfilled by those of proposed paragraph G. The FAA does not concur. The purposes of paragraphs B. and G. are different: Paragraph B. is intended to address the short-term problem of ensuring that other Level 3 corrosion is found expeditiously, whereas paragraph G. is intended to address the longer-term problem of ensuring that maintenance programs are changed to prevent the occurrence of severe corrosion in the future. A revision to the FAA-approved maintenance program is the only means to enable the FAA to take appropriate action to ensure compliance with the adjustments to the program.

Several commenters stated that the 7-day compliance time required by proposed paragraph B.3. is unrealistic because of the amount of time required to revise work cards, to obtain approval for a revised program from the PMI, and to publish revised manuals. Commenters requested that additional time, ranging from 15 days to 10 weeks, be allowed for incorporating the changes into the maintenance program. The FAA concurs in part. As discussed previously, the FAA regards Level 3 corrosion findings as being the equivalent of unsafe conditions for which emergency AD action is appropriate. That type of AD frequently requires action on the entire fleet within 10 days or fewer. Therefore, in general, the FAA does not consider

the 7-day requirement to be unreasonable. Nevertheless, the purpose of the requirement of paragraph B.3. is to enable the FAA to take appropriate action to ensure compliance with the schedule adjustments. The FAA has determined that enforceability will not be affected so long as the operator revises its maintenance program prior to the accomplishment of the first task specified in the adjusted schedule. Therefore, the final rule has been revised to require an operator to revise its maintenance program prior to time specified in the adjusted schedule for accomplishing the first task. Of course, operators are permitted to perform tasks prior to the time specified in the schedule.

Several commenters requested that the words "at least [quarterly]" be inserted in the reporting requirement of proposed paragraph D. to provide flexibility to the operators in complying with this requirement. The FAA concurs; adding the suggested wording will in no way change the intent of the reporting requirement. The final rule has been revised accordingly.

One commenter viewed the requirements of proposed paragraph E., concerning FAA approval of the schedule for certain changes in the repeat inspection/task intervals, as overly restrictive, which may prove to be counter-productive by focusing resources on areas of lower priority. The FAA does not concur. The purpose of this paragraph is to prevent those operators that currently have rigorous corrosion control programs from downgrading them. Since those programs are presumably based on the operator's service experience, and since the Boeing Document presents a program based on average fleetwide experience, it may be that the Boeing Document would not provide an acceptable level of safety for that operator. The alternate means of compliance provision in paragraph H. of the final rule provides the opportunity for any operator to submit an alternative procedure to the FAA that would provide an acceptable level of safety.

One commenter requested that the rule be revised to permit the PMI, rather than the Manager of the Seattle ACO, to approve (1) extensions to the compliance time of proposed paragraph C., (2) increases in the repeat inspection intervals in proposed paragraph E., (3) the operator's schedule for performing tasks on newly acquired airplanes (as required by proposed paragraph F.2.), and (4) proposed corrective actions if corrosion is found to exceed Level 1 (as required by proposed paragraph G.1.). The FAA does not concur. The PMI's serve as FAA's critical link with the operator, and their oversight responsibilities will not be minimized in this AD action. However, the staff of the ACO provides the engineering support necessary to evaluate whether extensions to compliance times, increases in repeat inspection intevals, schedules for newly acquired airplanes, and proposed corrective actions will maintain an acceptable level of safety.

Several commenters stated that proposed paragraph F., concerning adding airplanes to an air carrier's operations specifications, was unnecessary and should be deleted. As an alternative, one commenter suggested a pro-rated implementation process wherein the old program would be merged into the new program. The FAA does not concur. Paragraph F. is necessary to ensure that newly acquired airplanes are inspected within a period of time commensurate with their likely exposure to corrosion. Since this AD merely requires the adoption of a corrosion control program and, apart from paragraph F., does not dictate the order in which individual airplanes are to be inspected, it is possible that, without this paragraph, newly acquired airplanes may simply "go to the end of the line" under the new owner's program even if they were likely candidates for severe corrosion. Regarding airplanes that have previously been operated under maintenance programs complying with this AD, since each operator's program will reflect its own operating environment, the only conservative approach is to require the first inspection by the new owner to be conducted in accordance with the more restrictive of the two operators' programs.

Another commenter requested that proposed paragraph F.2. be deleted entirely and that all newly acquired airplanes be phased-in in accordance with proposed paragraph F.1. The FAA does not concur. Paragraph F.1. and F.2. are exclusive of one another. If an airplane has been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.1. If an airplane has never been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.2. Assuming it has been operated under an equivalent corrosion control program adopted in accordance with the requirements of another airworthiness authority, that fact would obviously be critical in substantiating a proposed schedule under paragraph F.2. If it has not been operating under such a program, its corrosion status must be determined before it is added to the operator's operations specifications.

One commenter requested that the word "first [task]" in proposed paragraph F.1. be changed to "initial" for purposes of clarity and consistency with paragraph F.2. The FAA concurs. This editorial change serves to clarify the rule. The final rule has been changed accordingly.

Several commenters recommended that proposed paragraph G. be deleted since Level 2 corrosion is not an airworthiness concern. One commenter further stated that the Seattle ACO should not even be involved in this nonairworthiness issue. Another operator commented that the FAA does not have the manpower to be responsive to the workload that will be generated by the requirements of proposed paragraphs G.1. and G.2. The FAA does not concur with these commenters. As defined in the Boeing Document, Level 2 corrosion, while not urgent, is an airworthiness concern and, to the extent that corrosion control programs must be revised to prevent its recurrence, the FAA has determined that those revisions must be subject to FAA engineering review (via the Seattle ACO) to ensure the adequacy of the corrective actions. Assuming the adequacy of proposed corrective actions, the FAA's role will be limited to general oversight, and the associated workload should not be excessive.

One commenter requested that the words "* * * and is determined to be representative of the operators fleet" be added to proposed paragraph G. to permit operators to forego program adjustments when a signle finding is not representative of the operator's fleet. The FAA does not concur. As previously explained in the preamble to the Supplemental NPRM, if corrosion is not representative, then a means to reduce corrosion to Level 1 or better will have already been implemented in accordance with paragraph A. of the AD, and no further corrective action may be necessary. For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an area based on previous findings, no additional corrective action may be necessary. In reviewing the reports

submitted in accordance with paragraph D. of the AD, the FAA will monitor the effectiveness of the operators' means to reduce corrosion. If the FAA determines that an operator has failed to implement adequate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph. To clarify the FAA's intent in this regard, paragraph G.1. has been revised to read: "Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes discussed above. These changes will neither increase the economic burden on any operator, nor increase the scope of the rule.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

There are approximately 1,710 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,143 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 manhours per area to accomplish the required actions. There are 125 areas called out in the Boeing Document, and for an average labor cost of $40 per manhour, the total cost impact to inspect each airplane would be $80,000. Based on these figures, the total cost impact of the AD on U.S. operators for the estimated 6-year average inspection cycle is $91,440,000.

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

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and is contained in the Rules 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, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 11.89.

§ 39.13 [Amended]

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

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

Note: This AD references Boeing Document Number D6–54929, "Aging Airplane Corrosion Prevention and Control Program, Model 727," Revision A, dated July 28, 1989, for inspection procedures, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

To control corrosion, accomplish the following:

A. Within one year after the effective date of this AD, revise the FAA-approved maintenance program to include the corrosion control program specified in Boeing Document Number D6–54929, "Aging Airplane Corrosion Prevention and Control Program, Model 727," Revision A, dated July 28, 1989 (hereinafter referred to as "the Document").

Note: All structure found corroded or cracked as a result of an inspection conducted in accordance with this paragraph must be addressed in accordance with FAR Part 43.

Note: Where non-destructive inspection (NDI) methods are employed in accordance with section 4.1 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13.

Note: Procedures identified in the Document as "optional" are not required to be accomplished by this AD.

B. 1. If, as a result of any inspection conducted in accordance with the program required by paragraph A., above, Level 3 corrosion is determined to exist in any area, accomplish one of the following within 7 days after such determination:

a. Submit a report of any findings of Level 3 corrosion to the Manager of the Seattle Aircraft Certification Office (ACO) and inspect the affected area on all Model 727 aircraft in the operator's fleet; or

b. Submit for approval to the Manager of the Seattle ACO one of the following:

(1) Proposed adjustments to the schedule for performing the tasks in that area on remaining airplanes in the operator's fleet, which are adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for those adjustments; or

(2) Data substantiating that the Level 3 corrosion found is an isolated occurrence and that no such adjustments are necessary.

Note: Notwithstanding the provision of section 1.1. of the Document that would permit corrosion that otherwise meets the definition of Level 3 corrosion (*i.e.*, which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

Note: As used throughout this AD, where documents are to be submitted to the Manager of the Seattle ACO, the document should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO. The Seattle ACO will not respond to the operator without the PI's comments or concurrence.

2. The FAA may impose adjustments other than those proposed, upon a finding that such adjustments are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

3. Prior to the compliance time specified for the first task required in the adjusted schedule approved under paragraph B.1. or B.2. of this AD, revise the FAA-approved maintenance program to include those adjustments.

Note: The reporting requirements of this paragraph and of paragraph D., below, do not relieve operators from reporting corrosion as required by FAR section 121.703.

C. To accommodate unanticipated scheduling requirements, it is acceptable for a repeat inspection interval to be increased by up to 10% but not to exceed 6 months. The cognizant FAA Principal Inspector (PI) must be informed, in writing, of any extension.

Note: Except as provided in this paragraph, notwithstanding Section 3.1., paragraph 4, of the Document, all extensions to any compliance time must be approved by the Manager of the Seattle ACO.

D. Report forms for Level 2 corrosion and a follow-up report for Level 3 corrosion must be submitted at least quarterly in accordance with Section 5.0 of the Document.

E. If the repeat inspection or task intervals of an operator's existing corrosion inspection program are shorter than the corresponding intervals in Section 4.3 of the Document, they may not be increased without specific approval of the Manager of the Seattle ACO.

F. Before any airplane that is subject to this AD can be added to an air carrier's operations specifications, a program for the accomplishment of tasks required by this AD must be established in accordance with the following:

1. For airplanes that have previously been operated under an FAA-approved maintenance program, the initial task on each area to be accomplished by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

2. For airplanes that have not previously been operated under an FAA-approved maintenance program, each initial task required by this AD must be accomplished either prior to the airplane's being added to the air carrier's operations specifications, or in accordance with a schedule approved by the Manager, Seattle ACO.

G. If corrosion is found to exceed Level 1 on any inspection after the initial inspection, the corrosion control program for the affected area must be reviewed and means implemented to reduce corrosion to Level 1 or better.

1. Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO.

2. Within 30 days after the corrective action is approved, revise the FAA-approved maintenance program to include the approved corrective action.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The requirements shall be done in accordance with Boeing Document Number D6-54929, "Aging Airplane Corrosion Prevention and Control Program, Model 727," Revision A, dated July 28, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, Northwest Mountain Region, 1601 Lind Avenue SW., 5th floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

This amendment becomes effective December 31, 1990.

Issued in Renton, Washington, on November 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-27803 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-270-AD; Amdt. 39-6789]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 737 series airplanes, which requires the implementation of a corrosion prevention and control program. This amendment is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes. These incidents have jeopardized the airworthiness of the affected airplanes. This condition, if not corrected, could result in degradation of the structural capabilities of the affected airplanes.

DATES: Effective December 31, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, Seattle Aircraft Certification Office, ANM-120S, telephone (206) 227-2775. Mailing address: 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all Boeing Model 737 series airplanes, which requires the implementation of a corrosion control program, was published as a Supplemental Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on August 2, 1990 (55 FR 31398).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. The Supplemental NPRM was published simultaneously with similar Supplemental NPRM's on this subject relating to Boeing Model 707/720, 727, and 747 series airplanes. The comments received in response to all of these NPRM's were similar; however, in some cases, comments were submitted with respect to one model and not the others. Nevertheless, because the comments and the FAA's responses to those comments may be helpful in providing additional guidance in understanding the FAA's intent in this action, all of the comments and the FAA's responses are discussed in the preambles of each of the final rules resulting from those NPRM's.

Several commenters objected generally to several of the requirements proposed in the Supplemental Notice of Proposed Rulemaking (NPRM) because they are contrary to the requirements for controlling corrosion recommended by the Airworthiness Assurance Task Force (AATF), of which FAA representatives are members. The FAA considers that these objections may be based on a misunderstanding of the AATF's role in the development of this AD. The AATF, as an advisory committee, has provided invaluable assistance to the FAA in providing guidance with respect to the technical content of the corrosion prevention and control program, and the FAA has adopted its recommendations in this regard in total. However, with respect to the means of implementing and ensuring compliance with the program, as discussed in detail below, the FAA has gone beyond the recommendations in order to ensure that operators will be aware of the specific actions for which they will be held accountable, and to enable the FAA to take appropriate action to ensure compliance. In accordance with the Federal Advisory Committee Act, the FAA is required to make independent determinations with regard to these matters, and it would be inappropriate to adopt recommendations which are determined

to be indefinite as to timing and responsibility.

The Air Transport Association (ATA) of America, on behalf of its member operators, commented that a better approach for this corrosion AD would have been to follow the example of the Supplemental Structural Inspection Document (SSID) AD [reference AD 84-21-06-R1, Amendment 39-5813 (53 FR 6794, March 3, 1988)]. The ATA regards that AD as preferable in that it provides operators the flexibility to make minor adjustments without seeking FAA approval. The FAA does not concur. Although both the SSID AD and this AD action are similar in that they involve complex revisions to the operators' maintenance programs, they differ in several significant ways. The SSID program is not a self-containing method for addressing aging fleet problems; it serves as a sampling and monitoring tool to provide the FAA with information needed to issue additional AD's defining corrective action when problems are discovered. On the other hand, the corrosion prevention and control program required by this AD is intended to be self-contained and, in addition to information gathering, addresses the nature of corrective action necessary when problems are discovered. The purpose of this program is to maintain corrosion levels at Level 1 or better, whereas the purpose of the SSID AD was simply to detect fatigue problems so that additional corrective action could be required. This difference necessitates the greater complexity and detail of this AD action in defining terms of compliance. Further, fatigue cracking, which is addressed by the SSID program, is a problem generally experienced similarly by airplanes, regardless of operational environment and, therefore, it is appropriate to address that problem through follow-on ADs applicable to the entire fleet. Since corrosion, on the other hand, is highly dependent upon the operational environment, it is appropriate to address it through individualized adjustments to an operator's corrosion prevention and control program.

Several operators commented that the rule removes the PMIs from their primary role as the single point of FAA oversight for the operator's maintenance program. The FAA does not concur. The PMIs will continue to serve as FAA's critical link with the operators. Their oversight responsibilities in this AD, as in other AD's, will not be minimized by the requirements of this AD; however, engineering support will be provided by the Seattle Aircraft Certification Office (ACO).

The manufacturer commented that references to the Boeing Corrosion Prevention and Control Program document (hereinafter referred to as the "Boeing Document") should be corrected to read, "Revision A." The FAA concurs. Revision A provides further clarification and editorial changes to the Boeing Document and includes the optional appendices which are not subject to the requirements of this AD. The final rule has been revised accordingly.

Several commenters noted that proposed paragraph A. should be revised to indicate that the appendices to the Boeing Document are optional. The FAA does not concur that any additional revision to the final rule is necessary. The Boeing Document clearly indicates that the appendices are provided as options or for guidance.

One commenter stated that, since the Boeing Document does not require repair of Level 1 or 2 corrosion prior to further flight, this AD action is an over-reaction in requiring operators to do so. The commenter recommended that Levels 1 and 2 corrosion be, "repaired on a timely basis." Another commenter requested that the phrase, "all structure [found corroded or cracked * * *]," be changed to read "all primary or all significant structure," in proposed paragraph A. This commenter also requested that the terms "corrosion and cracks," as stated in paragraph A., be defined further. The FAA concurs in part with these comments. It appears that the commenters are concerned that paragraph A. as proposed would require corrective actions beyond those which are currently required for findings of corroded or cracked structure. Upon reevaluation, the FAA has determined that the unsafe condition to which this AD is addressed is the inadequacy of existing corrosion control programs to detect corrosion in a timely manner; there is no basis at this time for concluding that existing maintenance practices are inadequate to address corrosion once it is found. Therefore, with regard to corrective action for specific findings of cracks and corrosion, the FAA intends that existing sound maintenance practices, as already required under FAR part 43, continue to be followed. Accordingly, including a requirement for such repair or other corrective action in this AD is unnecessary, and that requirement has been deleted from the final rule. A Note has been added to inform the public of the need to comply with part 43 in addressing cracks and/or corrosion found as result of the inspections required by this AD. Further, the Note following proposed paragraph A., relating to repairs done in accordance with SFAR 36, has been deleted as unnecessary.

Several commenters requested that proposed paragraph A. be revised to permit adoption of a corrosion control program that is "equivalent to that defined in" the Boeing Document in order to avoid the necessity for obtaining FAA approval of deviations from the specific program defined in the Document. The FAA does not concur. In order to ensure equivalency, the FAA has determined that it is necessary for it to review proposed deviations; allowing operator discretion in determining equivalency would essentially preclude the FAA from taking appropriate action to ensure compliance if it subsequently determines that the operator's program is not equivalent.

One commenter noted that the non-destructive inspection (NDI) acceptable methods specified in the Note in proposed paragraph A. should include the manufacturer's non-destructive testing manuals; this would eliminate confusion generated by the wording in the Note stating, "standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13." The FAA does not concur that additional clarification is necessary. FAR 43.13 currently allows the use of the manufacturer's non-destructive testing manuals.

One commenter remarked that the Note in proposed paragraph B., which would require FAA review and approval of data submitted to substantiate that Level 3 corrosion is not typical of the operator's fleet, was in direct contradiction to the Boeing Document. This commenter stated that the process of FAA reviewing isolated cases may take too long, while the remainder of the operator's fleet may be in jeopardy. The FAA does not concur. As discussed above, in order to ensure the adequacy of operators' determinations, it is necessary for the FAA to review and approve them; without such approval, an operator could not be held accountable for an improper determination that a Level 3 corrosion finding was non-representative. Further, the FAA has committed to responding to Level 3 corrosion as expeditiously as possible to avoid adversely affecting safety. Finally, assuming the adequacy of proposed adjustments and their substantiation, the FAA's role will be limited to general oversight, and the associated workload should not be excessive. Therefore, delays are not inherent in this review and approval process.

The manufacturer implied that proposed paragraph B., which addresses findings of Level 3 corrosion, is unnecessary in that such findings must be reported in accordance with FAR 121.703 and corrective actions (such as schedule adjustments) must be adopted in accordance with proposed paragraph G. Other commenters also suggested that the reporting requirements of proposed paragraph B. are redundant of those of FAR 121.703. The FAA does not concur. With regard to the reporting requirement, the purpose and content of the reports required by this paragraph are different from the general requirement of FAR 121.703; reports under this paragraph are intended to provide the FAA with information regarding not just the specific finding of corrosion, but the status of the operator's fleet and schedule adjustments. With regard to the requirement for schedule adjustments, the urgency associated with findings of Level 3 corrosion is such that the FAA considers it necessary to review and approve the operator's plans to identify any other such corrosion in its fleet; without such approval, an operator could not be held accountable for failing to inspect the remainder of its fleet expeditiously.

Numerous commenters rquested that proposed paragraph B.1. be revised to change the word "found" to read "determined," and to change the word "finding" to read "determination." These changes would give operators additional time to consult with the manufacturer before commencement of the 7-day compliance period for additional actions. The FAA concurs. The FAA recognizes that some time may pass between discovery of corrosion and the determination that it is Level 3 corrosion, and that additional time will then be needed either to inspect the remainder of the operator's fleet or to develop a plan for such inspections. Therefore, it is appropriate that the compliance time start at the time the determination is made. However, the FAA will monitor the time experienced by operators between the discovery and determination of Level 3 corrosion to ensure that operators continue to respond with the necessary urgency. The FAA considers the degree of urgency associated with findings of Level 3 corrosion to be equivalent to that associated with findings of unsafe conditions warranting the issuance of emergency ADs. Therefore, if it is found that timely determinations are not being made, the FAA may propose further rulemaking to address this concern. Paragraph B.1. of the final rule has been revised to reflect that the 7-day compliance time commences upon the determination of Level 3 corrosion.

One commenter noted that the requirements of proposed paragraph B.1.a., which would require operators to submit a report of Level 3 corrosion findings to the FAA and to inspect the affected area on all Model 737 aircraft in the operator's fleet within 7 days, would ground operators with large fleets. The FAA does not concur. The requirements of paragraph B.1.a. were intended as an option for operators with small fleets. Operators with large fleets have the option of accomplishing the requirements of paragraph B.1.b. (which involves submitting a proposal for adjustment to the schedule for performing tasks in that area on remaining aircraft in the fleet, or submitting data substantiating that the Level 3 corrosion found is an isolated case).

Several commenters requested that the requirements of proposed paragraph B. to address the remainder of the operator's fleet upon a finding of Level 3 corrosion be narrowed to apply only to other "affected" airplanes of the operator's fleet. The FAA doe not concur. As with the operator's determinations of appropriate schedule adjustments, the FAA considers it necessary to review and approve the operator's determination that airplanes are not "affected;" without such approval, an operator could not be held accountable for an incorrect determination.

One commenter questioned whether proposed paragraph B.1.a. would require an operator to inspect the remainder of its fleet within 7 days if the FAA rejected its proposed schedule adjustments submitted in accordance with paragraph B.1.b. The FAA considers the proposed language to be clear. Paragraphs B.1.a. and B.1.b. provide distinct options to the operator. If the operator chooses to submit proposed schedule adjustments which the FAA subsequently determines to be inadequate, the FAA may then impose adjustments in accordance with paragraph B.2.; however, the operator would not be required to comply with the 7-day requirement of paragraph B.1.a.

One commenter requested that the words "Level 3 corrosion" be added to proposed paragraph B.1.a. to clarify that the reporting requirement is for Level 3 corrosion only, and not for all corrosion. The FAA concurs. The final rule has been revised accordingly.

Two commenters requested clarification regarding the requirement of proposed paragraph B.1.b.(1) to submit proposed adjustments to the schedule for "implementing the program." The FAA concurs. The final rule has been revised to refer to the adjusted schedule for "performing the tasks" in the relevant area, which more accurately reflects the subject of the adjusted schedule.

Several commenters suggested that proposed paragraph B.1.b. (1) and (2) lack sufficient guidance as to what constitutes sufficient "substantiating data," or what constitutes an acceptable "adjustment to a maintenance program." Without this information, they were concerned that they would not be able make submissions that would be acceptable to the FAA. The FAA does not occur. The data necessary to substantiate proposed schedule adjustments is the same as that relied upon by the operator in the exercise of sound engineering judgment when developing those proposals. Substantiating data that supports the operator's proposed schedule should include age of equipment, number of flight hours, conditions in the operational environment, and other pertinent data to support the operator's proposal. If the data substantiates that schedule adjustments are unnecessary to ensure timely detection of Level 3 corrosion on certain or all airplanes in the remainder of the operator's fleet, then the FAA would approve the operator's proposal not to make such adjustments.

Another commenter requested that the words "Level 3" in proposed paragraph B.1.b.(2) be replaced with the phrase, "corrosion of potential urgent airworthiness concern." The commenter stated that this would eliminate confusion resulting from different definitions of "Level 1, 2, and 3" corrosion. The FAA does not concur. It is not the FAA's intent to introduce different definitions of these terms and, in accordance with paragraph A. of the AD, the definitions contained in the Boeing Document are required to be incorporated into the operator's maintenance program. The sole purpose of paragraph B.1.b.(2) is to provide the FAA with a means to ensure the correctness of an operator's determination that severe corrosion is not typical.

Several operators requested that proposed paragraph B.2. be deleted because it would allow the Seattle ACO to impose its own program, rather than responding to the operator's proposed adjustments. Another commenter requested that proposed paragraph B.1.b.(2) be revised to include a

provision whereby operators would have the opportunity to negotiate with the FAA in the event the FAA rejects the operator's substantiating data. The FAA does not concur. As discussed above, where an operator presents proposed adjustments and substantiating data showing that those adjustments will establish an acceptable level of safety, the FAA will approve the proposal. However, if the FAA determines that the proposed adjustments are inadequate, it may impose different adjustments, in accordance with paragraph B.2. Prior to doing so, it would necessarily discuss the practicability of any such adjustments with the operator. Ultimately, however, the FAA must retain the authority to determine what adjustments are necessary to ensure that an acceptable level of safety is maintained.

Several commenters contended that proposed paragraph B.3. (requiring operators to revise the maintenance program within 7 days to include adjustments approved by the FAA when Level 3 corrosion is found) was unnecessary because the one-time inspection required by paragraph B.1.b.(1) would not require an adjustment to the operator's maintenance program; therefore, the requirements of paragraph B.3. could be fulfilled by those of proposed paragraph G. The FAA does not concur. The purposes of paragraphs B. and G. are different: Paragraph B. is intended to address the short-term problem of ensuring that other Level 3 corrosion is found expeditiously, whereas paragraph G. is intended to address the longer-term problem of ensuring that maintenance programs are changed to prevent the occurrence of severe corrosion in the future. A revision to the FAA-approved maintenance program is the only means to enable the FAA to take appropriate action to ensure compliance with the adjustments to the program.

Several commenters stated that the 7-day compliance time required by proposed paragraph B.3. is unrealistic because of the amount of time required to revise work cards, to obtain approval for a revised program from the PMI, and to publish revised manuals. Commenters requested that additional time, ranging from 15 days to 10 weeks, be allowed for incorporating the changes into the maintenance program. The FAA concurs in parts. As discussed previously, the FAA regards Level 3 corrosion findings as being the equivalent of unsafe conditions for which emergency AD action is appropriate. That type of AD frequently requires action on the entire fleet within 10 days or fewer. Therefore, in general, the FAA does not consider the 7-day requirement to be unreasonable. Nevertheless, the purpose of the requirement of paragraph B.3. is to enable the FAA to take appropriate action to ensure compliance with the schedule adjustments. The FAA has determined that enforceability will not be affected so long as the operator revises its maintenance program prior to the accomplishment of the first task specified in the adjusted schedule. Therefore, the final rule has been revised to require an operator to revise its maintenance program prior to time specified in the adjusted schedule for accomplishing the first task. Of course, operators are permitted to perform tasks prior to the time specified in the schedule.

Several commenters requested that the words "at least [quarterly]" be inserted in the reporting requirement of proposed paragraph D. to provide flexibility to the operators in complying with this requirement. The FAA concurs; adding the suggested wording will in no way change the intent of the reporting requirement. The final rule has been revised accordingly.

One commenter viewed the requirements of proposed paragraph E., concerning FAA approval of the schedule for certain changes in the repeat inspection/task intervals, as overly restrictive, which may prove to be counter-productive by focusing resources on areas of lower priority. The FAA does not concur. The purpose of this paragraph is to prevent those operators that currently have rigorous corrosion control programs from downgrading them. Since those programs are presumably based on the operator's service experience, and since the Boeing Document presents a program based on average fleetwide experience, it may be that the Boeing Document would not provide an acceptable level of safety for that operator. The alternate means of compliance provision in paragraph H. of the final rule provides the opportunity for any operator to submit an alternative procedure to the FAA that would provide an acceptable level of safety.

One commenter requested that the rule be revised to permit the PMI, rather than the Manager of the Seattle ACO, to approve (1) extensions to the compliance time of proposed paragraph C., (2) increases in the repeat inspection intervals in proposed paragraph E., (3) the operator's schedule for performing tasks on newly acquired airplanes (as required by proposed paragraph F.2.), and (4) proposed corrective actions if corrosion is found to exceed Level 1 (as required by proposed paragraph G.1.). The FAA does not concur. The PMI's serve as FAA's critical link with the operators, and their oversight responsibilities will not be minimized in this AD action. However, the staff of the ACO provides the engineering support necessary to evaluate whether extensions to compliance times, increases in repeat inspection intervals, schedules for newly acquired airplanes, and proposed corrective actions will maintain an acceptable level of safety.

Several commenters stated that proposed paragraph F., concerning adding airplanes to an air carrier's operations specifications, was unnecessary and should be deleted. As an alternative, one commenter suggested a pro-rated implementation process wherein the old program would be merged into the new program. The FAA does not concur. Paragraph F. is necessary to ensure that newly acquired airplanes are inspected within a period of time commensurate with their likely exposure to corrosion. Since this AD merely requires the adoption of a corrosion control program and, apart from paragraph F., does not dictate the order in which individual airplanes are to be inspected, it is possible that, without this paragraph, newly acquired airplanes may simply "go to the end of the line" under the new owner's program even if they were likley candidates for severe corrosion. Regarding airplanes that have previously been operated under maintenance programs complying with this AD, since each operator's program will reflect its own operating environment, the only conservative approach is to require the first inspection by the new owner to be conducted in accordance with the more restrictive of the two operator's programs.

Another commenter requested that proposed paragraph F.2. be deleted entirely and that all newly acquired airplanes be phased-in in accordance with proposed paragraph F.1. The FAA does not concur. Paragraph F.1. and F.2. are exclusive of one another. If an airplane has been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.1. If an airplane has never been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.2. Assuming it has been operated under an equivalent corrosion control program adopted in accordance with the requirements of another airworthiness authority, that fact would obviously be

critical in substantiating a proposed schedule under paragraph F.2. If it has not been operating under such a program, its corrosion status must be determined before it is added to the operator's operations specifications.

One commenter requested that the word "first [task]" in proposed paragraph F.1. be changed to "initial" for purposes of clarity and consistency with paragraph F.2. The FAA concurs. This editorial change serves to clarify the rule. The final rule has been changed accordingly.

Several commenters recommended that proposed paragraph G. be deleted since Level 2 corrosion is not an airworthiness concern. One commenter further stated that the Seattle ACO should not even be involved in this non-airworthiness issue. Another operator commented that the FAA does not have the manpower to be responsive to the workload that will be generated by the requirements of proposed paragraphs G.1. and G.2. The FAA does not concur with these commenters. As defined in the Boeing Document, Level 2 corrosion, while not urgent, is an airworthiness concern and, to the extent that corrosion control programs must be revised to prevent its recurrence, the FAA has determined that those revisions must be subject to FAA engineering review (via the Seattle ACO) to ensure the adequacy of the corrective actions. Assuming the adequacy of proposed corrective actions, the FAA's role will be limited to general oversight, and the associated workload should not be excessive.

One commenter requested that the words " * * * and is determined to be representative of the operators fleet" be added to proposed paragraph G. to permit operators to forego program adjustments when a single finding is not representative of the operator's fleet. The FAA does not concur. As previously explained in the preamble to the Supplemental NPRM, if corrosion is not representative, then a means to reduce corrosion to Level 1 or better will have already been implemented in accordance with paragraph A. of the AD, and no further corrective action may be necessary. For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an area based on previous findings, no additional corrective action may be necessary. In reviewing the reports submitted in accordance with paragraph D. of the AD, the FAA will monitor the effectiveness of the operator's means to reduce corrosion. If the FAA determines that an operator has failed to implement adquate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph. To clarify the FAA's intent in this regard, paragraph G.1. has been revised to read: "Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes discussed above. These changes will neither increase the economic burden on any operator, nor increase the scope of the rule.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

There are approximately 595 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 232 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per area to accomplish the required actions. There are 121 areas called out in the Boeing Document and, for an average labor cost of $40 per manhour, the total cost to inspect each airplane is estimated to be $38,720. Based on these figures, the total cost impact of the AD on U.S. operators for the estimated 6 years average inspection cycle is $8,983,040.

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

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and 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, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me the Administrator, the Federal Aviation Administration amends 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 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by reading the following new airworthiness directive:

Boeing: Applies to all Model 737 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

Note: This AD references Boeing Document Number D6–38528, "Aging Airplane Corrosion Prevention and Control Program, Model 737," Revision A, dated July 28, 1989, for inspection procedures, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

To control corrosion, accomplish the following:

A. Within one year after the effective date of this AD, revise the FAA-approved maintenance program to include the corrosion control program specified in Boeing Document Number D6–38528, "Aging Airplane Corrosion Prevention and Control Program, Model 737," Revision A, dated July 28, 1989, (hereinafter referred to as "the Document").

Note: All structure found corroded or cracked as a result of an inspection conducted in accordance with this paragraph must be addressed in accordance with FAR part 43.

Note: Where non-destructive inspection (NDI) methods are employed, in accordance with section 4.1 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13.

Note: Procedures identified in the Document as "optional" are not required to be accomplished by this AD.

B. 1. If, as a result of any inspection conducted in accordance with the program required by paragraph A., above, Level 3 corrosion is determined to exist in any area, accomplish one of the following within 7 days after such determination:

a. Submit a report of any findings of Level 3 corrosion to the Manager of the Seattle Aircraft Certification Office (ACO) and inspect the affected area on all Model 737 aircraft in the operator's fleet; or

b. Submit for approval to the Manager of the Seattle ACO one of the following:

(1) Proposed adjustments to the schedule for performing the tasks in that area on remaining airplanes in the operator's fleet, which are adequate to ensure that any other Level 3 corrosion is detected in a timely manner; along with substantiating data for those adjustments; or

(2) Data substantiating that the Level 3 corrosion found is an isolated occurrence and that no such adjustments are necessary.

Note: Notwithstanding the provision of Section 1.1. of the Document that would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

Note: As used throughout this AD, where documents are to be submitted to the Manager of the Seattle ACO, the document should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO. The Seattle ACO will not respond to the operator without the PI's comments or concurrence.

2. The FAA may impose adjustments other than those proposed, upon a finding that such adjustments are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

3. Prior to the compliance time specified for the first task required in the adjusted schedule approved under paragraph B.1. or B.2. of this AD, revise the FAA-approved maintenance program to include those adjustments.

Note: The reporting requirements of this paragraph and of paragraph D., below, do not relieve operators from reporting corrosion as required by FAR section 121.703.

C. To accommodate unanticipated scheduling requirements, it is acceptable for a repeat inspection interval to be increased by up to 10% but not to exceed 6 months. The cognizant FAA Principal Inspector (PI) must be informed, in writing, of any extension.

Note: Except as provided in this paragraph, notwithstanding Section 3.1., paragraph 4, of the Document, all extensions to any compliance time must be approved by the Manager of the Seattle ACO.

D. Report forms for Level 2 corrosion and a follow-up report for Level 3 corrosion must be submitted at least quarterly in accordance with Section 5.0 of the Document.

E. If the repeat inspection or task intervals of an operator's existing corrosion inspection program are shorter than the corresponding intervals in Section 4.3 of the Document, they may not be increased without specific approval of the Manager of the Seattle ACO.

F. Before any airplane that is subject to this AD can be added to an air carrier's operations specifications, a program for the accomplishment of tasks required by this AD must be established in accordance with the following:

1. For airplanes that have previously been operated under an FAA-approved maintenance program, the initial task on each area to be accomplished by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

2. For airplanes that have not previously been operated under an FAA-approved maintenance program, each initial task required by this AD must be accomplished either prior to the airplane's being added to the air carrier's operations specifications, or in accordance with a schedule approved by the Manager, Seattle ACO.

G. If corrosion is found to exceed Level 1 on any inspection after the initial inspection, the corrosion control program for the affected area must be reviewed and means implemented to reduce corrosion to Level 1 or better.

1. Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO.

2. Within 30 days after the corrective action is approved, revise the FAA-approved maintenance program to include the approved corrective action.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The requirements shall be done in accordance with Boeing Document Number D6-38528, "Aging Airplane Corrosion Prevention and Control Program, Model 737," Revision A, dated July 28, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, Northwest Mountain Region, 1601 Lind Avenue SW., 5th floor, Renton, Washington; or at the Office of the Federal Register, 1101 L Street NW., room 8301, Washington, DC.

This amendment becomes effective December 31, 1990.

Issued in Renton, Washington, on November 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-27801 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-271-AD; Amdt. 39-6790]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 747 series airplanes, which requires the implementation of a corrosion prevention and control program. This amendment is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes. These incidents have jeopardized the airworthiness of the affected airplanes. This condition, if not corrected, could result in degradation of the structural capabilities of the affected airplanes.

DATES: Effective December 31, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch,

Seattle Aircraft Certification Office, ANM-120S, telephone (206) 227-2773. Mailing address: 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all Boeing Model 747 series airplanes, which requires the implementation of a corrosion control program, was published as a Supplemental Notice of Proposed Rulemaking (NPRM) in the Federal Register on August 2, 1990 (55 FR 31401).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. The Supplemental NPRM was published simultaneously with similar Supplemental NPRM's on this subject relating to Boeing Model 707/720, 727, and 737 series airplanes. The comments received in response to all of these NPRM's were similar; however, in some cases, comments were submitted with respect to one model and not the others. Nevertheless, because the comments and the FAA's responses to those comments may be helpful in providing additional guidance in understanding the FAA's intent in this action, all of the comments and the FAA's responses are discussed in the preambles of each of the final rules resulting from those NPRM's.

Several commenters objected generally to several of the requirements proposed in the Supplemental Notice of Proposed Rulemaking (NPRM) because they are contrary to the requirements for controlling corrosion recommended by the Airworthiness Assurance Task Force (AATF), of which FAA representatives are members. The FAA considers that these objections may be based on a misunderstanding of the AATF's role in the development of this AD. The AATF, as an advisory committee, has provided invaluable assistance to the FAA in providing guidance with respect to the technical content of the corrosion prevention and control program, and the FAA has adopted its recommendations in this regard in total. However, with respect to the means of implementing and ensuring compliance with the program, as discussed in detail below, the FAA has gone beyond the recommendations in order to ensure that operators will be aware of the specific actions for which they will be held accountable, and to enable the FAA to take appropriate action to ensure compliance. In accordance with the Federal Advisory Committee Act, the FAA is required to make independent determinations with regard to these matters, and it would be inappropriate to adopt recommendations which are determined to be indefinite as to timing and responsibility.

The Air Transport Association (ATA) of America, on behalf of its member operators, commented that a better approach for this corrosion AD would have been to follow the example of the Supplemental Structural Inspection Document (SSID) AD [reference AD 84-21-02-R1, Amendment 39-6430, (55 FR 1005, January 11, 1990)]. The ATA regards that AD as preferable in that it provides operators the flexibility to make minor adjustments without seeking FAA approval. The FAA does not concur. Although both the SSID AD and this AD action are similar in that they involve complex revisions to the operators' maintenance programs, they differ in several significant ways. The SSID program is not a self-contained method for addressing aging fleet problems; it services as a sampling and monitoring tool to provide the FAA with information needed to issue additional AD's defining corrective action when problems are discovered. On the other hand, the corrosion prevention and control program required by this AD is intended to be self-contained and, in addition to information gathering addresses the nature of corrective action necessary when problems are discovered. The purpose of this program is to maintain corrosion levels at Level 1 or better, whereas the purpose of the SSID AD was simply to detect fatigue problems so that additional corrective action could be required. This difference necessitates the greater complexity and detail of the AD action in defining terms of compliance. Further, fatigue cracking, which is addressed by the SSID program, is a problem generally experienced similarly by airplanes, regardless of operational environment and, therefore, it is appropriate to address that problem through follow-on ADs applicable to the entire fleet. Since corrosion, on the other hand, is highly dependent upon the operational environment, it is appropriate to address it through individualized adjustments to an operator's corrosion prevention and control program.

Several operators commented that the rule removes the PMIs from their primary role as the single point of FAA oversight for the operators' maintenance program. The FAA does not concur. The PMIs will continue to serve as FAAs critical link with the operators. Their oversight responsibilities in this AD, as in other AD's, will not be minimized by the requirements of this AD; however, engineering support will be provided by the Seattle Aircraft Certification Office (ACO).

The manufacturer commented that references to the Boeing Corrosion Prevention and Control Program document (hereinafter referred to as the "Boeing Document") should be corrected to read, "Revision A." The FAA concurs. Revision A provides further clarification and editorial changes to the Boeing Document and includes the optional appendices which are not subject to the requirements of this AD. The final rule has been revised accordingly.

Several commenters noted that proposed paragraph A. should be revised to indicate that the appendices to the Boeing Document are optional. The FAA does not concur that any additional revision to the final rule is necessary. The Boeing Document clearly indicates that the appendices are provided as options or for guidance.

One commenter stated that, since the Boeing Document does not require repair of Level 1 or 2 corrosion prior to further flight, this AD action is an over-reaction in requiring operators to do so. The commenter recommended that Level 1 and 2 corrosion be, "repaired on a timely basis." Another commenter requested that the phrase, "all structure [found corroded or cracked * * *]." be changed to read "all primary or all significant structure," in proposed paragraph A. This commenter also requested that the terms "corrosion and cracks," as stated in paragraph A., be defined further. The FAA concurs in part with these comments. It appears that the commenters are concerned that paragraph A, as proposed would require corrective actions beyond those which are currently required for findings of corroded or cracked structure. Upon reevaluation, the FAA has determined that the unsafe condition to which this AD is addressed is the inadequacy of existing corrosion control programs to detect corrosion in a timely manner; there is no basis at this time for concluding that existing maintenance practices are inadequate to address corrosion once it is found. Therefore, with regard to corrective action for specific findings of cracks and corrosion, the FAA intends that existing sound maintenance practices, as already required under FAR part 43, continue to be followed. Accordingly, including a requirement for such repair or other corrective action in this AD is unnecessary, and that requirement has been deleted from the final rule. A Note has been added to inform the public of the need to comply with part 43 in

addressing cracks and/or corrosion found as result of the inspections required by this AD. Further, the Note following proposed paragraph A., relating to repairs done in accordance with SFAR 36, has been deleted as unnecessary.

Several commenters requested that proposed paragraph A. be revised to permit adoption of a corrosion control program that is "equivalent to that defined in" the Boeing Document in order to avoid the necessity for obtaining FAA approval of deviations from the specific program defined in the Document. The FAA does not concur. In order to ensure equivalency, the FAA has determined that it is necessary for it to review proposed deviations; allowing operator discretion in determining equivalency would essentially preclude the FAA from taking appropriate action to ensure compliance if it subsequently determines that the operator's program is not equivalent.

One commenter noted that the non-destructive inspection (NDI) acceptable methods specified in the Note in proposed paragraph A. should include the manufacturer's non-destructive testing manuals; this would eliminate confusion generated by the wording in the Note stating, "standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13." The FAA does not concur that additional clarification is necessary. FAR 43.13 currently allows the use of the manufacturer's non-destructive testing manuals.

One commenter remarked that the Note in proposed paragraph B., which would require FAA review and approval of data submitted to substantiate that Level 3 corrosion is not typical of the operator's fleet, was in direct contradiction to the Boeing Document. This commenter stated that the process of FAA reviewing isolated cases may take too long, while the remainder of the operator's fleet may be in jeopardy. The FAA does not concur. As discussed above, in order to ensure the adequacy of operator's determinations, it is necessary for the FAA to review and approve them; without such approval, an operator could not be held accountable for an improper determination that a Level 3 corrosion finding was non-representative. Further, the FAA has committed to responding to Level 3 corrosion as expeditiously as possible to avoid adversely affecting safety. Finally, assuming the adequacy of proposed adjustments and their substantiation, the FAA's role will be limited to general oversight, and the associated workload should not be excessive. Therefore, delays are not inherent in this review and approval process.

The manufacturer implied that proposed paragraph B., which addresses findings of Level 3 corrosion, is unnecessary in that such findings must be reported in accordance with FAR 121.703 and corrective actions (such as schedule adjustments) must be adopted in accordance with proposed paragraph G. Other commenters also suggested that the reporting requirements of proposed paragraph B. are redundant of those of FAR 121.703. The FAA does not concur. With regard to the reporting requirement, the purpose and content of the reports required by this paragraph are different from the general requirement of FAR 121.703; reports under this paragraph are intended to provide the FAA with information regarding not just the specific finding of corrosion, but the status of the operator's fleet and schedule adjustments. With regard to the requirement for schedule adjustments, the urgency associated with findings of Level 3 corrosion is such that the FAA considers it necessary to review and approve the operator's plans to identify any other such corrosion in its fleet; without such approval, an operator could not be held accountable for failing to inspect the remainder of its fleet expeditiously.

Numerous commenters requested that proposed paragraph B.1. be revised to change the word "found" to read "determined," and to change the word "finding" to read "determination." These changes would give operators additional time to consult with the manufacturer before commencement of the 7-day compliance period for additional actions. The FAA concurs. The FAA recognizes that some time may pass between discovery of corrosion and the determination that it is Level 3 corrosion, and that additional time will then be needed either to inspect the remainder of the operator's fleet or to develop a plan for such inspections. Therefore, it is appropriate that the compliance time start at the time the determination is made. However, the FAA will monitor the time experienced by operators between the discovery and determination of Level 3 corrosion to ensure that operators continue to respond with the necessary urgency. The FAA considers the degree of urgency associated with findings of Level 3 corrosion to be equivalent to that associated with findings of unsafe conditions warranting the issuance of emergency ADs. Therefore, if it is found that timely determinations are not being made, the FAA may propose further rulemaking to address this concern. Paragraph B.1. of the final rule has been revised to reflect that the 7-day compliance time commences upon the determination of Level 3 corrosion.

One commenter noted that the requirements of proposed paragraph B.1.a., which would require operators to submit a report of Level 3 corrosion findings to the FAA and to inspect the affected area on all Model 747 aircraft in the operator's fleet within 7 days, would ground operators with large fleets. The FAA does not concur. The requirements of paragraph B.1.a. were intended as an option for operators with small fleets. Operators with large fleets have the option of accomplishing the requirements of paragraph B.1.b. (which involves submitting a proposal for adjustment to the schedule for performing tasks in that area on remaining aircraft in the fleet, or submitting data substantiating that the Level 3 corrosion found is an isolated case).

Several commenters requested that the requirements of proposed paragraph B. to address the remainder of the operator's fleet upon a finding of Level 3 corrosion be narrowed to apply only to other "affected" airplanes of the operator's fleet. The FAA does not concur. As with the operator's determinations of appropriate schedule adjustments, the FAA considers it necessary to review and approve the operator's determination that airplanes are not "affected"; without such approval, an operator could not be held accountable for an incorrect determination.

One commenter questioned whether proposed paragraph B.1.a. would require an operator to inspect the remainder of its fleet within 7 days if the FAA rejected its proposed schedule adjustments submitted in accordance with paragraph B.1.b. The FAA considers the proposed language to be clear. Paragraph B.1.a. and B.1.b. provide distinct options to the operator. If the operator chooses to submit proposed schedule adjustments which the FAA subsequently determines to be inadequate, the FAA may then impose adjustments in accordance with paragraph B.2.; however, the operator would not be required to comply with the 7-day requirement of paragraph B.1.a.

One commenter requested that the words "Level 3 corrosion" be added to proposed paragraph B.1.a. to clarify that the reporting requirement is for Level 3 corrosion only, and not for all corrosion.

The FAA concurs. The final rule has been revised accordingly.

Two commenters requested clarification regarding the requirement of proposed paragraph B.1.b.(1) to submit proposed adjustments to the schedule for "implementing the program." The FAA concurs. The final rule has been revised to refer to the adjusted schedule for "performing the tasks" in the relevant area, which more accurately reflects the subject of the adjusted schedule.

Several commenters suggested that proposed paragraphs B.1.b. (1) and (2) lack sufficient guidance as to what constitutes sufficient "substantiating data," or what constitutes an acceptable "adjustment to a maintenance program." Without this information, they were concerned that they would not be able to make submissions that would be acceptable to the FAA. The FAA does not concur. The data necessary to substantiate proposed schedule adjustments is the same as that relied upon by the operator in the exercise of sound engineering judgment when developing those proposals. Substantiating data that supports the operator's proposed schedule should include age of equipment, number of flight hours, conditions in the operational environment, and other pertinent data to support the operator's proposal. If the data substantiates that schedule adjustments are unnecessary to ensure timely detection of Level 3 corrosion on certain or all airplanes in the remainder of the operator's fleet, then the FAA would approve the operator's proposal not to make such adjustments.

Another commenter requested that the words "Level 3" in proposed paragraph B.1.b.(2) be replaced with the phrase, "corrosion of potential urgent airworthiness concern." The commenter stated that this would eliminate confusion resulting from different definitions of "Level 1, 2, and 3" corrosion. The FAA does not concur. It is not the FAA's intent to introduce different definitions of these terms and, in accordance with paragraph A. of the AD, the definitions contained in the Boeing Document are required to be incorporated into the operator's maintenance program. The sole purpose of paragraph B.1.b.(2) is to provide the FAA with a means to ensure the correctness of an operator's determination that severe corrosion is not typical.

Several operators requested that proposed paragraph B.2. be deleted because it would allow the Seattle ACO to impose its own program, rather than responding to the operator's proposed adjustments. Another commenter requested that proposed paragraph B.1.b.(2) be revised to include a provision whereby operators would have the opportunity to negotiate with the FAA in the event the FAA rejects the operator's substantiating data. The FAA does not concur. As discussed above, where an operator presents proposed adjustments and substantiating data showing that those adjustments will establish an acceptable level of safety, the FAA will approve the proposal. However, if the FAA determines that the proposed adjustments are inadequate, it may impose different adjustments, in accordance with paragraph B.2. Prior to doing so, it would necessarily discuss the practicability of any such adjustments with the operator. Ultimately, however, the FAA must retain the authority to determine what adjustments are necessary to ensure that an acceptable level of safety is maintained.

Several commenters contended that proposed paragraph B.3. (requiring operators to revise the maintenance program within 7 days to include adjustments approved by the FAA when Level 3 corrosion is found) was unnecessary because the one-time inspection required by paragraph B.1.b.(1) would not require an adjustment to the operator's maintenance program; therefore, the requirements of paragraph B.3. could be fulfilled by those of proposed paragraph G. The FAA does not concur. The purposes of paragraphs B. and G. are different: Paragraph B. is intended to address the short-term problem of ensuring that other Level 3 corrosion is found expeditiously, whereas paragraph G. is intended to address the longer-term problem of ensuring that maintenance programs are changed to prevent the occurrence of severe corrosion in the future. A revision to the FAA-approved maintenance program is the only means to enable the FAA to take appropriate action to ensure compliance with the adjustments to the program.

Several commenters stated that the 7-day compliance time required by proposed paragraph B.3. is unrealistic because of the amount of time required to revise work cards, to obtain approval for a revised program from the PMI, and to publish revised manuals. Commenters requested that additional time, ranging from 15 days to 10 weeks, be allowed for incorporating the changes into the maintenance program. The FAA concurs in part. As discussed previously, the FAA regards Level 3 corrosion findings as being the equivalent of unsafe conditions for which emergency AD action is appropriate. That type of AD frequently requires action on the entire fleet within 10 days or fewer. Therefore, in general, the FAA does not consider the 7-day requirement to be unreasonable. Nevertheless, the purpose of the requirement of paragraph B.3. is to enable the FAA to take appropriate action to ensure compliance with the schedule adjustments. The FAA has determined that enforceability will not be affected so long as the operator revises its maintenance program prior to the accomplishment of the first task specified in the adjusted schedule. Therefore, the final rule has been revised to require an operator to revise its maintenance program prior to time specified in the adjusted schedule for accomplishing the first task. Of course, operators are permitted to perform tasks prior to the time specified in the schedule.

Several commenters requested that the words "at least [quarterly]" be inserted in the reporting requirement of proposed paragraph D. to provide flexibility to the operators in complying with this requirement. The FAA concurs; adding the suggested wording will in no way change the intent of the reporting requirement. The final rule has been revised accordingly.

One commenter viewed the requirements of proposed paragraph E., concerning FAA approval of the schedule for certain changes in the repeat inspection/task intervals, as overly restrictive, which may prove to be counter-productive by focusing resources on areas of lower priority. The FAA does not concur. The purpose of this paragraph is to prevent those operators that currently have rigorous corrosion control programs from downgrading them. Since those programs are presumably based on the operator's service experience, and since the Boeing Document presents a program based on average fleetwide experience, it may be that the Boeing Document would not provide an acceptable level of safety for that operator. The alternate means of compliance provision in paragraph H. of the final rule provides the opportunity for any operator to submit an alternative procedure to the FAA that would provide an acceptable level of safety.

One commenter requested that the rule be revised to permit the PMI, rather than the Manager of the Seattle ACO, to approve (1) extensions to the compliance time of proposed paragraph C., (2) increases in the repeat inspection intervals in proposed paragraph E., (3) the operator's schedule for performing tasks on newly acquired airplanes (as

required by proposed paragraph F.2.), and (4) proposed corrective actions if corrosion is found to exceed Level 1 (as required by proposed paragraph G.1.). The FAA does not concur. The PMI's serve as FAA's critical link with the operators, and their oversight responsibilities will not be minimized in this AD action. However, the staff of the ACO provides the engineering support necessary to evaluate whether extensions to compliance times, increases in repeat inspection intervals, schedules for newly acquired airplanes, and proposed corrective actions will maintain an acceptable level of safety.

Several commenters stated that proposed paragraph F., concerning adding airplanes to an air carrier's operations specifications, was unnecessary and should be deleted. As an alternative, one commenter suggested a pro-rated implementation process wherein the old program would be merged into the new program. The FAA does not concur. Paragraph F. is necessary to ensure that newly acquired airplanes are inspected within a period of time commensurate with their likely exposure to corrosion. Since this AD merely requires the adoption of a corrosion control program and, apart from paragraph F., does not dictate the order in which individual airplanes are to be inspected, it is possible that, without this paragraph, newly acquired airplanes may simply "go to the end of the line" under the new owner's program even if they were likely candidates for severe corrosion. Regarding airplanes that have previously been operated under maintenance programs complying with this AD, since each operator's program will reflect its own operating environment, the only conservative approach is to require the first inspection by the new owner to be conducted in accordance with the more restrictive of the two operators' programs.

Another commenter requested that proposed paragraph F.2. be deleted entirely and that all newly acquired airplanes be phased-in in accordance with proposed paragraph F.1. The FAA does not concur. Paragraph F.1. and F.2. are exclusive of one another. If an airplane has been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.1. If an airplane has never been operated under an FAA-approved maintenance program, then it would follow the requirements of paragraph F.2. Assuming it has been operated under an equivalent corrosion control program adopted in accordance with the requirements of another airworthiness authority, that fact would obviously be critical in substantiating a proposed schedule under paragraph F.2. If it has not been operating under such a program, its corrosion status must be determined before it is added to the operator's operations specifications.

One commenter requested that the word "first [task]" in proposed paragraph F.1. be changed to "initial" for purposes of clarity and consistency with paragraph F.2. The FAA concurs. This editorial change serves to clarify the rule. The final rule has been changed accordingly.

Several commenters recommended that proposed paragraph G. be deleted since Level 2 corrosion is not an airworthiness concern. One commenter further stated that the Seattle ACO should not even be involved in this non-airworthiness issue. Another operator commented that the FAA does not have the manpower to be responsive to the workload that will be generated by the requirements of proposed paragraphs G.1. and G.2. The FAA does not concur with these commenters. As defined in the Boeing Document, Level 2 corrosion, while not urgent, is an airworthiness concern and, to the extent that corrosion control programs must be revised to prevent its recurrence, the FAA has determined that those revisions must be subject to FAA engineering review (via the Seattle ACO) to ensure the adequacy of the corrective actions. Assuming the adequacy of proposed corrective actions, the FAA's role will be limited to general oversight, and the associated workload should not be excessive.

One commenter requested that the words "* * * and is determined to be representative of the operators fleet" be added to proposed paragraph G. to permit operators to forego program adjustments when a single finding is not representative of the operator's fleet. The FAA does not concur. As previously explained in the preamble to the Supplemental NPRM, if corrosion is not representative, then a means to reduce corrosion to Level 1 or better will have already been implemented in accordance with paragraph A. of the AD, and no further corrective action may be necessary. For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an area based on previous findings, no additional corrective action may be necessary. In reviewing the reports submitted in accordance with paragraph D. of the AD, the FAA will monitor the effectiveness of the operators' means to reduce corrosion. If the FAA determines that an operator has failed to implement adequate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph. To clarify the FAA's intent in this regard, paragraph G.1. has been revised to read: "Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes discussed above. These changes will neither increase the economic burden on any operator, nor increase the scope of the rule.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

There are approximately 284 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 65 airplanes of U.S. registry will be affected by this AD, that it will take approximately 40 manhours per area to accomplish the required actions. There are 118 areas called out in the Boeing document and, for an average labor cost of $40 per manhour, the total cost to inspect each airplane is estimated to be $188,800. Based on these figures, the total cost impact of the AD on U.S. operators for the estimated 6 year average inspection cycle is $12,272,000.

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

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and is contained in the Rules 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, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 11.89.

§ 39.13 [Amended]

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

Boeing: Applies to all Model 747 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

Note: This AD references Boeing Document Number D6–36022, "Aging Airplane Corrosion Prevention and Control Program, Model 747," Revision A, dated July 28, 1989, for inspection procedures, compliance times, and reporting requirements. In addition, this AD specified inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

To control corrosion, accomplish the following:

A. Within one year after the effective date of this AD, revise the FAA-approved maintenance program to include the corrosion control program specified in Boeing Document Number D6–36022, "Aging Airplane Corrosion Prevention and Control Program, Model 747," Revision A, dated July 28, 1989 (hereinafter referred to as "the Document").

Note: All structure found corroded or cracked as a result of an inspection conducted in accordance with this paragraph must be addressed in accordance with FAR part 43.

Note: Where non-destructive inspection (NDI) methods are employed, in accordance with section 4.1 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR 43.13.

Note: Procedures identified in the Document as "optional" are not required to be accomplished by this AD.

B. 1. If, as a result, of any inspection conducted in accordance with the program required by paragraph A., above, Level 3 corrosion is determined to exist in any area, accomplish one of the following within 7 days after such determination:

a. Submit a report of any findings of Level 3 corrosion to the Manager of the Seattle Aircraft Certification Office (ACO) and inspect the affected area on all Model 747 aircraft in the operator's fleet; or

b. Submit for approval to the Manager of the Seattle ACO one of the following:

(1) Proposed adjustments to the schedule for performing the tasks in that area on remaining airplanes in the operator's fleet, which are adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for those adjustments; or

2. Data substantiating that the Level 3 corrosion found is an isolated occurrence and that no such adjustments are necessary.

Note: Notwithstanding the provision of section 1.1. of the Document that would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

Note: As used throughout this AD, where documents are to be submitted to the Manager of the Seattle ACO, the document should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO. The Seattle ACO will not respond to the operator without the PI's comments or concurrence.

2. The FAA may impose adjustments other than those proposed, upon a finding that such adjustments are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

3. Prior to the compliance time specified for the first task required in the adjusted schedule approved under paragraph B.1. or B.2. of this AD, revise the FAA-approved maintenance program to include those adjustments.

Note: The reporting requirements of this paragraph and of paragraph D., below, do not relieve operators from reporting corrosion as required by FAR Section 121.703.

C. To accommodate unanticipated scheduling requirements, it is acceptable for a repeat inspection interval to be increased by up to 10% but not to exceed 6 months. The cognizant FAA Principal Inspector (PI) must be informed, in writing, of any extension.

Note: Except as provided in this paragraph, notwithstanding section 3.1., paragraph 4, of the Document, all extensions to any compliance time must be approved by the Manager of the Seattle ACO.

D. Report forms for Level 2 corrosion and a follow-up report for Level 3 corrosion must be submitted at least quarterly in accordance with section 5.0 of the Document.

E. If the repeat inspection or task intervals of an operator's existing corrosion inspection program are shorter than the corresponding intervals in section 4.3 of the Document, they may not be increased without specific approval of the Manager of the Seattle ACO.

F. Before any airplane that is subject to this AD can be added to an air carrier's operations specifications, a program for the accomplishment of tasks required by this AD must be established in accordance with the following:

1. For airplanes that have previously been operated under an FAA-approved maintenance program, the initial task on each area to be accomplished by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

2. For airplanes that have not previously been operated under an FAA-approved maintenance program, each initial task required by this AD must be accomplished either prior to the airplane's being added to the air carrier's operations specifications, or in accordance with a schedule approved by the Manager, Seattle ACO.

G. If corrosion is found to exceed Level 1 on any inspection after the initial inspection, the corrosion control program for the affected area must be reviewed and means implemented to reduce corrosion to Level 1 or better.

1. Within 60 days after such a finding, if corrective action is necessary to reduce future findings of corrosion to Level 1 or better, such proposed corrective action must be submitted for approval to the Manager, Seattle ACO.

2. Within 30 days after the corrective action is approved, revise the FAA-approved maintenance program to include the approved corrective action.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The requirements shall be done in accordance with Boeing Document Number D6–36022, "Aging Airplane Corrosion Prevention and Control Program, Model 747," Revision A, dated July 28, 1989. This incorporation by reference was approved by the Director

of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, Northwest Mountain Region, 1601 Lind Avenue SL, 5th floor, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8301, Washington, DC.

This amendment becomes effective December 31, 1990.

Issued in Renton, Washington, on November 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-27802 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771, 772, 773, 774, 786, and 799

[Docket No. 90645-0274]

RIN 0694-AA12

General License G-TEMP; Temporary Exports

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: General license GTE authorizes temporary exports for certain purposes such as exhibition, demonstration, inspection and testing, and requires prompt return to the country of export. On October 3, 1989, the Bureau of Export Administration published a proposed rule in the **Federal Register** (54 FR 40681) to redesignate that license as General License G-TEMP and amend it by removing the registration requirement and by establishing guidelines for the use of the general license. Having received and considered comments, the Bureau of Export Administration is issuing a final rule to implement General License G-TEMP.

This final rule removes the registration requirement and establishes guidelines for the use of the general license. One effect of removing the registration requirement would be that parties abroad who were not eligible to register under the former General License GTE would be able to use G-TEMP as authorization for a permissive reexport in accordance with the appropriate provisions of the regulations. This rule permits news media personnel to take their equipment to all destinations and permits shipments of kits consisting of parts that would be eligible for export as one-for-one replacement parts under General License GLR.

EFFECTIVE DATE: This rule is effective November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Background

The Department received comments from 11 firms and associations. In general, public comments acknowledged that the proposed rule represents a substantial improvement in providing exporters with greater flexibility in making temporary exports of controlled commodities. However, several commenters expressed reservations that the proposed G-TEMP still contains limitations that would significantly restrict its usefulness. The limitations expressed by the commenters are as follows:

Tools of trade; one month limitation: The proposed rule specified that temporary exports of commodities and software may accompany an individual departing the U.S., or the commodities and software may be shipped unaccompanied within one month before or after the individual's departure. Commenters pointed out that, on an extended trip, a piece of equipment may not be needed until a later date, usually after 30 days. This final rule removes the one month after departure restriction.

Tools of trade; note 9 computers to country groups QWY and the People's Republic of China: The proposed rule specified that personal computers that do not exceed the limits of Advisory Note 9 to Export Control Commodity Number (ECCN) 1565A may be taken as tools of trade to Country Groups QWY and the People's Republic of China. Commenters requested expanding this provision to permit Note 12 computers to Country Groups QWY and Note 17 computers to the People's Republic of China under tools of trade. On June 29, 1990 (55 FR 26655), BXA published a revision to ECCN 1565A that decontrolled computers with a Processing Data Rate (PDR) of 275 mbps or less, substantially above the former Advisory Note 9 level of 54 PDR. This change should allow adequate computing capability under General License G-DEST. As a result, the Advisory Note 9 provision has been deleted in this final rule.

Temporary exhibition and demonstration in country groups T or V: The proposed rule specified that commodities and software may be exported for demonstration and exhibition purposes in Country Groups T or V (excluding the People's Republic of China), provided that the goods are not demonstrated or exhibited at any one site for more than 30 days after debugging and installation, unless authorized by the Office Export Licensing (OEL). Comenters claim that the "one-month" restriction on exhibit at any one location was too short to support legitimate marketing activities abroad. This final rule expands the 30 day requirement to 120 days, after debugging and installation.

Broadcast material: The proposed rule allowed video tape containing program material recorded in the country of export to be publicly broadcast in another country and also allows for blank tape to be used for recording program material abroad. One commented suggested expanding this provision to include audio tape (both programmed and blank). Since audio tape is only controlled to Country Groups S and Z, it may be exported to all other country groups under General License G-DEST. This final rule retains the existing provision on broadcast material.

Assembly in Mexico: The proposed rule allowed commodities to be exported and returned under HTSUS numbers 9802.00.60 and 9802.00.80 after processing, assembly, or incorporation into end products by companies, factories, or facilities participating in Mexico's in-bond industrialization program (Maquilladora), provided that all resulting end-products (or the commodities themselves) are returned to the U.S. Some commenters believe that specifying tariff numbers creates an undue hardship since the Mexican Maquilladora laws generally require return to the U.S. regardless of the tariff number involved. This final rule removes the restriction of specifying HTSUS numbers, provided that the commodities to be exported to Mexico are under appropriate Customs entries that require the commodities to be returned to the United States. However the Department is currently reviewing the existing Mexican in-bond industrialization program and the appropriateness of restricting eligible commodities to the specific HTSUS numbers. If warranted, the Department will address the Mexican in-bond

industrialization program in a future rule.

News media provision: The proposed rule stated that "accredited" news media personnel may take commodities and software that are necessary for news-gathering purposes to Country Groups QSWYZ or the People's Republic of China, provided that the commodities are retained under ownership of the news gathering firm, remain in the physical possession of the news media personnel, and are removed with the personnel at the end of the trip, and on condition that such exports from the U.S. be registered with U.S. Customs at the time of both exit and reentry. The proposed rule also allowed temporary news media exports to be made to Country Groups T and V under the Tools of Trade provision in § 771.22(b)(1) if owned by the exporter. Commenters stated that the ownership of equipment provision places an undue restriction on exporter by news gathering firms. This final rule removes the ownership requirement and imposes an "effective control" requirement. Commenters were also concerned with the "physical possession" requirement because taken literally, it would impose impractical requirements on news media personnel. This final rule clarifies this provision by providing a definition that requires an effective measure to prevent unauthorized access, instead of actual physical possession at all times. One commenter requested a clarification on how to comply with the proposed Customs registration requirement for Country Groups QWY and the PRC, as defined in paragraph (b)(8)(ii). This final rule amends paragraph (b)(8)(ii) (news media registration requirements), by requiring the U.S. exporter to provide a copy of their packing list (or other similar identification of the equipment) that specifies the destination and estimated dates of departure and the return of the equipment to the Office of Export Enforcement. Commenters also questioned the need for news media personnel to be employees of the news gathering firms, as opposed to independent contract personnel, when exporting news media equipment to Country Groups T and V under the tools of trade provision. This final rule modifies the proposed rule by clarifying that "accredited" contract personnel may be used, provided that the news gathering firms designate an employee to be responsible for the equipment.

Restrictions on temporary shipment (reexports) to country groups S and Z: The proposed rule prohibited the export of commodities and software to Country Groups S and Z, except as permitted under paragraph (b)(8) (news media) of the rule. Some commenters believe that restrictions on exports to Country Groups S and Z under the proposed G–TEMP are inconsistent with other provisions of the EAR. The Department disagrees. This restriction does not prevent foreign exporters from using one-for-one replacements under General License GLR, it just prevents reexports of kits. Foreign exporters may still utilize the 10% de minimus under § 776.12 (Parts and Components). Any further leeway here would undermine the intent of the current trade embargoes to Country Groups S and Z. This final rule retains the existing provisions in paragraph (c)(1)(i) (Country groups S and Z prohibition), but revises paragraph (b)(2) (replacement part kits) to exclude Country Groups S and Z from eligibility.

Commodity retrictions to Country Groups QWY and the People's Republic of China: The proposed rule, with few exceptions, prohibited the export of commodities and software identified by the code letters "A", "B", or "M" to Country Groups QWY and the People's Republic of China. One commenter complained that the proposed rule only allowed very low-level items to Country Groups QWY and the PRC, imposes a severe burden on foreign reexporters who use U.S. controlled equipment for servicing products legally shipped to proscribed countries, and is inconsistent with the provisions of General License GLR. This final rule expands the eligible commodities by creating a new paragraph (c)(1)(ii)(B) to allow equipment necessary to commission or service goods in accordance with paragraph (b)(1), and creates a new paragraph (c)(1)(ii)(C) to allow the export of parts in kits in accordance with paragraph (b)(2).

Vessel and aircraft restriction: The proposed rule applied destination restrictions to any vessel, aircraft, or territory under ownership, control, lease, or charter by any country in Country Groups QSWYZ and the PRC, or any national thereof. The intent of this provision was to place restrictions on temporary exports to and for use on aircraft and vessels controlled by Country Groups QSWYZ and the PRC. Commenters viewed the restriction as a control on the shipment on board such carriers for temporary use at the other end of the voyage. This final rule amends the provision by clarifying that restriction on exports to such vessels and aircraft apply to use on board, not to the carriage of goods to the temporary location.

Records: The proposed rule required that the disposition of commodities exported under G–TEMP be documented by the Customs Entry Number or any other evidence of disposition. Some commenters thought that it would be difficult in all cases to obtain the Customs Entry Number on returned goods and suggested that other commercial documents such as freight bills and invoices be allowed as evidence of return to the U.S. While the proposed G–TEMP did not preclude use of other documents as evidence of disposition, it is generally silent regarding adequate alternatives. This final rule modifies the provision by allowing alternative evidence of return, i.e., freight bills and commercial invoices.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule contains collection of information requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections were approved by the Office of Management and Budget (OMB) under control numbers 0694–0010 and 0694–0029. The proposed rule, published on October 3, 1989 (54 FR 40681) estimated the public reporting burden for these collections of information to average 25 minutes per response for 0694–0010 and 15 minutes per response for 0694–0029. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0019. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing these burdens, to Office of Security and Management, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Paperwork Reduction Project (0694–0010 and 0694–0029), Washington, DC 20503.

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

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be

given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function. The rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 771, 772, 773, 774, 786, and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 771, 772, 773, 786 and 799 is revised to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985) and Pub. L. 100–418 of August 23, 1988; Pub. L. 95–223 of December 28, 1977, (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986). Secs. 203, 205, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

2. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985 and Pub. L. 100–418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985). Secs. 203, 205, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

PARTS 771, 772, 773, 774, 786 AND 799—[AMENDED]

§ 771.1 [Amended]

3. In § 771.1, the second sentence is revised to read: "No written authorization is required for using a general license and no document is issued by Commerce as a precondition to use a general license."

4. Section 771.22 is revised to read as follows:

§ 771.22 General license G–TEMP; temporary exports.

(a) *Scope.* A general license designated G–TEMP is established authorizing the export commodities and software for temporary use abroad (including use in international waters) subject to the conditions and exceptions set forth below. Commodities shipped under this general license must be returned to the country from which they were exported as soon as practicable but, except in circumstances described below, no later than one year from the date of export. This requirement does not apply if the commodities are consumed or destroyed in the normal course of authorized temporary use abroad or an extension or other disposition is permitted by the Export Administration Regulations or in writing by the Office of Export Licensing.

(b) *Eligibility commodities.* The following commodities are eligible to be shipped under General License G–TEMP:

(1) *Tools of trade.* Usual and reasonable kinds and quantities of commodities and software for use by employees of the exporter in a lawful enterprise or undertaking of the exporter. Eligible commodities and software may include such equipment as is necessary to commission or service goods, provided that the equipment is appropriate for this purpose and that all goods to be commissioned or serviced have been legally exported from the United States, legally reexported, or made in a foreign country incorporating U.S. origin parts in accordance with the requirements of § 776.12 of this subchapter. The commodities and software must remain under the effective control of the exporter or the exporter's employee. The shipment of commodities and software may accompany the individual departing from the United States or may be shipped unaccompanied within one month before the individual's departure from the United States, or at any time after departure. Notwithstanding the restriction in § 771.22(c), equipment necessary to commission or service goods, may be taken as tools of trade to Country Group Q, W, Y and the People's Republic of China.

(2) *Kits consisting of replacement parts.* Kits consisting of replacement parts may be exported under this provision to all destinations, except Country Groups S and Z, provided that:

(i) The parts would qualify for shipment under General License GLR if exported as one-for-one replacements;

(ii) The kits remain under effective control of the exporter or an employee of the exporter; and

(iii) All parts in the kits are returned, except that one-for-one replacements may be made in accordance with the requirements of General License GLR and the defective parts returned.

(3) *Exhibition and demonstration Country Groups T and V.* Commodities and software for exhibition or demonstration in Country Groups T or V (excluding the People's Republic of China) may be exported under this provision provided that the exporter maintains ownership of the commodities and software while they are abroad and provided that the exporter, an employee of the exporter, or the exporter's designated sales representative retains effective control over the commodities and software while they are abroad. The commodities may not be used for their intended purpose while abroad, except to the minimum extent required for effective demonstration. The commodities and software shall not be exhibited or demonstrated at any one site more than 120 days after installation and debugging, unless authorized by the Office of Export Licensing. However, prior to or after an exhibition or demonstration, the commodities and software may be placed in a bonded warehouse or a storage facility provided that the exporter retains effective control over disposition of the commodities and software, pending movement to another site, return to the U.S., or approval for other disposition. The export documentation for this type of transaction shall show the U.S. exporter as ultimate consignee, in care of the person who will have control over the commodities and software abroad.

(4) *Inspection and calibration.* Commodities to be inspected, tested, calibrated or repaired abroad.

(5) *Containers.* Containers for which another general license is not available and that are necessary for export of commodities. However, General License G–TEMP does not authorize the export of the container's contents, which must be separately authorized for export under either a general or validated license.

(6) *Broadcast material.* (i) Video tape containing program material recorded in the country of export to be publicly broadcast in another country.

(ii) Blank video tape (raw stock) for use in recording program material abroad.

(7) *Assembly in Mexico.* Commodities to be exported to Mexico under Customs entries that requires return to the United States after processing, assembly, or incorporation into end products by companies, factories, or facilities participating in Mexico's in-bond industrialization program (Maquilladora), provided that all resulting end-products (or the commodities themselves) are returned to the United States. (*See* § 771.22(c)(3).)

(8) *News media.* Commodities necessary for news-gathering purposes (and software necessary to use such commodities) that accompany "accredited" news media personnel, (*i.e.*, persons with credentials from a news gathering or reporting firm) to Country Groups Q, S, W, Y, or Z, or the People's Republic of China if the commodities:

(A) Are retained under "effective control" of the exporting news gathering firm;

(B) Remain in the physical possession of the news media personnel. The term physical possession for purposes of this paragraph (b)(8), news media, is defined as maintaining effective measures to prevent unauthorized access (i.e., securing equipment in locked facilities or hiring security guards to protect the equipment); and

(C) Are removed with the news media personnel at the end of the trip.

(ii) When exporting under this provision from the U.S., the exporter shall send a copy of the packing list or similar identification of the exported commodities, to the Office of Export Enforcement, P.O. Box 7138, Washington, DC 20044, or any of its field offices, specifying the destination and estimated dates of departure and return. The Office of Export Enforcement (OEE) may spot check returns to assure that General License G–TEMP is being used properly.

(iii) Commodities necessary for news-gathering purposes that accompany news media personnel to all other destinations shall be exported under and in accordance with paragraph (b)(1), tools of trade, of this section if owned by the exporter/firm (Note: paragraphs (b)(1), tools of trade and (b)(8)(iii), news media, of this section do not preclude independent "accredited" contract personnel, who are under control of news gathering firms while on assignment, from utilizing these provisions, provided that the news gathering firm designate an employee of the contract firm to be responsible for the equipment) or shall be exported under and in accordance with § 771.6, General License Baggage if they are personal property of the individual news media personnel.

(c) *Special restrictions*—(1) *Destinations.* (i) No commodity or software may be exported under this general license to Country Group S or Z except as permitted by paragraph (b)(8), news media, of this section;

(ii) No commodity or software identified by the code letter "A", "B", or "M" following the Export Control Commodity Number on the Commodity Control List may be exported under this general license to Country Group Q, W, or Y, or the People's Republic of China except:

(A) Commodities and software exported under paragraph (b)(8), news media, of this section;

(B) Commodities and software necessary to commission or service goods exported under (b)(1), tools of trade, of this section; and

(C) Commodities exported as parts in kits, consistent with the requirements of paragraph (b)(2), kits consisting of replacement parts, of this section.

(iii) These destination restrictions apply to temporary exports to and for use on any vessel, aircraft or territory under ownership, control, lease, or charter by any country in Country Groups Q, S, W, Y and Z, and the People's Republic of China, or any national thereof.

(2) *Commodities.* The following commodities may not be exported to any destination under this general license;

(i) Supercomputers;

(ii) Commodities that will be used outside of the countries listed in Supplement No. 2 to part 773 of this subchapter either directly or indirectly in any sensitive nuclear activity as described in § 778.3 of this subchapter.

(iii) Electronic, mechanical or other devices, as described in § 776.13(a) of this subchapter, primarily useful for surreptitious interception of wire or oral communications; and

(iv) Commodities listed in Supplement No. 1 to part 773 of this subchapter, except that commodities identified in the footnotes thereto as available for shipment to certain countries under the Distribution License procedure may be shipped to those same countries under General License G–TEMP.

(3) *Use or disposition.* No commodity or software may be exported under this general license if:

(i) An order to acquire the commodity has been received before shipment;

(ii) The exporter has prior knowledge that the commodity will stay abroad beyond the terms of General License G–TEMP; or

(iii) The commodity or software is for lease or rental abroad.

(d) *Return or disposal of commodities.* All commodities and software exported under this General License G–TEMP shall, if not consumed or destroyed in the normal course of authorized temporary use abroad, be returned as soon as practicable but no later than one year after the date of export, to the United States or other country from which the commodities and software were exported under G–TEMP, or shall be disposed of or retained by one of the following ways:

(1) *Authorization under Form BXA–699P.* If the U.S. exporter wishes to sell or otherwise dispose of the commodities or software abroad, except as permitted by this general license, he shall request authorization therefore by submitting Form BXA–699P, Request to Dispose of Commodities or Technical Data Previously Exported, to the Office of Export Licensing at the address listed in § 771.2(h). (*See* § 774.3 of this subchapter for more information on reexport authorizations.) Such request shall comply with all applicable provisions of the Export Administration Regulations covering exports directly from the United States to the proposed destination. The request shall also be supported by any documents that would be required in support of an application for export license for shipment of the same commodities directly from the United States to the proposed destination. The Office of Export Licensing will advise the exporter of its decision.

(2) *Use of validated license.* An outstanding validated export license may also be used to dispose of commodities or software covered by General License G–TEMP provided that the outstanding license authorizes direct shipment from the United States of the same commodity or software to the same new ultimate consignee in the new country of destination.

(3) *Use of the permissive reexport,* as defined in § 774.2 of this subchapter

(4) *Authorization to retain abroad beyond one year.* If the exporter wishes to retain a commodity(ies) or software abroad beyond the 12 months authorized in § 771.22(b), he shall request such authorization by submitting Form BXA–699P, Request to Dispose of Commodities or Technical Data Previously Exported, 90 days prior to the

expiration of the 12-month period. The request shall be sent to the Office of Export Licensing at the address listed in § 771.22(c)(2) and should include the name and address of the exporter, the date the commodities or software were exported, a brief product description, and the justification for the extension. If the Office of Export Licensing approves the extension request, the exporter will receive authorization for a one-time extension not to exceed six months. The Office of Export Licensing mormally will not allow an extension for commodities or software that have been abroad more than 12 months, nor will a second six-month extension be authorized. Any request for retaining the commodities or software abroad for a period exceeding 18 months must be made in accordance with the requirements of paragraph (d)(1) of this section.

(e) *Records.* In accordance with the provisions of § 787.13 of this subchapter, the exporter shall retain and make available for inspection, upon demand, by the Bureau of Export Administration all records of each export under this general license as well as the Customs Entry Number or any other evidence of the disposition of the commodities exported, i.e., freight bills or commercial invoices.

(Approved by the Office of Management and Budget under Control Numbers 0694–0010 and 0694–0029)

§ 772.8 [Amended]

5. In § 772.8(c)(1), the reference "General License *GTE*" is revised to read "General License G–TEMP" (both places).

§ 773.3 [Amended]

6. In § 773.3(j)(5), the parenthetical portion after the first sentence is removed.

7. Section 774.2 is amended by redesignating footnotes 4 and 5 as footnotes 5 and 6; and by revising paragraph (a)(1), as follows:

§ 774.2 Permissive reexports.[2]

* * * * *

(a) * * *

(1) May be exported directly from the United States to the new country of destination under General License G–DEST, G–TEMP [4], G–COM, G–COCOM, GFW, G–CEU, GCG, G–NNR, G–FTZ, GUS or BAGGAGE.

* * * * *

§ 786.6 [Amended]

8. In § 786.6(a)(1)(ii) and (a)(2), the reference to "GTE" is revised to read "G–TEMP".

Supplement 1 to § 799.2

9. In Supplement No 1 to § 799.2, Interpretation 21, the reference to "GTE" is revised to read "G–TEMP" (Each place is appears).

Dated: November 21, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90–27853 Filed 11–26–90; 8:45 am]

BILLING CODE 3510-DT-M

[1] * * *

[2] See § 774.9 for effect on foreign laws.

[3] * * *

[4] Commodities legally exported from the United States may be reexported to a new country(ies) of destination under General License G–TEMP provided the restrictions described in § 771.22 are met and the commodities and software are returned to the country from which the reexport occurred.

[5] * * *

[6] * * *

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 3]

Citizenship of Responsible Officers and Sponsors; Exchange-Visitor Program; Correction

AGENCY: United States Information Agency.

ACTION: Final rule; correction.

SUMMARY: The Agency issued a final rule on November 8, 1990 at 55 FR 46943. Because of an administrative error a part of one sentence was deleted. Also, there is a spelling error. This notice corrects the errors.

EFFECTIVE DATE: November 8, 1990.

ADDRESSES: Merry Lymn, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 619–6829.

Dated: November 19, 1990.

Alberto J. Mora,

General Counsel.

PART 514—[AMENDED]

Accordingly, the United States Information Agency is amending 22 CFR 514.1 by correctly revising the definition of "Sponsor" to read as follows:

§ 514.1 Definitions.

* * * * *

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 a sponsor. A sponsor must certify its 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 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, 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

* * * * *

[FR Doc. 90–27718 Filed 11–26–90; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 383

[DoD Directive 5128.1]

Assistant Secretary of Defense (Production and Logistics)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: As part of the DoD effect to streamline and reduce the number of DoD-level acquisition related issuances, DoD Directive 4405.6, "Delegation of Authority to the Assistant Secretary of Defense (Acquisition and Logistics)," has been canceled and combined with DoD Directive 5128.1, "Assistant Secretary of Defense (Production and Logistics)" (32 CFR part 383).

EFFECTIVE DATE: August 17, 1990.

ADDRESSES: Office of the Director, Administration and Management, Organizational and Management Planning, Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, telephone (703) 697-1142.

SUPPLEMENTARY INFORMATION:

List of subjects in 32 CFR Part 383

Organization and functions.

Accordingly, 32 CFR part 383 is amended to read as follows:

PART 383—[AMENDED]

1. The authority citation for part 383 continues to read as follows:

Authority: 10 U.S.C. 136.

2. Section 383.4 is amended by adding new paragraphs (z) and (aa) to read as follows:

§ 383.4 Functions.

* * * * *

(y) * * *

(z) Oversight and direction of the DoD commissary system.

(aa) Oversight and direction of industrial base preparedness, production and manufacturing processes.

3. The appendix is amended by revising paragraph 29 by adding a new paragraph 30. and adding a flush sentence at the end of the Appendix to read as follows:

Appendix—Delegation of Authority

* * * * *

29. Exercise all responsibilities and authority of the Secretary of Defense under title 10, United States Code, section 2701, *et seq.*, regarding conduct of the Defense Environmental Restoration Program.

30. Execute the authorities delegated to the Secretary of Defense in the Department of Commerce (DoC) Defense Priorities and Allocations System (DPAS) Delegation 1. This may be redelegated to appropriate DoD Components or to other Government Agencies as authorized in the delegation.

The ASD(P&L) may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or prohibited by law or regulation.

Dated: November 20, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-27794 Filed 11-26-90; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Part 383a

[DoD Directive 5105.55]

Defense Commissary Agency (DeCA)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Defense Commissary Agency (DeCA) has has established by the Secretary of Defense under the authority provided by title 10, United States Code. It has been determined that DoD commissaries can operate more efficiently and effectively when consolidated as a single commissary agency. Accordingly, commissary operations formerly performed by the Army, Navy, and Air Force have been brought together to form the new agency. The DeCA will operate under the direction, authority, and control of the Assistant Secretary of Defense (Production and Logistics).

EFFECTIVE DATES: November 9, 1990.

ADDRESSES: Office of the Director, Administration and Management, Organizational and Management Planning, Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, telephone (703) 697-1142.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 383a

Organization and functions.

Accordingly, title 32 of the Code of Federal Regulations, chapter I, subchapter R, is amended to add part 383a.

PART 383a—DEFENSE COMMISSARY AGENCY (DeCA)

Sec.

383a.1 Purpose.
383a.2 Applicability.
383a.3 Mission.
383a.4 Organization.
383a.5 Responsibilities and functions.
383a.6 Relationships.
383a.7 Authority.
383a.8 Administration.

Appendix to Part 383a—Delegations of Authority

Authority: 10 U.S.C. 136.

§ 383a.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under title 10, United States Code, this part establishes the Defense Commissary Agency (DeCA) and the Defense Commissary Board (DCB), with responsibilities, functions, and authorities as prescribed herein.

§ 383a.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments; the Chairman, Joint Chiefs of Staff and Joint Staff; the Unified and Specified Commands; the Inspector General of the Department of Defense (IG, DoD); the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 383a.3 Mission

(a) The mission of the DeCA is to:

(1) Provide an efficient and effective worldwide system of commissaries for the resale of groceries and household supplies at the lowest practical price (consistent with quality) to members of the Military Services, their families, and other authorized patrons, while maintaining high standards for quality, facilities, products, and service.

(2) Provide a peacetime training environment for food supply logisticians needed in wartime and, as circumstances dictate, troop issue subsistence support to military dining facilities consistent with Service needs.

(b) The mission of the DCB is to serve as a forum for the discussion of issues about the commissary services provided by the DeCA and to make related policy recommendations to the Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)).

§ 383a.4 Organization.

(a) The DeCA is established as an Agency of the Department of Defense under the direction, authority, and control of the ASD(P&L). It shall consist of a Director of such subordinate organizational elements as are established by the Director.

(b) The DCB is established as a committee reporting to the ASD (P&L). Its membership shall consist of the following:

(1) The Director, DeCA, who shall serve as Chair.

(2) A representative of the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)).

(3) A representative of the Chairman, Joint Chiefs of Staff (CJCS).

(4) One military officer and one enlisted representative from each of the Military Services appointed by the Secretaries of the Military Departments.

(5) The Director, DeCA, may invite other representatives to attend DCB meetings, as appropriate.

(b) The Director shall designate an Executive Secretary for the Board.

§ 383a.5 Responsibilities and functions.

(a) The Director, Defense Commissary Agency (DeCA), shall:

(1) Organize, direct, and manage the DeCA and all assigned resources; procure assigned items; and administer, supervise, and control all programs and activities assigned to the DeCA.

(2) Plan, program, budget, design, manage, and ensure the execution of the commissary facilities' construction, modification, and repair programs.

(3) Provide and operate facilities under standards consistent with those used for commercial food stores.

(4) Develop and administer plans and programs to provide peacetime training for military personnel, as appropriate.

(5) Develop and administer plans and programs to provide troop issue subsistence support to appropriate dining facilities, tactical field exchanges for deployed mission support, and management of subsistence war readiness materiel in peacetime and wartime, as required.

(6) Provide advice to the ASD(P&L) on DoD policies about the operation of commissaries and related matters.

(7) Plan and direct use of commissary stocks to support mobilization, as required.

(8) Establish and administer a civilian career management program to include referral services and development programs for commissary management personnel.

(9) Perform such other functions as the ASD(P&L) may direct.

(b) The Defense Commissary Board (DCB) shall meet periodically, and not less than annually. For the purpose of providing advice, it shall:

(1) Consider issues about DeCA operations, services, and resources and make recommendations about DeCA practices, problems, policies, and programs.

(2) Facilities the exchange of information among the Director, DeCA, and the Military Departments.

(3) Make recommendations on the integration and prioritization of the commissary construction program.

(4) Perform such other advisory functions as ASD(P&L) may direct.

(c) The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) shall:

(1) Recommend to the Secretary and the Deputy Secretary of Defense and the USD(A) policies and resources for the administration of the DeCA and its programs.

(2) Provide policy guidance and management direction to the Director, DeCA.

(3) Establish standards and issue guidelines for military commissary operations, including, but not limited to, the following areas:

(i) Funding.

(ii) Commissary establishment/disestablishment.

(iii) Pricing and surcharges.

(iv) Categories of items.

(v) Reporting requirements and preparation of "The DoD Commissary Operations Report" (RCS DD-FMP(A)1187).

(4) In coordination with CJCS, make arrangements for Commanders of Unified Commands to assume temporary operational control of commissaries in wartime or periods of heightened alert.

(d) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall be responsible for advising the ASD(P&L) on commissary policy to ensure that it is consistent with policies on recruitment and retention.

(e) The Comptroller of the Department of Defense (C, DoD) shall advise the ASD(P&L) on accounting, budgeting, funding, cash management, debt management, and pricing and surcharge policy for the DeCA.

(f) The Secretaries of the Military Departments shall provide such facilities, physical security, logistics, and administrative support as required for effective operation of the military commissary program as agreed to by the DeCA and cognizant component Commands under inter-Service support and servicing agreements.

§ 383a.6 Relationships.

(a) In the performance of assigned responsibilities and functions, the Director, DeCA, shall:

(1) Have free and direct access to, and communicate with, the DoD Components and other Executive Departments and Agencies concerning commissary activities, as necessary.

(2) Maintain appropriate liaison with other DoD Components, Agencies of the Executive branch, forcing governments, and private sector organizations for the exchange of information on programs and activities in the field of assigned responsibilities.

(3) Use established facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate balance of modernization, efficiency, economy, and customer support.

(4) Consult and coordinate with other governmental and nongovernmental agencies on matters related to the mission assigned to the DeCA.

(b) The Secretaries of the Military Departments and Heads of other DoD Components shall:

(1) Provide assistance to the Director, DeCA, in carrying out the responsibilities and functions relating to military commissaries.

(2) Coordinate with the Director, DeCA, on programs and activities that include or are related to military commissaries.

§ 383a.7 Authority.

The Director, DeCA is hereby delegated authority to:

(a) Enter into and administer contracts, directly or through a Military Department, a DoD contract administration services component, or other Government Department or Agency, in accordance with applicable laws, DoD regulations, the FAR and the DFARS for supplies, equipment, and services required to accomplish the mission of the DeCA.

(b) Prescribe procedures, standards, and practices for the Department of Defense governing he execution of assigned responsibilities and functions.

(c) Enter into agreements with the Military Departments or other Government entities, as required for the effective performance of the military commissary program.

(d) Obtain reports, information, advice, and assistance from other DoD Components consistent with the policies and criteria of DoD Directive 7750.5 [1], as may be necessary for the performance of assigned functions and responsibilities.

(e) Establish new DeCA facilities or use existing facilities of the Military Departments, as deemed necessary, for improved effectiveness and economy.

(f) Exercise the operational and administrative authorities contained in the Appendix to this part.

§ 383a.8 Administration.

(a) The Director and Deputy Director(s) of the DeCA shall be appointed by the Secretary of Defense.

(b) The DeCA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(c) The Military Departments shall assign military personnel to the DeCA in accordance with approved authorizations and procedures for assignment to joint duty.

(d) Programming, budgeting, funding, procuring, auditing, accounting, pricing, and reporting activities of the DeCA shall be in accordance with established DoD policies and procedures.

(e) Appropriated funds shall be used to finance the operating costs of the DeCA with the exception of operating costs authorized for payment from trust revolving funds. A stock fund will be used to finance all inventories procured for resale.

Appendix to Part 383a—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, DeCA is hereby delegated authority as required in the administration and operation of the DeCA to:

1. Establish advisory committees and employ part-time advisers, as approved by the Secretary of Defense, for the performance of DeCA functions pursuant to 10 U.S.C. 173 Public Law 92–463, "Federal Advisory Committee Act"; and DoD Directive 5105.4 [1] "Department of Defense Federal Advisory Committee Management Program," September 5, 1989.

2. Designate any position in the DeCA as a "sensitive" position, in accordance with 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and DoD Directive 5200.2 [2], "DoD Personnel Security Program," December 20, 1979, as appropriate.

3. Authorize and approve overtime work for DeCA civilian personnel in accordance with 5 U.S.C. chapter 55, subchapter V, and applicable OPM regulations.

4. Authorize and approve:

a. Travel of DeCA civilian personnel in accordance with Joint Travel Regulations, Volume 2, "DoD Civilian Personnel."

b. Temporary duty travel for military personnel assigned or detailed to the DeCA in accordance with Joint Federal Travel Regulations, Volume 1, "Uniformed Service Members."

c. Invitational travel to persons serving without compensation whose consultative, advisory, or other highly specialized technical services are required in a capacity that is directly related to or in connection with, DeCA activities, pursuant to 5 U.S.C. 5703.

5. Approve the expenditure of funds available for travel by military personnel assigned or detailed to the DeCA for expenses regarding attendance at meetings of technical, scientific, professional, or other similar organizations in such instances when the approval of the Secretary of Defense, or designee, in required by law (37 U.S.C. 412 and 5 U.S.C 4110 and 4111). This authority cannot be redelegated.

6. Develop, establish, and maintain in active and continuing Records Management Program, pursuant to 44 U.S.C. 3102 and DoD Directive 5015.2 [3], "Records Management Program," September 17, 1980.

7. Establish and use imprest funds for making small purchases of material and services, other than personal services, for the DeCA when it is determined more advantageous and consistent with the best interests of the Government, in accordance with DoD Directive 7360.104 [4], "Disbursing Policies," January 17, 1989.

8. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals, as required for the effective administration and operation of the DeCA, consistent with 44 U.S.C. 3702.

9. Establish and maintain appropriate property accounts for the DeCA and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DeCA property contained in the authorized property accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

10. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DeCA, pursuant to DoD Directive 5200.8 [5], "Security of Military Installations and Resources," July 29, 1980.

11. Establish and maintain, for the functions assigned, a publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD 5025.1–M [6] "Department of Defense Directives System Procedures," April 1981.

12. Enter into support and service agreements with the Military Departments, other DoD Components, Government Agencies, and foreign governments, as required for the effective performance of DeCA functions and responsibilities.

13. Lease property under the control of the DeCA, under terms that will promote the national defense or that will be in the public interest, pursuant to 10 U.S.C. 2667.

14. Exercise the powers vested in the Secretary of Defense by 5 U.S.C. 301, 302(b), 3101, and 5107 on the employment, direction, and general administration of DeCA civilian personnel.

15. Fix rates of pay of wage-rate employees exempted from the Classification Act of 1949 by 5 U.S.C. 5102 on the basis of rates established under the Combined Federal Wage System. In fixing such rates, the Director, DeCA, shall follow the wage schedule established by the DoD Wage Fixing Authority.

16. Administer oaths of office to those entering the Executive branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with 5 U.S.C. 2903, and designate in writing, as may be necessary, officers and employees of the DeCA to perform this function.

17. Establish a DeCA Incentive Awards Board, and pay cash awards to, and incur necessary expenses for the honorary recognition of, civilian employees of the Government whose suggestions, inventions, superior accomplishments, or other personal efforts, including special acts or services, benefit or affect the DeCA, in accordance with 5 U.S.C. 4503, OPM regulations, and DoD Directive 5120.15 [7], "Authority for Approval of Cash Honorary Awards for DoD Personnel," August 13, 1985.

18. Maintain an official seal and attest to the authenticity of official DeCA records under that seal.

The Director, DeCA may redelegate these authorities as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

Dated: November 20, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–27793 Filed 11–26–90; 8:45 am]

BILLING CODE 3810–01–M

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to paragraph 1 of this appendix.

[3] See footnote 1 to paragraph 1 of this appendix.

[4] See footnote 1 to paragraph 1 of this appendix.

[5] See footnote 1 to paragraph 1 of this appendix.

[6] See footnote 1 to paragraph 1 of this appendix.

[7] See footnote 1 to paragraph 1 of this appendix.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3851–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision for the Kings County and San Bernardino County Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves revisions to the California State Implementation Plan (SIP). The California Air Resources Board (ARB) submitted these revisions to EPA on March 26, 1990, for inclusion in the SIP. This notice affects the Kings County and the San Bernardino County Air Pollution Control Districts (APCD). These revisions consist of administrative and noncontroversial rules. EPA is approving these revisions because they retain or strengthen the existing SIP.

EFFECTIVE DATE: This action will be effective on January 28, 1991, unless notice is received on or before

December 27, 1990, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be sent to: Colleen W. McKaughan, Environmental Protection Agency, Region 9, Attn: Air and Toxics Division, State Implementation Plan Section (A-2-3), 1235 Mission Street, San Francisco, CA 94103.

Copies of the rules and EPA's Evaluation reports are available for public inspection during normal business hours at the EPA Region 9 office in San Francisco. For information on a rule concerning a specific county, you may contact the ARB or the appropriate office listed below.

California Air Resources Board, Rule Evaluation Section, Stationary Source Section, 1219 K Street, Sacramento, CA 95814.

Kings County Air Pollution Control District, 330 Campus Drive, Hanford, CA 93230.

San Bernardino County Air Pollution District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen (A-2-3), State Implementation Plan Section, Air and Toxics Division, Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103, tel: (415) 556-5244 or FTS: 556-5244.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1990, the ARB officially submitted to EPA a set of revisions to the California SIP. This notice addresses noncontroversial and administrative rules from the March 26, 1990 SIP submittal. Below is a listing of the rules addressed in this notice followed by a brief description of each rule revision.

Description of Rules

Kings County APCD

Rule 417 Exceptions
Rule 417.1 Agricultural Burning

San Bernardino County APCD

Rule 101 Title
Rule 102 Definition of Terms
Rule 103 Description of the District Boundaries
Rule 104 Reporting of Source Test Data and Analyses
Rule 105 Authority to Arrest
Rule 106 Increments of Progress

EPA Evaluation

Kings County APCD

Rule 417, *Exceptions*, has been revised to add wildland vegetation management without altering the stringency of the control requirements within rule. The revised rule also contains editorial changes.

Rule 417.1, *Agricultural Burning*, add definitions to agricultural burning. The new definitions are "Prescribed Burning" and 'Wildland Vegetation Management Burning." The definition of "agricultural wastes" consists of an editorial change for clarification, without changing the meaning of the definition. Also, control requirements for Wildland Vegetation Management Burning have been added to this rule and apply to all burning which comes under the definition of wildland vegetation management burning.

San Bernardino County APCD

Rule 101, *Title*, consists of an editorial change without changing the meaning of the rule.

Rule 102, *Definition of Terms*, consists of revising several definitions that were previously approved. Also, 21 new definitions are being added. The new definitions are as follows: Agricultural Burning, Boundaries of the District, Certified Vapor Recovery System, District Director, Excavation, Excess Organic Liquid Drainage, Executive Officer, Existing Facility, Gasoline Storage and Dispensing Facility, Gasoline Vapors, Modified Facility, Operator, Owner, Rebuilt Equipment, Registered Motor Vehicle, Retail Gasoline Station, San Bernardino County Air Pollution Control District, Switch Loading, Tank Replacement, Throughput, and Vapor Recovery System. This rule contains no appendix D or Ract deficiencies. This rule strengthens the existing SIP by adding these new definitions and clarifying others.

It has also been made more enforceable because the currently approved SIP rule contains some undefined terms which could be open to alternate interpretation. Meeting all of these criteria, San Bernardino Rule 102 should be approved under section 110 and part D of the Clean Air Act. Two definitions are not being acted on in this notice as they will be acted on in a separate **Federal Register** notice.

Revisions to Rule 103, *Description of the District Boundaries*, consist of editorial changes without changing the meaning of the rule.

In Rules 104, *Reporting of Source Test Data and Analyses*, 105, *Authority to Arrest*, and 106, *Increments of Progress*, the phrase "Air Pollution Control Officer" is being replaced with "Executive Officer". This is an editorial change and does not alter the stringency of the rule.

EPA Action

EPA's review of these revised rules finds them consistent with the Clean Air Act, 40 CFR part 51, and EPA policy. EPA is approving these rule revisions because they either maintain or strengthen the existing SIP. Therefore, EPA is taking final action to approve these rules under section 110 of the Clean Air Act.

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

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment action and anticipates no adverse comments. This action will be effective January 28, 1991, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective January 28, 1991.

Regulatory Process

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by January 28, 1991. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Particulate matter, and Reporting and recordkeeping requirements.

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

Dated: September 28, 1990.

John Wise,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart F—California

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 is amended by adding paragraph (c)(179) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(179) Revised regulations for the following APCD's were submitted on March 26, 1990, by the Governor's designee.

(i) Incorporation by reference.

(A) Kings County Air Pollution Control District.

(*1*) Amended Rules 417 and 417.1 adopted on February 28, 1989.

(B) San Bernardino County Air Pollution District.

(*1*) Amended Rules 101, 102 (except fugitive liquid leak and fugitive vapor leak), 103, 104, 105, and 106 adopted on December 19, 1988.

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[FR Doc. 90–27792 Filed 11–26–90; 8:45 am]

BILLING CODE 6560–50–M

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48 CFR Part 1536

[FRL–3863–8]

Acquisition Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule clarifies the applicability of the Federal Acquisition Regulation's provisions on construction contracts with architect-engineer firms regarding their applicability to subcontractors. Under the rule, subcontractors performing treatability studies will not be prohibited from award on the construction of a project. Other subcontractors will also not be prohibited from award on the construction of a project unless their work substantially affects the course of the design. For prime contractors, and subcontractors whose input substantially affects the course of the design work, approval by the Responsible Associate Director in the EPA Procurement and Contracts Management Division is necessary before they may be awarded the construction contract.

EFFECTIVE DATE: This rule is effective November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut, Jr. at (202) 382–5019 (FTS 382–5019).

SUPPLEMENTARY INFORMATION:

A. Background

This regulation was published as a proposed rule on August 15, 1990 (55 FR 33337) with comments due by September 14, 1990. One comment was received.

The commenter supported the policies being proposed by the rule but suggested that wording be modified for clarity and to ensure it is applied consistently. The EPA agrees and has made minor editorial changes to address these comments.

B. Executive Order 12291

OMB Bulletin No. 85–7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in this Bulletin requiring OMB review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements, which would require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The rule merely clarifies the applicability of the FAR and provides factors for consideration in granting approvals under FAR 36.209.

List of Subjects in 48 CFR Part 1536

Government procurement, Construction and Architect-Engineer Contracts.

For the reasons set out in the preamble, chapter 15 of title 48 Code of Federal Regulations is amended as follows:

PART 1536—[AMENDED]

1. The authority citation for part 1536 continues to read as follows:

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

2. Section 1536.209 is revised to read as follows:

1536.209 Construction contracts with architect-engineer firms.

(a) The provisions of FAR 36.209 do not apply to subcontractors performing treatability studies.

(b) The provisions of FAR 36.209 also do not apply to subcontractors whose input during the design phase does not substantially affect the course of the design work.

(c) Approval under FAR 36.209 is not required for subcontractors under paragraph (a) or (b) of this section. Approval for all other subcontractors and prime contractors may be granted by the Responsible Associate Director (RAD). In reviewing requests for approval, the RAD shall consider factors such as the availability of other firms to perform the necessary construction or Superfund remedial action work, the estimated cost to the Government, and the policy of the Agency to promote the use of innovative technology.

Dated: November 14, 1990.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 90–27813 Filed 11–26–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 91050–0019]

Foreign Fishing; Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) prohibits fishing for groundfish in the Gulf of Alaska with trawl gear other than pelagic trawl gear from November 20, 1990, through December 31, 1990. This action is necessary to limit the prohibited species catch of Pacific halibut established for

trawl gear to the allowances provided for by regulations implementing the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). It is intended to carry out the management objectives of the North Pacific Fishery Management Council.

DATES: This notice is effective at 12 noon, Alaska local time (A.l.t.) on November 21, 1990, through midnight, A.l.t., December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP, which governs groundfish fishing in the U.S. exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.92 and part 672. Special consideration is given to the conservation of Pacific halibut (halibut), a valuable species sought in another U.S. fishery, but caught as bycatch in the groundfish fishery. Pacific halibut are managed under authority of the International Pacific Halibut Commission; however, bycatches by U.S. fishermen are controlled through prohibited species catch (PSC) mortality limits (§ 672.20(f)). The apportionment of the halibut PSC mortality limits established for trawl gear for the 1990 fishing year is 2,000 metric tons (mt) (§ 672.20(f)(3)(i)).

If, during the year, the Regional Director determines that the catch of halibut by operators of vessels using trawl gear and delivering their catch to joint venture processing (JVP) vessels, or operators of domestic annual processing (DAP) vessels using trawl gear and delivering their catch to U.S. fish processors or processing their catch on board will reach their proportional share of halibut provided for under § 672.20(f)(2) or (f)(3), the Regional Director will publish a notice in the **Federal Register** prohibiting fishing by vessels with trawl gear other than pelagic trawl gear for the rest of the year by JVP or DAP vessels in the area to which the PSC apportionment applies.

The Regional Director has determined that, in the Gulf of Alaska, the DAP trawl groundfish fishery has reached the PSC mortality limit of Pacific halibut apportioned to this fishery for the entire 1990 fishing year (2,000 mt). Therefore, the Regional Director prohibits fishing by DAP vessels with trawl gear other than pelagic trawl gear in the Gulf of Alaska from 12:00 noon A.l.t., November 21, 1990 through midnight, A.l.t., December 31, 1990.

Classification

Unless this notice takes effect promptly, the apportionment of the halibut PSC mortality limits established for trawl gear through December 31, 1990, will be exceeded. NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

This action is taken under § 672.20(f), and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

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

Dated: November 21, 1990.

David S. Crestin,

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

[FR Doc. 90-27845 Filed 11-21-90; 2:21 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), is prohibiting further retention of arrowtooth flounder by vessels fishing in the Bering Sea and Aleutian Islands Area and is requiring that arrowtooth flounder be treated in the same manner as prohibited species from 12 noon, Alaska local time, November 21, 1990, through December 31, 1990. This action is necessary to prevent the total allowable catch for arrowtooth flounder in the Bering Sea and Aleutian Islands Area from being exceeded before the end of the year. The intent of this action is to ensure optimum use of groundfish while conserving arrowtooth flounder stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), November 21, 1990, through midnight, A.l.t., December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish Fishery (FMP) governs the groundfish fishery in the Exclusive Economic Zone within the Bering Sea and Aleutian Islands (BSAI) Management Area under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and is implemented by regulations at 50 CFR 611.93 and part 675.

Section 675.20(a)(2) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI Management Area. Total allowable catches (TACs) for target species and the "other species" category are specified annually within the OY range and apportioned by subarea under § 675.20(a)(2).

The initial 1990 TAC specified for arrowtooth flounder in the BSAI was 8,500 mt, all of which was apportioned to domestic annual processing (DAP) (55 FR 1434, January 16, 1990). At the same time, an initial apportionment of 33 mt from the reserve was made to joint venture processing (JVP) under authority of § 675.20(b)(1) as an amount of arrowtooth flounder deemed likely to be harvested incidentally during JVP directed fishing for yellowfin sole and other flatfish. These actions brought the combined arrowtooth flounder TAC in the BSAI for domestic annual harvest (DAH) to 8,553 mt. On June 24, 1990, 700 mt were reapportioned from DAP to JVP arrowtooth flounder (55 FR 26208, June 27, 1990), leaving the combined DAH arrowtooth flounder TAC in the BSAI at 8,533 mt. On October 24, 1990, 2,000 mt were apportioned from the reserve to DAH for a new TAC of 10,533 mt (55 FR 45609, October 30, 1990).

Under § 675.20(a)(9), the Regional Director has determined that the TAC for arrowtooth flounder of 10,533 mt will be reached on November 21, 1990. Therefore, under § 675.20(a)(9) and § 675.20(c), he is prohibiting further retention of arrowtooth flounder by vessels in the BSAI and is requirng that arrowtooth flounder be treated in the same manner as prohibited species from noon, A.l.t., November 21, 1990, through midnight, A.l.t., December 31, 1990.

Classification

This action is taken under § 675.20(a)(9) and (c) and is in compliance with executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

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

Dated: November 21, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-27844 Filed 11-21-90; 2:21 pm]

BILLING CODE 3510-22-M

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50 CFR Part 685

[Docket No. 900947-0247]

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) issues this emergency interim rule amending current regulations promulgated under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). This action is necessary to ensure adequate monitoring of conditions in the fishery and collection of data on interactions between the fishery and marine mammals or endangered and threatened species. Current regulations do not provide a sound basis for assessing the effects of the rapidly growing longline fishery on pelagic species stocks, on other fisheries for the stocks taken by longlining, or on protected species of marine animals.

EFFECTIVE DATE: The emergency rule is effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991.

ADDRESSES: Copies of the environmental assessment may be obtained from, and comments should be addressed to E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, California 90731.

Comments on the information collection requirements should be sent to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213-514-6660), or Alvin Katekaru, Pacific Area Office, Southwest Region, Honolulu, Hawaii (808-955-8831).

SUPPLEMENTARY INFORMATION: The FMP was approved by the Secretary and implemented at a time when there were few problems apparent in the domestic fisheries for pelagic species. While the domestic fisheries were reasonably well established, they tended to operate within 50 nautical miles of shore. There was a substantial amount of recreational and small-scale commercial fishing for pelagic species, but the longline fishery, which operated farther from shore, was in a slow decline. Since 1987, there has been a dramatic increase in the longline fishery based in Hawaii. The longline in Hawaii. The longline fleet has grown from 37 vessels in 1987 to more than 100 vessels in mid-1990. More vessels are expected to enter the fishery later this year, shifting to Hawaii from declining longline fisheries for swordfish and tuna in the Atlantic and Gulf of Mexico. Total landings by the longline fleet in 1989 accounted for about half of the value of all commercial landings in Hawaii, up from about 5 percent in 1985. The biggest increase has been in landings of swordfish, which were less than 30,000 pounds in 1985, then rose to 500,000 pounds in 1989, and reached more than 2.5 million pounds in the first half of 1990. The Hawaii fishery is now the largest domestic supplier of swordfish to U.S. markets. The success of the fishery in Hawaii is expected to spread to other Pacific island areas such as Guam, the Northern Mariana Islands, and American Samoa.

With the growth of the longline fishery have come concerns about the impacts of this rapid growth. First, there is concern that the large increase in landings could adversely affect the stocks of fish being harvested. The available data do not provide a sound basis for assessing the status of pelagic species stocks, either on an oceanwide or a localized basis. In the past it has generally been believed that the fisheries in the fishery management area under the FMP could not have a measurable effect on the stocks. However, total landings were relatively low at that time. The current level of landings is significantly higher and could affect the stocks, at least on a localized basis.

Increased data collection and analysis and sampling of the catches to obtain biological data are crucial for determining what effect the sharply increased catches are having on the stocks.

Second, there is concern that the intense fishing by longliners may have adverse effects on other fisheries. It is believed that many, if not all, pelagic species migrate through the Exclusive Economic Zone (EEZ) and are vulnerable to harvest only when in the range of the fleet. While the new longline vessels are large and have the capability to travel far from the islands, the smaller troll and handline vessels do not have that capability. If the longline catches are interceptions of fish destined for waters important to other gear types, then the gain to longliners could be at the expense of these other fisheries. Available data do not provide a basis for determining whether there are any such impacts. As a result, it is not possible to determine whether fishery conservation and management measures should be implemented to ensure an optimum mix of fishing opportunities and harvests among the established and growing fisheries. Additional data collection and analysis are critically needed for such evaluations.

Third, there have been unconfirmed allegations of interaction between the longline fishery and protected species, including Hawaiian monk seals and sea birds, in the northwestern Hawaiian Islands (NWHI). In consultations under the Endangered Species Act between the Western Pacific Fishery Management Council (Council) and NMFS in development of the FMP, NMFS concluded that the FMP management elements were not likely to jeopardize the continued existence of any listed species, but noted that strengthening the reporting requirements might have some benefit. The true nature and extent of interactions are not known, as there have not been requirements either for domestic vessels to report interactions nor for U.S. vessels to carry observers to document whether interactions occur.

To address these concerns, the Council voted (with one dissenting vote) to ask the Secretary to issue an emergency rule to establish permit, reporting, and observer requirements for domestic longline vessels. First, any vessel of the United States using or intending to use longline gear in the fishery management area, or intending to transit the fishery management area and subsequently land or transship any fish taken by longline gear, would have to first obtain a permit from the Director, Southwest Region, NMFS (Regional Director). This would establish the potential universe of fishery participants to be monitored to determine total effort, landings, value of landings, species composition of the landings, area of catch, and other vital information.

Second, each permitted harvesting vessel must maintain and submit to the Regional Director a daily fishing logbook which will be provided by the Regional Director. Information to be recorded includes catch and effort data as well as data on interactions with protected species. The logbook forms are to be mailed to the Pacific Area Office,

Southwest Region, NMFS, within 72 hours of the end of a fishing trip unless picked up by an authorized agent or officer.

Third, no longline vessel could fish within a 50 nautical mile study zone around French Frigate Shoals, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Island, or Kure Atoll, unless the operator or owner has provider the Regional Director with an opportunity to place an observer aboard the vessel to document whether there are any interactions with protected species and if so, the particulars of the interactions. The observers would collect more detailed information than would be expected of the vessel operator in the interactions section of the required logbooks and may take biological data and samples as feasible without interfering with the vessel's fishing operation.

There are two principal reasons the Council proposed this action on an emergency basis. There is concern that the fishery is extremely unstable, as evidenced by the sudden and dramatic growth in size of the fleet and total effort and landings. Existing data collection and data reporting programs are not adequate to provide a basis for identifying actual or potential management problems, especially if additional vessels enter the fishery as expected. Fishery data are needed to establish the level at which the fishery can be sustained over the long term. In addition, the precarious condition of the Hawaiian monk seal population makes it imperative that accurate and site-specific data on interactions be collected immediately so that if interactions are in fact occurring, the effects of such interactions can be evaluated and solutions to any problems can be identified. While there is relatively little fishing in the vicinity of the NWHI in the summer months, increased activity is expected in the autumn in response to normal seasonal shifts in availability of swordfish in that area.

Therefore, in the Council's view, it is crucial that this rule go into effect on an emergency basis. The Council intends to follow this emergency rule with an amendment to the FMP that would institute these measures on a permanent basis. The Secretary agrees with the Council's request.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other applicable law. This rule is implemented for 90 days under section 305(e) of the Magnuson Act and may be extended for and additional 90 days with the agreement of the Council. He has determined that continuing the regulations now in force would result in delayed availability of data crucial for determining whether overfishing may be occurring or whether adverse effects are being suffered by any species of protected animals. Either condition would have serious economic and ecological implications.

NOAA prepared an environmental assessment (EA) for this action. The Assistant Administrator concluded that there will be no significant impact on the human evironment. A copy of the EA is available from the Southwest Region (see **ADDRESSES**).

The Assistant Administrator also finds that the reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days, the effective date of these emergency regulations, under the provision of section 553 (b) and (d) of the Administrative Procedure Act. The rule is intended to be in place by November 27, 1990, before the anticipated seasonal shift of the fishery to the NWHI area.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8 (a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget (OMB) with an explanation of why it is not possible to follow the regular procedures of that Order.

The Council has requested that the State of Hawaii and the Territories of American Samoa and Guam concur with a finding that the proposed action is consistent to the maximum extent practicable with their respective coastal zone management programs. The State of Hawaii concurred; responses have not yet been received from either American Samoa or Guam.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. Requests for approval to collect this information have been approved by OMB.

This rule proposes a system of permits, logbooks and observers be implemented to ensure the collection, processing and analysis of data needed for sound management decisions.

The permit system will enable NMFS to track the number of active vessels in the fishery. This permit application information will also be used in subsequent economic analyses to determine the potential nature and distribution of impacts of alternative management measures. The public reporting burden for this collection-of-information is estimated to average 15 minutes per application, including the time to review the form and compile the information to complete the form and submit it to NMFS. This collection-of-information has been approved by OMB, OMB Control Number *0648–0204*.

The logbook recordkeeping is the second collection-of-information proposed by this rule. Vessels obtaining permits will be monitored to ensure compliance with logbook recordkeeping. Logbooks will provide detailed information about catch and effort needed for fishery stock assessments and for estimating the impacts of different management approaches. The public reporting burden for this collection-of-information is estimated to average 60 minutes per trip, including the time to complete the daily log sheet, submit log forms to NMFS, and notify NMFS prior to and return from a trip. This collection-of-information has been approved by OMB, OMB Control Number *0648–0214*.

The third collection-of-information proposed by this rule stems from the establishment of an observer program. Placing observers aboard longline and bottomfish vessels in the NWHI will ensure the collection, processing and analysis of data needed for sound management decisions. Vessel operators intending to fish within a 50 nautical mile study zone around French Frigate Shoals, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Island, or Kure Atoll, will notify the Regional Director so that NMFS will have the opportunity to place an observer aboard the vessel. Observers will ensure the collection of data and document whether there are adverse interactions with protected species and the particulars of the interactions. The public reporting burden for this collection-of-information is 2 minutes for the pre-trip notification and 3 minutes for the pre-return notification, for a combined total of 5 minutes. This includes the time to review and compile the information. This collection-of-information has been approved by OMB, OMB control Number *0648–0214*.

Send comments on the reporting burden estimates or any other aspect of the collection-of-information, including suggestions for reducing the burden, to OMB (see **ADDRESSES**).

This rule is exempt from the procedures of the Regulatory Flexibility

Act because the rule is issued without opportunity for prior public comment.

This emergency rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 29, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 685 is amended as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.2, the following definitions are added in alphabetical order, effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, to read as follows:

§ 685.2 Definitions.

* * * * *

Fishing trip means a period of time between landings when fishing is conducted.

* * * * *

Longline gear means a type of fishing gear consisting of a main line suspended horizontally in the water column either anchored, floating, or attached to a vessel and from which branch or dropper lines with hooks are attached.

* * * * *

Official number means the documentation number issued by the U.S. Coast Guard or the certificate number issued by a State or Territory or by the U.S. Coast Guard for an undocumented vessel (50 CFR 620.2).

Protected species means an individual animal, sub-population, population or species covered by the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, or the Migratory Bird Treaty Act.

* * * * *

Sexual harassment means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

2a. In § 685.2, the existing definition for "*Fishery management area*" is suspended effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, and a new definition for "*Fishery management area*" is added in alphabetical order, effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, to read as follows:

§ 685.2 Definitions

* * * * *

Fishery management area means the Exclusive Economic Zone off the coasts of Hawaii, American Samoa, Guam, and U.S. possessions in the western Pacific. The outer boundary of the fishery management area north of Guam extends to those points which are equidistant between Guam and the island of Rota in the Commonwealth of the Northern Mariana Islands. This definition does not include the EEZ off the coasts of the Commonwealth of the Northern Mariana Islands.

* * * * *

3. In § 685.4, paragraphs (a) and (b) are suspended effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, and new paragraphs (c) and (d) are added to be effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, to read as follows:

§ 685.4 Recordkeeping and reporting.

* * * * *

(c) *Logbooks.* The operator of any vessel subject to this part must:

(1) Maintain, on board the vessel, an accurate and complete daily fishing log for each entire fishing trip on forms supplied by the Regional Director. All information specified on the form must be recorded within 24 hours of the completion of the fishing day.

(2) Submit a copy of the forms to NMFS, Pacific Area Office, 2570 Dole Street, Honolulu, Hawaii 96822, within 72 hours of the date of landing unless the daily fishing log forms have been collected by a designee of the Regional Director;

(3) Make the daily fishing log available for immediate inspection upon request of an authorized officer, or of any employee of NMFS authorized by the Regional Director to make such an inspection.

(d) *Fishing information.* The daily fishing log will include the following information:

(1) Name of vessel;

(2) Permit number of vessel;

(3) Date, time and latitude and longitude of the location at which the set of the longline is begun;

(4) Date, time and latitude and longitude of the location at which hauling of the longline is begun;

(5) Number of hooks set;

(6) Number of lightsticks used;

(7) Number of fish and tuna by species caught and kept per day;

(8) Number of fish and tuna by species caught and released per day;

(9) Number by species of protected species (not including marine birds) sighted in the area of the gear per day;

(10) Number by species of protected species released or lost alive and not apparently injured;

(11) Number by species of protected species released or lost alive but apparently injured;

(12) Number by species of protected species released or lost dead;

(13) Signature of the vessel captain; and

(14) Date of signature.

4. In § 685.5, new paragraphs (e), (f), (g), (h), (i), (j), (k), and (l) are added to be effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, to read as follows:

§ 685.5 Prohibitions.

* * * * *

(e) Use any vessel to fish with longline gear in the management area, unless a permit has been issued for that vessel under § 685.9;

(f) Possess on board a vessel in the fishery management are billfish and associated species that were taken with longline gear unless a permit has been issued for that vessel under § 685.9;

(g) Falsify or fail to make, keep, maintain, or submit any logbook or logbook form or other record or report, required under § 685.4;

(h) Fail to affix and maintain vessel markings, required under § 685.10;

(i) Fail to notify the Regional Director of intent to fish for pelagic species with longline gear within 50 nautical miles off those Northwestern Hawaiian Islands listed in § 685.11;

(j) Refuse to carry an observer when directed to do so by the Regional Director or a designee of the Regional Director as required under § 685.11;

(k) Fail to notify the Coast Guard at least 24 hours in advance of the estimated time, date, and place of landings, required under § 685.11;

(l) Forcibly assault, impede, intimidate, interfere with, influence, attempt to influence, or harass (including sexual harassment) an observer by conduct which has the

purpose or effect of unreasonably interfering with the observer's work performance, or which creates an intimidating, hostile or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

5. In subpart A, new §§ 685.9, 685.10, and 685.11 are added to be effective from 0001 hours local time November 27, 1990, through 2400 hours local time February 24, 1991, to read as follows:

§ 685.9 Permits.

(a) *General.* Any vessel of the United States if it uses longline gear to fish for billfish and associated species within the fishery management area; transships within the fishery management area billfish and associated species taken by longline gear; or lands in Hawaii, American Samoa, or Guam billfish and associated species taken by longline gear, must have a permit issued under this section.

(b) *Application.* (1) An application for a permit under this section must be submitted to NMFS, Pacific Area Office, 2570 Dole Street, Honolulu, Hawaii 96822, by the vessel owner or operator at least 15 days before the date the applicant desires to have the permit be effective.

(2) Each application must be submitted on a form which may be obtained from NMFS, Pacific Area Office. Each application must be signed by the vessel owner or operator and contain at least the following information:

(i) Applicant's name and a telephone number where the applicant may be reached for further information;

(ii) Owner's name, mailing address, and telephone number;

(iii) Operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The primary fishing area of the vessel;

(vi) The current or most recent permit number for the vessel for the longline fishery;

(vii) The expiration date of the current or most recent permit;

(viii) The vessel's U.S. Coast Guard documentation number or State registration number;

(ix) Radio call sign of the vessel;

(x) Home port of the vessel;

(xi) Gross registered tonnage of the vessel;

(xii) Registered length of the vessel;

(xiii) Beam of the vessel;

(xiv) Fuel capacity of the vessel;

(xv) Average cruising speed of the vessel;

(xvi) Maximum range of the vessel;

(xvii) Engine horsepower;

(xviii) Age of the vessel;

(xix) Date vessel purchased;

(xx) Purchase price;

(xxi) Number of crew;

(xxii) Fish hold capacity (in tons);

(xxiii) Type of refrigeration and capacity (in tons);

(xxiv) Quantity of longline gear used by the vessel; and

(xxv) Signature of the applicant.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b)(2) of this section must be reported to the Regional Director 10 days before the effective date of the change. Failure to report such changes invalidates the permit.

(e) *Issuance.* (1) Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire at 2400 hours local time on February 24, 1991.

(g) *Alteration.* Any permit that has been altered, erased, or multilated is invalid.

(h) *Replacement.* Permits may be issued to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer.* Permits issued under this section are not transferable or assignable to other vessels. A permit is valid only for the vessel for which it is issued.

(j) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for billfish and associated species by means of longline gear or is engaged in the transshipment of pelagic species taken by longline gear. The permit shall be subject to inspection upon request of any authorized officer.

(k) *Penalties.* Any person committing or vessel used in the commission of a violation of the Magnuson Act or any regulation issued under the Magnuson Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson Act, to part 621 of this chapter, to 15 CFR part 904 (Civil Procedures) and to any other applicable law.

§ 685.10 Vessel identification.

(a) Display of official number. (1) Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(2) The official number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches (45.7 cm) in height for fishing vessels of 65 feet (19.8 m) in length or longer, and at least 10 inches (25.4 cm) in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(3) The official number must be clearly legible and in good repair; and

(4) No part of the vessel, its rigging, or its fishing gear shall obstruct the view of the official number from an enforcement vessel or aircraft.

§ 685.11 Observers.

(a) The operator of a fishing vessel subject to this part shall inform the Regional Director at least 72 hours (not including weekends and holidays) before leaving port of his or her intent to fish within 50 nautical miles off French Frigate Shoals, Gardner Pinnacles, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands and Kure Island of the Northwestern Hawaiian Islands. The operator shall provide this notice by contacting NMFS, Pacific Area Office, telephone (808) 955-8831, 2570 Dole Street, Honolulu, Hawaii. The notice must include the name of the vessel, the name of the operator, the intended departure date and location, and a telephone number at which the operator or his agent may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) All fishing vessels subject to this section must carry an observer when directed to do so by the Regional Director or a designee of the Regional Director.

(c) NMFS will advise the vessel operator of any observer requirement within 72 hours of receipt of the notice, and if an observer is required, will establish with the operator the time and place of embarkation of the observer.

(d) The operator of a fishing vessel carrying an observer shall contact the U.S. Coast Guard, by radio or otherwise, at the 14th District Honolulu, Hawaii, or Pacific Area, San Francisco, California

at least 24 hours before landing, and report the estimated time and date and the port at which the permitted vessel will land billfish and associated species.

(e) All observers must be provided with sleeping, toilet and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place or a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(f) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing common facilities must be established and approved by NMFS prior to the vessel's departure from port.

[FR Doc. 90-27754 Filed 11-26-90; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 228
Tuesday, November 27, 1990

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 275

[Amdt. No. 325]

Food Stamp Program; Quality Control Claims Adjustments for State Agency Investments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes changes to Food Stamp Program regulations based on the provisions of the Hunger Prevention Act of 1988 (Pub. L. 100–435), enacted September 19, 1988. That Act requires the Secretary to review a State agency's plans for new dollar investments in program management activities that are intended to reduce the quality control (QC) payment error rate when determining whether to settle, adjust, compromise, or waive the State agency's QC payment error rate liability.

Accordingly, this action proposes the method by which a State agency's new dollar investments in program management activities will be evaluated in determining whether to settle, adjust, compromise, or waive QC liability claims.

DATES: Comments on this proposed rulemaking must be received on or before January 28, 1991, to be assured of consideration.

ADDRESSES: Comments should be submitted to Duane Maddox, Branch Chief, Quality Control Branch, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, VA 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, VA, room 904.

FOR FURTHER INFORMATION CONTACT: Mr. Maddox at the above address or by telephone at (703) 756–3474.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Secretary's Memorandum No. 1512–1

The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1512–1. It has been determined that the action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Additionally, this action will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this action has been classified as "not major."

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in 7 CFR part 3015, subpart V and related Notice (48 FR 29115 June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, Stat. 1164, September 19, 1980; 5 U.S.C. Secs. 601 through 612). Betty Jo Nelsen, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The requirements will affect the State and local agencies which administer the Program.

Paperwork Reduction Act

This rulemaking does not contain recordkeeping and reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Sec 3507).

Background

In accordance with section 13 of the Food Stamp Act of 1977, as amended, 7 U.S.C. 2022 and 7 CFR 271.3(b) of the Food Stamp Program regulations, the Secretary of Agriculture has the authority to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any claim arising under the provisions of the Food Stamp Act of 1977, as amended. When a State agency's quality control (QC) payment error rate exceeds certain tolerance levels, the Food and Nutrition Service (FNS) establishes a claim against the State agency based on the excessive error rate (7 U.S.C. 2025(c); 7 CFR 275.23(e)). Section 601 of the Hunger Prevention Act of 1988 (Pub. L. 100–435) amended section 13(a)(1) of the Food Stamp Act to require the Department to review a State agency's new dollar investments in program management activities that are intended to reduce the payment error rate when FNS makes a determination to settle, adjust, compromise, or waive a claim resulting from an excessive payment error rate. In order to secure Department review, the State agency would be required to propose a settlement of all or a portion of an outstanding claim that would be based upon reinvestment as an offset against outstanding liabilities. The Secretary and the State agency could then agree to a dollar for dollar offset of new monies invested in program improvement for quality control liabilities. The consideration of new dollar investments in the claim settlement process is effective with the Fiscal Year 1986 QC review period. This proposed rule would amend 7 CFR 275.23(e) to add a new paragraph (8.) This paragraph will address the Department's implementation of the provisions of the Hunger Prevention Act of 1988 concerning the review of new dollar investments in program management activities in connection with the settlement of QC liabilities.

As discussed in the legislative history (House Report No. 100–828, page 30) the new dollar investments to be considered under this provision are to be unmatched, i.e., 100 percent State agency funding. Further, they are to be funds allocated for activities that would not otherwise be taken by the State agency as part of normal program administration, thus precluding the

consideration of activities a State agency is otherwise required to undertake under the Act and regulations. Finally, the waiver of the claim or part of the claim is not to be made for corrective action or good faith efforts per se.

In accordance with the legislative history, the Department is proposing to limit consideration of new dollar investments to those State agency investments that are 100 percent State agency funded. In conjunction with that, the Department is also proposing that activities that have previously been funded with Department matching funds would not be eligible for consideration under this provision unless the State agency is able to provide the justifications discussed later in this preamble for consideration of investments that represent continuation of previous activities.

The Department's proposal will affect States that wish to settle all or a portion of a claim rather than appeal or pay the total liability. Each State agency that wishes to have its new dollar investments considered in the claim settlement process would submit a request to the Department that will include: Its planned program management activities, the anticipated expenditures which would be offset against the liability, and the anticipated impact on the State agency's error rate. The description of the anticipated impact must include, at a minimum, an identification of the types of error expected to be affected by the activity and an estimate of the reduction in the error rate, by type of error and when the reduction should be observed. The request shall also include an explanation by the state agency as to how and when it will demonstrate the effect on errors, and how and when it will document its expenditures. For example, a State agency could refer to its annual payment error rate to show the activity had been successful in reducing errors. The State agency must also demonstrate in its request that the expenditures for the new program management activity will not replace already ongoing efforts or in any other way result simply in a reallocation of resources. If the same or similar activities had been proposed or undertaken in the past, the State agency shall demonstrate, in detail, why its current proposal under the investments provision should be considered a new activity and what new outcomes are anticipated.

These dollar investments are intended to reduce the degree of error. Therefore, in evaluating a State agency's submittal, FNS would consider whether the planned program activity was directly related to error reduction and whether the proposed expenditures were for activities which were not ongoing and which were beyond those minimally required by regulation and the State agency's Plan of Operation. For example, expenditures made to establish a new issuance system would not be related to certification error reduction and thus would not be considered a suitable investment under the provisions of this proposal. As another example, under 7 CFR 272.4 (d) State agencies are already required to establish a training program for eligibility workers. Training must be provided to all eligibility workers prior to their initial assumption of duties and subsequently on an as-needed basis. Therefore, expenditures on a basic training program would also not be considered a suitable investment under this proposal, although additional or special training efforts beyond those already required could qualify.

As State investments are one aspect of corrective action, a State agency may propose under this provision a new item from its Corrective Action Plan (CAP) document provided that money has not yet been spent on the activity and that it meets all the requirements specified in this proposal. Once accepted by the Department under this proposal, the activity would be reviewed under the provisions of this rule rather than the rules covering the CAP document.

If demonstration projects or other efforts would require waivers of existing rules, they would not be acceptable activities under this proposal.

The claims settlement process is separate and part from the good cause determination and the appeals process. Under this proposal, State agencies may submit requests for review of new dollar investments once any claim has been established. However, nothing in this rule would preclude a State agency's offer (or a Food and Nutrition Service proposal) to settle a claim, in whole or in part, at any time and on any terms. If a good cause determination or appeal is pending, agreement by the State and the Department to the reinvestment proposal will include agreement on the validity of that portion of the claim represented by the reinvestment proposal or on the entire claim if a comprehensive settlement is proposed.

It is clear from Section 601 of the Hunger Prevention Act and the legislative history (JR Report No. 100–828, p. 30) that the decision of whether to waive all or part of QC liability claim rests solely with the Secretary. As the decision to waive a claim is at the discretion of the Secretary, any decision made pursuant to this provision is final and would not be subject to appeal within the Department. Once a decision has been made to authorize a waiver of a State agency's QC liability claim, such claim shall first be suspended and then waived after implementation and successful accomplishment of the State's proposed activity, or when the Department determines that the lack of successful accomplishment was beyond the State agency's control.

It is also clear from the legislative history that if the State agency fails to spend the funds on the planned activity, the settlement reduction in the QC liability due to planned State agency program investment could be withdrawn by the Secretary and the amount would become due pursuant to a payment plan contained in the settlement agreement. As noted above, the Secretary's decision is final. Therefore, since the waiver of the claim is based on the initiation and completion of new program management activities, the Department is proposing to require a State agency agreeing to a settlement which includes program investment under this provision to submit reports on its implementation, expenditures, and the effectiveness of the planned activity.

In developing this proposal, the Department has addressed two issues raised by the overall goal of error reduction through State agency program investment. First, the proposed rule aims to ensure that investment money is spent in accordance with the plan proposed by the State. This will protect the public's interest in an effective payment accuracy improvement system. Second, the proposed rule describes situations that may lead to a withdrawal of the settlement reduction in QC liability due to the failure of the State to implement the program investment as planned. This will provide State agencies notice of conditions under these which settlement reductions in QC liability under these proposed rules may be withdrawn and allow State agencies to realistically assess the benefits and burdens of such programs.

This proposed rule addresses the first issue of implementation of the State agency investment plan by requiring a description of a State agency investment procedure. The Department is proposing the each State agency that has all or part of a claim suspended shall submit periodic reports on a schedule established by the Department. These reports shall contain detailed descriptions of the activity and expenses, and explanations of the

activity's effect on errors and any discrepancies between planned and actual effects. The Department is particularly interested in receiving comments concerning documentation that should be required by the Department to substantiate State agency program investment activities.

The proposed rule also addresses the second issue of withdrawal of settlement reductions in QC liability if the State agency does not reduce its errors as stated in the plan (see HR Report No. 100–828, p. 30) and cannot document to the Department's satisfaction that it made every reasonable attempt to implement and to accomplish the activity as planned. The Department is proposing to require such documentation because the legislative history provides that good faith efforts are not sufficient justification for a waiver of the liability claim. Withdrawal of the settlement reduction could also occur if the State agency cannot document that it spent the money as planned.

Whether the Department would actually withdraw the settlement reduction, even when a State expended the planned new funds, would depend upon a State's spending the money in accordance with the agreed-upon plan and whether the State agency reduced errors as specified in the plan (HR Report No. 100–828, p. 30). The Department proposes not to withdraw a reduction if the failure to reduce errors is due solely and clearly to factors totally outside the State agency's control. When FNS and the State agency agree to an investment plan, the State agency becomes responsible for achieving the stated goal as specified in the plan. In order for a State agency to offset additional QC liabilities by increasing the cost of ongoing reinvestment activity, the State agency would be required to submit a new investment plan.

The Department proposes to withdraw a settlement reduction in QC liability due to a State agency program investment plan in situations such as the following:

(1) The State agency does not spend the money as agreed. For example, a State agency may have a proposed hiring an additional 100 eligibility technicians with specialized training in computer matching procedures and analytical techniques. In fact, the State agency may have actually hired 100 new eligibility workers without seeking or obtaining any special qualifications. The Department may withdraw the reduction and require payment under the settlement agreement because the change in the activity's operation was under the State agency's control.

(2) The State agency implements the plan as agreed, but does not spend all the money. For example, the Department approves a proposed plan for a million dollars in State agency new dollar investments and suspends one million dollars of a claim. The State agency implements the plan as agreed, but only spends $800,000 of the suspended claim monies. The Department may then withdraw the reduction and require payment of the unspent $200,000 under the settlement agreement.

(3) The State agency spends the money as planned, but errors are not reduced as specified in the plan. In this situation, the Department would pay particular attention to the underlying cause of the State agency's failure to reduce errors. For example, the State agency proposes producing and sending pamphlets on Food Stamp Program regulations to applicants pending approval of their applications. The pamphlets are sent out, but the errors do not decline because the State agency inadvertently included a misstatement in the pamphlets. Since the content of the pamphlets was within the control of the State agency, the Department would withdraw the reduction.

The Department proposes not to withdraw a reduction if an investment activity's failure is due solely and clearly to factors totally outside the State agency's control. For example, a State agency may implement an activity exactly as agreed, but the errors do not decline as anticipated by the settlement agreement. If the State agency explains to the Department's satisfaction why the State agency had no control over the cause of the failure, the Department would not withdraw the reduction in QC liability.

The Department is particularly interested in receiving comments upon these proposed criteria for withdrawal of the reduction in QC liability for failure to carry out the investment plan. The Department proposes to charge interest on the suspended QC liability amount if it subsequently withdraws the reduction. Interest would be charged in accordance with section 602 of the Hunger Prevention Act of 1988, which amended section 13 (a) (1) of the Food Stamp Act of 1977. The Department has not yet published an implementing rule on this subject.

In view of the facts that: (1) A reduction in QC liability due to State agency program investment would be part of an administrative settlement agreement disposing of all or part of a QC liability claim for a particular review period; (2) the State agency had the opportunity to challenge the full claim prior to entering the settlement agreement and (3) determinations made under these proposed rules are in the sole discretion of the Secretary, the proposed rules make it clear that State agencies may not appeal to the Secretary a decision to withdraw a reduction in QC liability because of State agency failure to implement and accomplish a planned activity or to adequately document to the Department's satisfaction why an activity was unsuccessful. The Department would simply begin to collect the settlement amount withdrawn in accordance with an agreed upon procedure contained in the settlement agreement.

If a State agency decides to submit a proposal, the State agency would be accepting liability for the amount of the claim being suspended at the time of the Department's approval. Thus if the Department subsequently withdrew the reduction in the QC liability because the State agency failed to initiate or to accomplish the planned activity, there would be no administrative appeal available.

Implementation

As mandated in the Hunger Prevention Act of 1988, the provision for review of new dollar investments in determining whether to waive all or part of a QC liability claim is retroactive to Fiscal Year 1986. State agencies would be elibigle to submit requests for such waivers for Fiscal Year 1986 and all fiscal years after 1986. For Fiscal Year 1986, 1987, and 1988, the Department may consider a State agency's request to waive more than one year's claim based on the State agency's submittal of new proposed dollar investments that satisfactorily address the types of errors for each year under consideration.

List of Subjects in 7 CFR Part 275

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

Accordingly, 7 CFR part 275 is proposed to be amended as follows:

PART 275—PERFORMANCE REPORTING SYSTEM

1. The authority citation for part 275 continues to read as follows:

Authority: 7 U.S.C. 2011–2029.

2. In § 275.23, a new paragraph (e)(8) is added to read as follows:

§ 275.23 Determination of State agency program performance.

* * * * *

(e) *State agencies' liabilities for payment error rates.* * * *

(8) *Suspension and waiver of liabilities for investments in program management activities.* In connection with the settlement of all or a portion of a QC liability for FY 1986 and subsequent QC review periods, the Department may suspend and subsequently waive all or part of a State agency's payment error rate liability claim based on the State agency's dollar for dollar offsetting investment in new program management activities intended to reduce efforts measured by the QC system. A State agency may submit a request to the Department for review of planned investments in program management activities as part of a proposed settlement of all or a portion of a QC liability at any time during the QC liability claim process.

(i) The State agency's investment plan activity or activities must meet the following conditions to be accepted by the Department:

(A) The new program management activity must represent a new expenditure. The proposed activity must also represent an addition to the minimum program administration required by law for State agency administration including corrective action. If the activity is similar to an earlier State agency initiative, the State agency would have to demonstrate that there are significant changes in the initiative such that the proposed initiative could be considered a new one and that there are no remaining Federal funds earmarked for the activity. Therefore, basic training of eligibility workers or a continuing corrective action from a Corrective Action Plan shall not be acceptable.

(B) Investments must be funded in full by the State agency, without any matching Federal funds.

(C) The activity or activities must be directly related to error reduction, with specific objectives regarding the amount of error reduction, type of error, and date by which errors will be reduced. For this reason, a new issuance system or a demonstration project (or other effort) which requires waivers of existing rules shall not be acceptable.

(D) The activity or activities must be effective in reducing errors. Therefore, good faith efforts shall not be acceptable.

(ii) The request shall include:

(A) A statement of the amount of money that is a quality control liability that is to be offset by reinvestment in program improvements;

(B) A detailed description of the planned program management activity;

(C) Planned expenditures, including time schedule and anticipated cost breakdown;

(D) Anticipated impact of the activity, identifying the types of errors expected to be affected and an estimate of the reduction anticipated for each type of error;

(E) An explanation of how and when the State agency will demonstrate he activity's impact on errors;

(F) An explanation of how and when the State agency will document its expenditures; and

(G) Documentation that the funds would not replace or be for already ongoing efforts, nor simply result in a reallocation of resources.

(iii) The Department's decision to suspend all, part, or none of the QC liability claim under this paragraph is final and not subject to further appeal within the Department. A decision to suspend all or part of a State agency's QC liability claim will result in suspension of the claim for the specified amount, pending satisfactory State agency implementation of the initiative.

(iv) Each State agency which has all or part of a claim suspended under this provision shall submit periodic documented reports according to a schedule specified by the Department. At a minimum, these reports shall contain:

(A) A detailed description of the expenditure of funds, including the source of funds and the actual goods and services purchased or rented with the funds;

(B) A detailed description of the actual activity, including all ways in which the activity's actual operation differed from the planned activity; and

(C) A detailed explanation of the activity's effect on errors, including an explanation of any discrepancy between the planned effect and the actual effect.

(v) The Department may withdraw the reduction in QC liability if:

(A) The State agency's reports do not document that it spent the investment funds as specified in the investment plan;

(B) The State agency's reports do not document that it implemented and accomplished the activity as specified in the investment plan; or

(C) The State agency does not reduce errors as specified in the investment plan, unless the failure is due solely and clearly to factors outside the State agency's control.

(vi) If the reduction in QC liability is withdrawn, the Department shall charge interest on the unpaid liability, in accordance with section 602 of the Hunger Prevention Act of 1988, which amended section 13(a)(1) of the Food Stamp Act of 1977.

(vii) The Department's determination to withdraw a reduction in QC liability is not appealable.

Dated: November 16, 1990.

Betty Jo Nelsen,

Adminstrator, Food and Nutrition Service.

[FR Doc. 90-27723 Filed 11-26-90; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Notice No. 90-28; Docket No. 26385]

RIN 2120-AD87

OMB Control Number Assignment Re: Request for Data and Information; Passenger Facility Charges

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of OMB Control Number assignment.

SUMMARY: Notice is hereby given that OMB Control Number 2120-0548 has been assigned to "Notice of Request for Data and Information; Passenger Facility Charges," which was published November 14, 1990 (55 FR 47483). That notice requested data and information which may be helpful in implementing a provision of the Aviation Safety and Capacity Expansion Act of 1990 which authorizes public agencies to collect an airport passenger facility charge.

FOR FURTHER INFORMATION CONTACT: Lowell Johnson, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3831.

This notice is published pursuant to the Paperwork Reduction Act and 5 CFR 1320.

Issued in Washington, DC on November 21, 1990.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 90-27799 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-107-88]

RIN 1545-AM60

Normalization: Inconsistent Procedures and Adjustments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: In response to numerous questions, the regulations proposed in this notice provide guidance on the application of the normalization requirements of sections 167(l) and 168(i)(9) of the Internal Revenue Code to utility companies that file consolidated federal income tax returns. The proposed regulations establish the extent to which certain ratemaking procedures and adjustments that are based on tax savings attributable to the filing of a consolidated return will be treated as inconsistent with the normalization requirements. These regulations provide that, in order to comply with the normalization requirements, a utility's ratemaking tax expense must be determined as though it filed a separate return. At the same time, however, the proposed regulations provide that in certain circumstances it will not violate the normalization requirements to exclude from rate base a utility's share of the tax savings attributable to the filing of a consolidated return.

DATES: Written comments must be received by January 28, 1991. A public hearing on these proposed regulations has been scheduled for 10 a.m. on February 8, 1991. Persons wishing to speak at this hearing must deliver outlines of their comments by January 25, 1991. These regulations are proposed to be effective for rate orders that become final on or after December 20, 1990.

ADDRESSES: Send comments and requests to speak at the public hearing to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (PS-107-88), room 4429, Washington, DC 20044. If desired, comments and requests to speak may be hand-delivered to the Internal Revenue Service, Attn: CC:CORP:T:R (PS-107-88), room 4429, 1111 Constitution Avenue NW., Washington, DC. The public hearing will be held in the IRS Auditorium, Seventh floor, 7400 Corridor of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Martin Schaffer, (202) 566-3553 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This notice proposes to add new §§ 1.167(l)-1(h)(7) and 1.168(i)-1 to part 1 of title 26 of the Code of Federal Regulations (CFR). The final regulations will be added to part 1 of title 26 of the CFR in accordance with the Internal Revenue Service's specific regulatory authority under 26 U.S.C. 167(l) and 26 U.S.C. 168(i)(9)(B)(iii), as well as its general regulatory authority under 26 U.S.C. 7805.

Any public utility taking advantage of accelerated depreciation in determining its federal income tax liability must use "normalization" accounting in calculating the rates to be charged to its customers and in maintaining its regulated books of account. These proposed regulations provide guidance on the proper application of the normalization requirements to a public utility filing a consolidated income tax return.

Accelerated depreciation was introduced by Congress as a means of encouraging capital formation by taxpayers by permitting earlier deductions for the cost of capital items. The reduction in current tax liability due to accelerated depreciation creates a deferral of taxes owed, and the difference between a company's federal income tax liability calculated using accelerated depreciation and the tax liability it would have were it to use the straight-line method of depreciation is, in effect, an interest-free loan from the Treasury. As with other loans, this difference is not permanent and must be "repaid" in the later years of the asset's life when a slower depreciation method would have provided larger deductions because the accelerated method has used up all available basis. Flow-through accounting, in effect, takes the principal amount of this congressionally-mandated loan away from a utility and flows it through to the utility's current customers.

In 1969, Congress enacted section 167(l) of the Code to prohibit the use of flow-through accounting. (Section 167(l) corresponds to sections 168(f)(2) and 168(i)(9)(A) under the Accelerated Cost Recovery System (ACRS), as modified by the Tax Reform Act of 1986.) In general, any utility taking advantage of accelerated depreciation must use normalization accounting for ratemaking purposes. Under normalization, a utility must calculate its ratemaking tax expense using depreciation that is no more accelerated than its ratemaking depreciation. Normalization also requires a utility to treat as a reserve the difference between its tax liability as computed using accelerated depreciation and the tax liability the utility would have were the tax to be computed using its ratemaking depreciation method (typically straight-line).

The purpose of these normalization requirements is to prevent the flow through to utility ratepayers of the reduction in current taxes stemming from the use of accelerated depreciation. The normalization rules require a utility to treat the reduction as a deferred tax expense that is collected from current customers through utility rates, and thus is available to utilities as cost-free investment capital until it must be paid to the Treasury. See H.R. Rep. No. 643, 97th Cong., 2d Sess. 6 (1982).

Under normalization accounting, ratepayers may receive a benefit from a utility's use of accelerated depreciation in calculating its federal income tax liability. The normalization rules do not prevent a regulatory agency from passing through to ratepayers the benefit of cost-free capital over the period for which the taxes are deferred. In other words, a utility commission may establish rates that reflect the capital cost savings resulting from accelerated depreciation by excluding the reserve for deferred taxes from the base to which the utility's rate of return is applied (or by treating the deferred taxes as cost-free capital in determining the rate of return allowed).

In response to various ratemaking procedures, Congress enacted the predecessor of section 168(i)(9)(B) (section 168(e)(3)(C) under ACRS, before its modification by the Tax Reform Act of 1986). See S. Rep. No. 1038, 96th Cong., 2d Sess. 11 (1980). Section 168(i)(9)(B)(i) provides that the normalization requirements of section 168(i)(9)(A) are not met if the taxpayer, for ratemaking purposes, uses a procedure or adjustment that is inconsistent with these requirements. Section 168(i)(9)(B)(ii) specifies certain procedures and adjustments that are to be treated as inconsistent for purposes of section 168(i)(9)(B)(i). (Congress amended section 167(l) to include the rules of section 168(i)(9)(B).)

Recognizing that it could not foresee all possible ratemaking procedures that might undermine the purpose of the normalization rules, Congress granted the Secretary broad regulatory authority in section 168(i)(9)(B)(iii) to identify such

procedures. (The Secretary has similarly broad authority under section 167(l)(5), which directs the Service to issue regulations if, for any reason, the application of any of the provisions of section 167(l) to any public utility property does not carry out the purposes of that section.)

Over the last several years, the Service has faced the question of whether the calculation of ratemaking tax expense on a consolidated group basis is inconsistent under section 168(i)(9)(B)(i) with the normalization requirements, or, if not, whether it should be treated as inconsistent by exercise of the Service's broad regulatory authority under sections 167(l)(5) and 168(i)(9)(B)(iii). When computed on a consolidated group basis, ratemaking tax expense is reduced to reflect the savings from filing a consolidated return with affiliated companies having net operating losses.

Under one variation—the "consolidated tax savings adjustment"—the ratemaker first determines the utility's total tax expense on a separate return basis and then reduces it by the utility's share of the consolidated tax savings. Under another variation, the ratemaker computes an "effective tax rate" by dividing the tax liability of the group by the sum of the taxable income. The ratemaker then applies this "effective tax rate" to the utility's taxable income to compute its current tax expense. One state court has held that consolidated tax savings adjustments are not inconsistent with the normalization rules, so long as the adjustment does not exceed the utility's current tax expense. See *Continental Telephone Co. of Pennsylvania* v. *Pennsylvania Public Utility Commission*, 120 Pa. Commw. 25, 548 A.2d 344 (1988), appeal denied, 521 Pa. 613, 557 A.2d 345 (1989).

A related issue that has also arisen is whether a utility may, consistent with the requirement to normalize, reduce rate base (rather than ratemaking tax expense) by its share of the consolidated tax savings.

In May 1989, Notice 89–63 announced that the Service had opened a regulations project to give guidance on the application of the normalization requirements to public utilities filing consolidated federal income tax returns. Notice 89–63 stated that the regulations would address the extent to which the use of "effective tax rates" or "consolidated tax savings adjustments" will be treated as inconsistent with the normalization rules. These proposed regulations are the result of that project.

Explanation of Provisions

Overview

The proposed regulations provide that it is a violation of the normalization requirements to determine a utility's ratemaking tax expense, either current or deferred, by taking into account the income, losses, deductions, or credits of other taxpayers with which it files a consolidated return. To comply with the normalization rules, a utility must compute its ratemaking tax expense as if it filed a separate return. The proposed regulations provide, however, that it is not a violation of the normalization rules for a utility that files a consolidated return to reduce its rate base by its share of the cumulative net tax savings attributable to the filing of a consolidated return for certain tax years. The proposed regulations provide the method, based on provisions of the consolidated return regulations, for determining a utility's share of the consolidated group's cumulative net tax savings. As with the requirements under § 1.167(l)–1(h), these requirements do not apply to the determination of state tax expense for ratemaking purposes.

Detailed Explanation

Under the authority of sections 167(l) and 168(i)(9)(B)(iii), sections 1.167(l)–1(h)(7) and 1.168(i)–1 of the proposed regulations provide that a utility must compute its ratemaking tax expense as if it filed a separate return. Thus, for example, the proposed regulations provide that it is inconsistent with normalization for ratemaking tax expense to be reduced on account of the losses of another corporation with which the utility files a consolidated return. Similarly, it is inconsistent with normalization to calculate ratemaking tax expense, either current or deferred, using an effective tax rate determined by taking into account the losses of any other corporation. Any rate order that becomes a "final determination" (within the meaning of section 1.46–6(f)(8)(iii) of the regulations) on or after December 20, 1990 violates the normalization requirements if it provides for a ratemaking tax expense calculated by taking into account the income, losses, deductions, or credits of any other corporation with which the utility files a consolidated return. Such a violation will result in the denial of accelerated depreciation deductions on public utility property.

Section 1.168(i)–1 of the proposed regulations does not address the treatment under the normalization rules of reductions in a utility's tax liability resulting from expenses of the utility itself, even if these expenses are not taken into account in determining cost of service. Thus, for example, if a utility is not permitted to include in its cost of service the cost of an abandoned power plant, a particular advertising expense, or any other cost a ratemaking authority considers to be imprudent, the proposed regulations do not prohibit a reduction in ratemaking tax expense to reflect the concomitant reduction in its tax liability on account of these expenses. The Service invites comments on the proper treatment of these items under the normalization rules.

Consolidated Tax Savings May Be Treated As No-cost Capital

The effect of the proposed regulations is to require utility customers to pay, through cost of service, the same tax expense they would pay if the utility filed a separate return. In some cases, this requirement will permit the utility to collect from customers an amount of tax expense that, because the utility joins in filing a consolidated return with an affiliate generating net operating losses, exceeds the amount the group must remit to the Treasury. This reduction in the group's tax liability, though, might not be permanent. When the loss affiliate becomes profitable (and therefore would be in a position to use its earlier net operating losses had it not joined with the utility in filing a consolidated return), the group as a whole will be liable for more tax for the year than if the members had not filed a consolidated return.

Consolidated tax savings are similar to the deferred taxes arising from the allowance of accelerated depreciation on public utility property in that the temporary tax savings available to the utility is cost-free capital from the time it is collected from ratepayers until the time the affiliate becomes profitable. The Service has concluded that it is not inconsistent with the normalization requirements for a regulatory commission to share the benefit of this cost-free capital with ratepayers through a reduction in the utility's capital costs reflected in its rates.

Consistent with the analogous provisions of § 1.167(l)–1(h)(6) of the current regulations, which permit reduction of rate base by the amount of the deferred tax reserve, § 1.168(i)–1(c) of the proposed regulations permits the exclusion from a utility's rate base (or, alternatively, the treatment as no-cost capital) of an amount not in excess of the utility's share of the consolidated tax savings as determined under the proposed regulations. This exclusion of amounts from the utility's rate base is permitted notwithstanding any

implication to the contrary in § 1.167(l)–1(h)(6)(i) of the current regulations.

Section 1.168 (i)–1(c) of the proposed regulations does not require the exclusion of any amount from a utility's rate base, or the treatment of any amount as no-cost capital; it simply provides an upper limit. As with the deferred tax reserve resulting from accelerated depreciation, ratemakers may decide how much of the benefit of the consolidated tax savings to pass through.

The Service understands that, although practice varies, most state utility commissions have set rates in a way that does not take consolidated tax savings into account, either in determining ratemaking tax expense or in determining rate base or cost of capital. The Service intends that issuance of these proposed regulations will not disturb this existing practice during the period prior to the issuance of final regulations. Specifically, under the proposed regulations any rate order that becomes final on or after December 20, 1990, that takes consolidated tax savings into account in computing ratemaking tax expense will violate the normalization rules. In addition, the Service intends that commissions should not conclude that they may, consistent with the normalization rules, change their practice to reduce rate base by consolidated tax savings during the period in which the Service is considering public comments on the provisions of the proposed regulations permitting rate base reduction. Accordingly, the provisions of the proposed regulations permitting rate base reduction generally will not be effective until issuance of final regulations.

Therefore, in determining the maximum amount by which rate base is to be reduced (or the maximum amount that may be treated as no-cost capital) the proposed regulations do not allow consideration of consolidated tax savings arising in tax years ending prior to the date that is 30 days after final regulations incorporating the provisions of these proposed regulations are published, or, if sooner, January 1, 1992. Furthermore, notwithstanding the general effective date of these proposed regulations, the provisions permitting reduction of rate base by consolidated tax savings (or treatment of consolidated tax savings as no-cost capital) apply only to rate orders that become final or or after the date that is 30 days after the date that final regulations are published, or, if sooner, January 1, 1992. Thus, any rate order that becomes final prior to this date, but on or after December 20, 1990 will violate normalization if it reduces rate base by consolidated tax savings or treats consolidated tax savings as no-cost capital.

In addition, the proposed regulations do not permit consolidated tax savings to be excluded from rate base (or treated as no cost capital) for any year for which rates were determined under a method that flowed through the consolidated tax savings as a reduction to ratemaking tax expense. Thus, for example, if consolidated tax savings are considered in computing ratemaking tax expense for any tax year by reason of a rate order that became final prior to December 20, 1990, these consolidated tax savings may not be excluded from rate base.

The Service invites comments regarding the appropriateness of these effective date rules.

In general, a utility's share of the tax savings attributable to the filing of a consolidated return ("cumulative net tax savings") is the difference between its cumulative share of the consolidated group's tax liability and the cumulative tax liability the utility would have were it to file a separate return for the current year and all previous years. The proposed regulations provide the method for determining a utility's share of a group's consolidated tax savings. This amount is determined on a cumulative basis; it must be reduced when the group's tax liability increases because a former loss affiliate becomes profitable.

The method in the proposed regulations for determining a utility's share of consolidated tax savings is based on a method for allocating tax liability among members of a consolidated group for purposes of calculating earnings and profits that is provided in §§ 1.1502–33 (d)(2)(i) and 1.1552–1 (a)(2) of the consolidated return regulations. This approach ensures appropriate treatment of deferred intercompany transactions, as well as losses, of the consolidated group, and it is most likely familiar to taxpayers affected by the proposed regulations.

To determine its cumulative net tax savings, a utility must first determine its share of the consolidated group's tax savings for each tax year beginning with the "election year." (Flexibility is provided by allowing the selection of the election year, but in no instance may the election year be earlier than the first tax year ending on or after the date that is 30 days after the date final regulations are published, or, if sooner, January 1, 1992. The utility's share (which may be negative) of the consolidated tax savings for any tax year is determined by subtracting its share of the consolidated group's tax liability for the year, determined in accordance with §§ 1.1551–1 (a)(2) and 1.1502–33 (d)(2)(i), from its tax liability for the year calculated as if it had filed a separate return for that year and all previous years. Under these rules, no adjustment is made for payments by the utility under a tax sharing agreement. Comments are invited on any adjustments that might be necessary where there are minority interests in a nonutility affiliate.

Operation of § 1.1502–33(d)(2)(i)

Under § 1.1502–33 (d)(2)(i), the tax liability of a consolidated group is first allocated among the members of the group in proportion to their relative separate return tax liabilities, as provided in § 1.1552–1(a)(2). (For this purpose, separate return tax liability is determined as if a separate return were filed for the current year only, and thus does not take into account NOL's from other years.) However, in situations in which one member of the group generates losses in one year that are used to reduce the group's tax liability, but becomes profitable in a subsequent year, tax liability as allocated under § 1.1552–1(a)(2) must be adjusted so that the cummulative amount of tax liability allocated to the loss member does not exceed the amount that would have been its cummulative tax liability if it had not joined in the consolidated return. The loss member's excess liability is allocated to the other members of the group that benefitted from the losses. Section 1.1502–33(d)(2)(i) provides the mechanism for making these adjustments.

Under § 1.1502–33 (d)(2)(i)(*a*), the amount of group tax liability allocated to any member for a tax year is equal to the member's proportionate share of the group's liability based on the member's separate return tax liability under § 1.1552–1(a)(2). It may not, however, exceed the excess of (1) the total of the tax liabilities of the member on a separate return basis for all tax years to which the election under § 1.1502–33 (d)(3) applies, and for which the member joined in the filing of a consolidated return of the group (including the current tax year) computed as if it had actually filed separate returns for all of these years, over (2) the total of the portions of the group tax liability allocated to the member for all previous tax years to which the election applies. The proposed regulations provide that any tax year ending on or after the date that is 30 days after final regulations are

published, or, if sooner, January 1, 1992, may be treated as the first year to which an election applies for purposes of this rule.

Any tax liability of a group that cannot be allocated to a member that previously generated losses because of this limitation must be allocated to the other members that benefitted from these losses, thus increasing their share of the group's tax liability above the amount that would be allocated under § 1.1552–1(a)(2). Under § 1.1502–33(d)(2)(i)(*b*), any excess tax liability that would be allocated to a member of a group but for § 1.1502–33(d)(2)(i)(*a*) must be allocated among the other members in direct proportion to (and limited to) the reduction in tax liability resulting to the other members. The reduction for any member is the excess, if any, of (1) the total of its tax liabilities on a separate return basis for all tax years to which the election under § 1.1502–33(d)(3) applies and for which it joined in the filing of a consolidated return of the group (including the current tax year) computed as if it had actually filed separate returns for all these years, over (2) the total of the portions of the tax liability of the group allocated to the member for all tax years to which the election applies (including, for the current year, only the amount allocated under § 1.1552–1(a)(2)).

This allocation of excess tax liability may have the effect of increasing a utility's share of the group's tax liability above the amount that would have been its tax liability for the current year if it had not filed a consolidated return. This difference can be viewed as a recapture of the utility's share of previous consolidated tax savings. Accordingly, if the utility's share of the group's tax savings is excluded from its rate base (or, alternatively, is treated as no-cost capital), the maximum amount permitted to be excluded from rate base must be reduced to reflect this repayment of tax savings from prior years.

The proposed regulations provide an example to illustrate the exclusion of consolidated tax savings from rate base as permitted under the regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that these proposed rules are not major rules as defined in Executive Order 12291, and that a Regulatory Impact Analysis therefore is not required. Furthermore, it has been certified that these rules, if issued, will not have a significant economic impact on a substantial number of small entities. Therefore, an initial Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held at 10 a.m. on February 8, 1991, in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

Drafting Information

The project attorney is Martin Schaffer of the Office of Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service. However, various personnel from the Service and the Treasury Department participated in the development and drafting of these regulations.

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Deductions, Exemptions, Income tax, Taxable income.

Proposed Amendments to the Regulations

Accordingly, title 26, part 1, of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * § 1.167(l)–1(h)(7) also issued under 26 U.S.C. 167(l), and § 1.168(i)–1 also issued under 26 U.S.C. 168(i)(9)(B)(iii).

Par. 2. Section 1.167(l)–1 is amended by adding a new paragraph (h)(7) to read as follows:

§ 1.167(l)–1 Limitations on reasonable allowance in case of property of certain public utilities.

* * * * *

(h) * * *

(7) *Application of normalization requirements to utilities filing consolidated returns.* Notwithstanding § 1.167(l)–(a)(1) of the regulations, in order to use a normalization method of accounting, any corporation that owns public utility property and that is a member of a consolidated group must comply with the requirements of § 1.168(i)–1.

Par. 3. New § 1.168(i)–1 is added to read as follows:

§ 1.168(i)–1 Normalization rules.

(a) *In general.* Under section 168(f)(2), section 168 does not apply to any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting. Sections 167(l)(3)(G) and 168(i)(9) describe the requirements of a normalization method of accounting Section 167(l)(5) directs the Secretary to issue regulations if, for any reason, the application of any of the provisions of section 167(l) to any public utility property does not carry out the purposes of that section. Section 168(i)(9)(B)(iii) provides that the Secretary may by regulation prescribe the procedures and adjustments that are to be treated as inconsistent with the requirements of a normalization method of accounting. Under this authority, any corporation that owns public utility property and that is a member of a consolidated group (a "utility") will be considered to use a normalization method of accounting only if its federal income tax expense for determining cost of service for ratemaking purposes ("ratemaking tax expenses") is computed as if it filed a separate federal income tax return. Any procedure or adjustment that results in the flow-through of tax savings arising from the filing of a consolidated return will be treated as inconsistent with a normalization method of accounting. See paragraph (b) of this section. The procedures and adjustments described in paragraph (c) of this section, however, which exclude the cumulative amount of these savings from the base to which the utility's rate of return is applied ("rate base"), will not be treated as inconsistent with a normalization method of accounting. This section is effective for rate orders that become final determinations within the meaning of § 1.46–6(f)(8)(iii) of the regulations on or after December 20, 1990.

(b) *Flow-through of consolidated tax savings treated as inconsistent with normalization.* Except as provided in paragraph (c) of this section, it is inconsistent with a normalization method of accounting to compute a utility's ratemaking tax expense or the amount treated as no-cost capital or the amount of the rate base by taking into account the income, losses, deductions, or credits, of any other member of the consolidated group of which it is a member. Thus, for example, it is consistent with a normalization method of accounting to reduce ratemaking tax expense on account of the losses or loss carryovers of another member of the

utility's consolidated group. Similarly, it is inconsistent with a normalization method of accounting to determine either the current or deferred portion of ratemaking tax expense using an effective tax rate determined by taking into account the losses or credits of other members of the utility's consolidated group, or otherwise to reduce cost of service for ratemaking purposes to take into account the current tax savings resulting from the losses or credits of other members of the utility's consolidated group.

(c) *Exclusion from rate base permitted*—(1) *In general.* It is not inconsistent with the requirements of a normalization method of accounting to treat as no-cost capital (or, alternatively, to exclude from rate base) under this section an amount not in excess of the cumulative amount of the utility's allocable shares of the federal income tax savings attributable to the filing of a consolidated return for the tax year and all prior tax years, beginning with the election year selected under paragraph (c)(3) of this section ("cumulative net tax savings"). (This amount is in addition to the deferred tax reserve, which also may be applied to reduce rate base or be treated as cost-free capital.) If the cumulative net tax savings is less than zero, no adjustment is made to rate base. However, exclusion from rate base or treatment as no-cost capital is not permitted for the utility's share of the consolidated tax savings for any year for which rates were determined under a method that takes consolidated tax savings into account in a computing ratemaking tax expense. Thus, if consolidated tax savings are taken into account in computing ratemaking tax expense for any tax year by reason of a rate order that became final prior to December 20, 1990, the utility's share of the consolidated tax savings for that year may not be excluded from rate base or treated as no-cost capital. This paragraph (c) applies only to treatment of consolidated tax savings pursuant to a rate order that becomes final on or after the date that is 30 days after the date that final regulations are published, or, of sooner, January 1, 1992.

(2) *Allocable share of tax savings.* For any tax year, a utility's allocable share (which may be negative) of tax savings attributable to the filing of a consolidated return is equal to—

(i) Its federal income tax liability for the year, determined as if it actually filed a separate return for that tax year and all previous and subsequent tax years, minus

(ii) Its allocable share of the consolidated group's tax liability for the year, determined in accordance with §§ 1.1552–1(a)(2) and 1.1502–33(d)(2)(i).

(3) *Selection of election year.* For purposes of applying the allocation rules of §§ 1.1552–1(a)(2) and 1.1502–33(d)(2)(i), any tax year ending on or after the date that is 30 days after the date that final regulations are published, or, if sooner, January 1, 1992, may be treated as the year of the election referred to in § 1.1502–33(d)(2)(i).

(4) *Use of test periods.* In determining cost of service for future periods based on an historical test period, the amount of consolidated tax savings for future periods may be projected, and thus changes from the test period in the amount excluded from rate base (or treated as no-cost capital) under this section may also be projected. Any projections, however, must be reasonable. For example, a projection may not take into account an extraordinary event, such as the termination or acquisition of a business, unless it is evident that such an event will occur.

(d) *Example*—(1) This example illustrates the following series of calculations necessary to determine the maximum amount that may be treated as no-cost capital or by which rate base may be reduced. First, the group's consolidated tax liability for the year is allocated among the members in proportion to their separate return liabilities (determined as though separate returns were filed for the current year only). Second, the amount allocated to each member is limited to ensure that this amount does not cause the cumulative total amount of group tax liability allocated to the member for all years to exceed the amount that would have been the member's cumulative total tax liability if it had actually filed a separate return for all years. Any part of the group's consolidated tax liability for the year that cannot be allocated to a member because of this limit is apportioned among the other members, to produce each member's final allocation of the group's consolidated tax liability for the year. The utility's final allocation is then subtracted from the amount that would have been the utility's separate return tax liability for the current year if the utility had actually filed separate returns for all years. This difference is the utility's share of the consolidated tax savings for the year. The utility's cumulative share of the consolidated tax savings may be used to reduce rate base or be treated as cost-free capital. (This amount is in addition to the deferred tax reserve, which also may be applied to reduce rate base or be treated as cost-free capital.)

(2) In this example, regulated public utility *U* files a consolidated return with its nonregulated affiliates *X* and *Y*. The year 1991 has been selected as the year of election, and a 34 percent tax rate has been assumed. Line references are to the tables below.

1991

Allocation under § 1.1552–1(a)(2). Under § 1.1552–1(a)(2), the group's consolidated tax liability for the year is allocated among the members in proportion to their separate return tax liabilities. For purposes of this allocation, a member's separate return tax liability is computed as though if filed a separate return for the current year, without regard to other years. The following information and calculations are required to make this allocation. *U*'s separate taxable income for the year, as defined in § 1.1502–12 and determined using accelerated depreciation, is 60. *X* has a loss of 50, and *Y* has separate taxable income of 45. (Line A.1). The group's consolidated taxable income (as defined in § 1.1502–11) and tax liability are 55 and 18.7 (34 percent of 55), respectively. (Lines A.2 and A.3). The separate taxable incomes of *U*, *X*, and *Y*, for purposes of § 1.1552–1(a)(2)(ii), are 60, a loss of 50, and 45, respectively. (Line A.4). Thus, the separate return tax liabilities of *U*, *X*, and *Y* are 20.4, 0, and 15.3, respectively. (Line A.5). The group's tax liability of 18.7 is then allocated among the members in proportion to their separate return tax liabilities, resulting in an allocation under § 1.1552–1(a)(2) of 10.69 to *U*, 0 to *X*, and 8.01 to *Y*. (Line A.6).

(A) *Allocation under § 1.1552–1(a)(2).*

	U	X	Y	Group
(1) Separate taxable income (as defined in § 1.1502–12) (using accelerated depreciation)	60	(50)	45	
(2) Consolidated taxable income (as defined in § 1.1501–11)				55
(3) Consolidated tax liability				18.7
(4) Separate taxable income for purposes of § 1.1552–1(a)(2) calculation	60	(50)	45	
(5) Separate return tax liability as calculated in § 1.1552–1 (a)(2)	20.4	0	15.3	
(6) Allocation of consolidated tax liability under § 1.1552–1 (a)(2)	10.69	0	8.01	

Allocation under § 1.1502–33(d)(2)(i). Under § 1.1502–33(d)(2)(i), the first step is to ensure that the amount allocated to each member under § 1.1552–1(a)(2) for the current year does not cause the cumulative total amount of group tax liability allocated to the member

for all years (beginning with the year treated as the year of election) to exceed the amount that would have been the member's cumulative total tax liability if it had actually filed a separate return for all years. Thus, the maximum amount that may be allocated to any member for the year is the excess of the cumulative total of the member's tax liabilities on a separate return basis (determined as though the member had actually filed separate returns for all years, beginning with the year treated as the year of election), as determined in § 1.1502–33(d)(2)(i)(*a*)(*1*) (line B.2), over the total portions of group tax liability allocated to the member for all previous years, as determined in § 1.1502–33(d)(2)(i)(*a*)(*2*) (line B.3). Because the current year, 1991, is treated as the year of election, the amounts shown on line B.3 are all 0. The excess for each member (line B.2 minus line B.3), which for 1991 is the same as the member's separate return liability for 1991, is shown on line B.4. It is the maximum amount that may be allocated to the member. This amount is compared with the amount allocated under § 1.552–1(a)(2) (line B.1), and the lesser of the two amounts is the amount allocated under § 1.1502–33(d)(2)(i)(*a*) to the member. (Line B.5). For 1991, these two amounts are the same. Thus for 1991, the amount allocated to each member under § 1.1552–1(a)(2) is not limited under the first step.

(B) *Allocation under § 1.1502–33(d)(2)(i).*

	U	X	Y	Group
(*1*) Allocation under § 1.1552–1 (a)(2) (from line A.6)	10.69	0	8.01	
(*2*) Cumulative total of tax liabilities on separate return basis as though separate returns filed for all years (as determined in § 1.1502–33 (d)(2)(i)(*a*)(*1*))	20.4	0	15.3	
(*3*) Total portions of group tax liability allocated to member for all previous years (as determined in § 1.1502–33(d)(2)(i)(*a*)(*2*))	0	0	0	
(*4*) Excess of cumulative total of separate return liabilities over amounts allocated for all previous years (line B.2 minus line B.3) (as determined in 1.1502–33(d)(2)(i)(*a*)) (limit on amount that may be allocated to a member)	20.4	0	15.3	
(*5*) Initial allocation (lesser of line B.1 and line B.4)	10.69	0	8.01	

Apportionment of excess. The second step under § 1.1502–33(d)(2)(i) is to apportion among the other members any amount of the group's consolidated tax liability that may not be allocated to a member because of the limit determined under the first step. This excess is determined by subtracting the total of the amounts allocated under § 1.1502–33(d)(2)(i)(*a*) (line C.2) from the consolidated tax liability (line C.1). Because the amount allocated under § 1.1552–1(a)(2)(ii) is not limited under the first step for 1991, the two amounts are the same (18.7), and the difference (line C.3) is O. Thus, there is no excess tax liability to be apportioned under the second step.

(C) *Apportionment of excess.*

	U	X	Y	Group
(*1*) Consolidated tax liability (from line A.3)				18.7
(*2*) Total of amounts allocated in line B.5				18.7
(*3*) Amount of consolidated tax liability that cannot be allocated because of limit in line B.4 (line C.1 minus line C.2)				0

Cumulative consolidated tax savings. Each member's current year consolidated tax savings is equal to the excess of its separate return tax liability for the year, determined as if separate returns had actually been filed for all years (line D.1), over the amount of the consolidated group's tax liability finally allocated to the member for the year (line D.2). Thus, the amount finally allocated to each member (line D.2) is subtracted from the member's separate return tax liability shown on line D.1 (20.4, 0, and 15.3, for *U, X,* and *Y,* respectively) to produce its consolidated tax savings for the year (9.71, 0, and 7.29). (Line D.3). Each member's cumulative consolidated tax savings is equal to the consolidated tax savings for the year added to the cumulative consolidated tax savings for the preceding year. (Line D.4). Because 1991 is treated as the year of election, the cumulative consolidated tax savings is the same as the consolidated tax savings for 1991. The maximum amount that may be treated as cost-free capital to *U* (or by which *U*'s rate base may be reduced) under the rules of this section is 9.71 for 1991.

(D) *Cumulative consolidated tax savings.*

	U	X	Y	Group
(*1*) Separate return tax liability for current year determined as though separate returns filed for all years (see § 1.1502–33(d)(2)(i)(*a*)(*1*)	20.4	0	15.3	
(*2*) Final allocation (line B.5 plus any excess group tax liability apportioned under C)	10.69	0	8.01	
(*3*) Consolidated tax savings (line D.1 minus line D.2)	9.71	0	7.29	
(*4*) Cumulative consolidated tax savings (line D.3 plus line D.4 from preceding year)	9.71	0	7.29	

1992

Allocation under § 1.1552–1(a)(2). Under § 1.1552–1(a)(2), the group's consolidated tax liability for the year is allocated among the members in proportion to their separate return liabilities. The following information and calculations are required to make this allocation. *U*'s separate taxable income for year, as defined in § 1.1502–12, and determined using accelerated depreciation, is 75. *X* and *Y* have separate taxable incomes of 30 and 50, respectively. (Line A.1). The group's consolidated taxable income and tax liability are 155 and 52.7 (34 percent of 155), respectively. (Lines A.2 and A.3). The separate taxable incomes of *U, X, Y,* for purposes of § 1.1552–1(a)(2)(ii), are 75, 30, and 50, respectively. (Line A.4). Thus the separate return tax liabilities of *U, X,* and *Y,* are 25.5 10.2, and 17, respectively. (Line A.5). Note that *X*'s separate return tax liability does not take into account *X*'s net operating loss from the preceding year, because, for this purpose, separate return tax liability is determined as if a separate return were filed only for the current year, and not for preceding years also. The group's tax liability of 52.7 is then allocated among the members in proportion to their separate return tax liabilities, resulting in an allocation under § 1.1552–1(a)(2) of 25.5, 10.2, and 17, to *U, X,* and *Y,* respectively. (Line A.6).

(A) *Allocation under § 1.1552–1(a)(2).*

	U	X	Y	Group
(*1*) Separate taxable income (as defined in § 1.1502–12) (using accelerated depreciation)	75	30	50	
(*2*) Consolidated taxable income (as defined in § 1.1502–11)				155
(*3*) Consolidated tax liability				52.7
(*4*) *Separate taxable income for purposes of § 1.1552–1(a)(2) calculation*	75	30	50	
(*5*) Separate return tax liability as calculated in § 1.1552–1(a)(2)	25.5	10.2	17	
(*6*) Allocation of consolidated tax liability under § 1.1552–1(a)(2)	25.5	10.2	17	

Allocation under § 1.1502–33(d)(2)(i). Under the first step of § 1.1502–33(d)(2)(i), the maximum amount that may be allocated to any member for the year is the excess of the cumulative total of the member's tax

liabilities on a separate return basis (determined as though the member had actually filed separate returns for all years, beginning with the year treated as the year of election), as determined in § 1.1502–33(d)(2)(i)(*a*)(*1*) (line B.2), over the total portions of group tax liability allocated to the member for all previous years, as determined in § 1.1502–33(d)(2)(i)(*a*)(*2*) (line B.3). The cumulative totals of the members' tax liabilities (1991 and 1992) are 45.9, 0, and 32.3, for *U*, *X*, and *Y*, respectively. Note that the total for *X* takes into account the fact that, if *X* had filed a separate return for both years, a deduction for a net operating loss carryover from 1991 would have been allowed for 1992, so that *X* would have had no liability for either year. The portion of group tax liability that was allocated to each member for 1991 is shown on line B.3. The excess (line B.2 minus line B.3) is shown on line B.4. It is the maximum amount that may be allocated to each member. This amount is compared with the amount allocated under § 1.552–1(a)(2) (line B.1), and the lesser of the two amounts is allocated under § 1.1502–33(d)(2)(i)(*a*) to the member. (Line B.5). Note that the amount allocated to *X* under § 1.1502–33(d)(2)(i)(*a*) is thus 0, rather than 10.2, the amount allocated under § 1.1552–1 (a)(2).

(B) *Allocation under § 1.1502–33(d)(2)(i).*

	U	X	Y	Group
(*1*) Allocation under § 1.1552–1(a)(2) from line A.6)	25.5	10.2	17	
(*2*) Cumulative total of tax liabilities on separate return basis as though separate returns filed for all years (as determined in § 1.1502–33 (d)(2)(i)(*a*)(*1*)	45.9	0	32.3	
(*3*) Total portions of group tax liability allocated to member for all previous years (as determined in § 1.1502–33 (d)(2)(i)(*a*)(*2*))	10.69	0	8.01	
(*4*) Excess of cumulative total of separate return liabilities over amounts allocated for all previous years (line B.2 minus line B.3) (as determined in § 1.1502–33 (d)(2)(i)(*a*)) (limit on amount that may be allocated to a member)	35.21	0	24.29	
(*5*) Initial allocation (lesser of line B.1 and line B.4)	25.5	0	17	

Apportionment of excess. The second step under § 1.1502–33(d)(2)(i) is to apportion among the other members any amount of the group's consolidated tax liability that may not be allocated to a member because of the limit determined under the first step. This excess is determined by subtracting the total of the amounts allocated under § 1.1502–33(d)(2)(i) (line C.2.), which is 42.5, from the consolidated tax liability, which is 52.7 (line C.1). The difference (line C.3) is 10.2, the amount that could not be allocated to *X* because of the limit in step 1. This excess must be apportioned between *U* and *Y* in proportion to their relative reductions in tax liability for 1991 and 1992 as a result of filing a consolidated return, as determined in § 1.1502–33(d)(2)(i)(*b*). These reductions are equal to the excess of the cumulative total of separate return liabilities, determined as if separate returns had been filed for both 1991 and 1992, (line C.4), over the total of the portions of tax liability of the group allocated for both years (line C.5). These reductions, which are shown on line C.6, are 9.71 and 7.29 for *U* and *Y*, respectively. The total of these reductions is 17. (Line C.7). *U*'s and *Y*'s shares of this total reduction are 57 percent and 43 percent, respectively. (Line C.8). Thus the amounts of excess tax liability apportioned to *U and Y* are 5.83 and 4.37, respectively. (Line C.9).

(C) *Apportionment of excess.*

	U	X	Y	Group
(*1*) Consolidated tax liability (from line A.3)				52.7
(*2*) Total of amounts allocated in line B.5				42.5
(*3*) Amount of consolidated tax liability that cannot be allocated because of limit in line B.4 (line C.1 minus line C.2)				10.2
(*4*) Cumulative total of separate return liabilities, computed as though separate returns filed for all years (as determined in § 1.1502–33 (d)(2)(i)(*b*)(*1*)) (same as line B.2)	45.9		32.3	
(*5*) Total of the portions of tax liability of group allocated to member for all years (as determined in § 1.1502–33 (d)(2)(i)(*b*)(*2*)	36.19		25.01	
(*6*) Reduction in tax liability to other members (as determined in § 1.1502–33 (d)(2)(i)(*b*)) (line C.5 minus line C.4)	9.71		7.29	
(*7*) Total reduction in tax liability (sum of numbers on line C.6)				17
(*8*) Each member's share of total reduction (line C.6 divided by line C.7)	0.57		0.43	
(*9*) Apportionment of excess tax liability (line C.3 multiplied by line C.8)	5.83		4.37	

Cumulative consolidated tax savings. Each member's current year consolidated tax savings is equal to the excess of its separate return tax liability for the year, determined as if separate returns had actually been filed for all years (line D.1), over the amount of the consolidated group's tax liability finally allocated to the member for the year (line D.2). Thus, the amount finally allocated to each member (line D.2) is subtracted from the member's separate return tax liability shown on line D.1 [25.5, 0, and 17, for *U*, *X*, and *Y*, respectively) to produce its consolidated tax savings for the year. Thus, *U*'s and *Y*'s consolidated tax savings of the year are negative 5.83 and negative 4.37, respectively, representing a partial recapture of the benefit that *U* and *Y* received from filing a consolidated return in 1991. (Line D.3). Each member's cumulative consolidated tax savings is equal to the consolidated tax savings for the year added to the cumulative consolidated tax savings for the preceding year. Thus, *U*'s cumulative consolidated tax savings is 9.71 minus 5.83, or 3.88, while *Y*'s is 7.29 minus 4.37, or 2.92. (Line D.4). The maximum amount that may be treated as cost-free capital to *U* (or by which *U*'s rate base may be reduced) under the rules of this section is 3.88 for 1991.

(D) *Cumulative Consolidated Tax Savings.*

	U	X	Y	Group
(*1*) Separate return tax liability for current year determined as though separate returns filed for all years (see § 1.1502–33(d)(2)(i)(*a*)(*1*))	25.5	0	17	
(*2*) Final allocation (line B.5 plus line C.9)	31.33	0	21.37	
(*3*) Consolidated tax savings (line D.2 minus line D.1)	(5.83)	0	(4.37)	
(*4*) Cumulative consolidated tax savings (line D.3 plus line D.4 from preceding year)	3.88	0	2.92	

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

FR Doc. 90–27702 Filed 11–20–90; 2:45 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AB60

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Mineral Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: This notice proposes an amendment to rules governing civil penalty assessment under section 24(b) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1350(b)). This change is designed to implement a revised authority for the Secretary of the Department of the Interior (DOI) to assess civil penalties for failure to comply with regulations governing oil and gas and sulphur operations in the OCS. This action will enable the Minerals Management Service (MMS) to assess a civil penalty without first providing notice and time for corrective action in cases where the failure constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment.

DATES: Comments must be received or postmarked by January 28, 1991.

ADDRESSES: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street, Herndon, Virginia 22070-4817; Attention: Gerald D. Rhodes.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, (703) 787-1600.

SUPPLEMENTARY INFORMATION: The MMS regulations at 30 CFR part 250 address requirements for oil and gas and sulphur operations under a lease in the OCS. Included in these regulations are provisions in § 250.200, Remedies, which address the assessment of civil penalties. The provisions for civil penalties were developed pursuant to section 24(b) of the OCSLA (43 U.S.C. 1350(b)) which, prior to the August 18, 1990, amendment to the OCSLA, stated:

> If any person fails to comply with any provision of this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under this subchapter, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liabile for a civil penalty * * *.

This provision in the OCSLA required that prior to assessment of a civil penalty, a person who was determined to be in violation of a requirement be provided with notice of failure to comply and given time to take corrective action. On August 18, 1990, the section 8201 of the Oil Pollution Act of 1990 (Pub. L. 101-380) amended the OCSLA to redesignate previous section 24(b) as paragraph (1) of the new section 24(b), raise the maximum civil penalty assessment from $10,000 to $20,000 per day, require the Secretary of DOI, not less than every 3 years, to raise the daily limit for assessment of civil penalties in accordance with the Consumer Price Index, and provide that:

> If a failure described in paragraph (1) constitutes or constituted a treat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

This proposed rule would modify the regulations at 30 CFR 250.200 to provide that the Reviewing Officer shall proceed with civil penalty proceedings if (1) a failure to comply with any provision of the OCSLA, any provison of a lease, license, or permit issued pursuant to the OCSLA, or any provision of any regulation issued under the OCSLA continued beyond any notice of failure and the expiration of any resonable period allowed for corrective action or (2) such failure constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit or the marine, coastal, or human environment. This would replace the existing provision which only allows the assessment of a civil penalty if the violation continued beyond a notice of failure and the expiration of a reasonable time for corrective action.

The new maximum civil penalty is established by law at a level of $20,000 per day. This level had been $10,000 per day prior to passage of the August 18, 1990, amendment to the OCSLA. The August 18, 1990, amendment also requires that the maximum daily civil penalty be adjusted by regulation not less than every 3 years. To establish the maximum daily penalty in regulation so that it may be periodically adjusted, the regulation at 30 CFR 250.206 is proposed to be amended to specify the current maximum penalty of $20,000 per day as specified in the statute.

Provisions with regard to other aspects of the civil penalty procedure and with regard to procedures for hearings are not proposed to be changed.

Author: This document was prepared by John V. Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

Executive Order (E.O.) 12291

The MMS experience has shown that in the vast majority of cases, lessees conduct their activities in a manner that does not constitute a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment. The economic effect of this rule was estimated based on the number and magnitude of civil penalties in 1981 and 1982 since civil penalty procedures were similar to procedures that could be employed under the proposed amendment. The estimated economic effect was calculated assuming that the number of civil penalties will change in proportion to changes in drilling and production activity in the OCS and that the amount of each civil penalty will increase in proportion to the increase in statutory maximum levels. Based on these assumptions, the economic impact of the new rule is estimated to be $960,690 annually. Accordingly, DOI has determined that this rule will have only a limited economic effect on the economy and is not a major rule under E.O. 12291; therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The DOI has determined that this rule will not have a significant economic effect on small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

Paperwork Reduction Act

The collection of information contained in this rule has been submitted to the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.* Information collection requirements contained in existing rules and approved under existing number 1010-0038 will be collected until approval of collection under this amended rule has been approved.

Public reporting burden for this collection of information is estimated to average 80 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this

collection of information, including suggestions for reducing this burden, to the Information Collection Clearance Officer; Minerals Management Service; Mail Stop 2300; 381 Elden Street; Herndon, Virginia 22070–4817, and the Office of Management and Budget; Paperwork Reduction Project 1010–0038; Washington, DC 20503.

Takings Implication Assessment

The DOI certifies that the rule does not represent a Government action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment has not been prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-rights-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: October 5, 1990.

Barry Williamson,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR part 250 is proposed to be amended as follows:

PART 250—[AMENDED]

1. The authority for 30 CFR part 250 continues to read as follows:

Authority: Sec. 204, Pub. L. 95–372, 92 Stat. 629 (43 U.S.C. 1334).

2. In § 250.200, redesignate paragraph (c) as paragraph (d) and revise it, revise paragraph (b), and add a new paragraph (c) to read as follows:

§ 250.200 Remedies.

* * * * *

(b) The Reviewing Officer shall proceed with provisions of paragraph (c) of this section upon determining that there is sufficient evidence that a violation probably occurred and that:

(1) The violation continued beyond any notice of such failure and the expiration of any reasonable period allowed for corrective action, or

(2) The violation constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment.

(c) The Reviewing Officer shall notify, in writing, the person alleged to have committed the violation (hereinafter referred to as "party") of the following:

(1) The alleged violation, citing the applicable provision of the Act, or the applicable term of a lease, license, or permit issued pursuant to the Act, or the applicable provision of a regulation or order issued under the Act upon which the action is based;

(2) The amount of penalty that appears to be appropriate in the event it is determined that the party is responsible for the alleged violation based upon the material then available to the Reviewing Officer;

(3) The party's right to examine the material in the case file and to have a copy of all written documents provided upon request, except those which would, in a civil proceeding, disclose or lead to the disclosure of a confidential informant; and

(4) The fact that, subject to the provisions in § 250.201 of this part, the party has the right to a hearing before the Reviewing Officer prior to any finding of fact regarding the alleged violation.

(d) A party has the right to be represented by counsel, qualified to practice before the Department of the Interior under 43 CFR part 1, at all stages of the proceedings. After receiving notification that a party is represented by counsel, the Reviewing Officer shall direct all further communications to the counsel.

3. In § 250.206, revise paragraph (a)(1) to read as follows:

§ 250.206 Civil-penalties.

(a)(1) If the Reviewing Officer determines that a civil-penalty is to be assessed, the penalty shall not exceed $20,000 for each day of the continuation of the violation. For violations described in § 250.200(b)(1), the penalty shall be assessed for each day the violation continues after notice and a reasonable period for corrective action. For violations described in § 250.200(b)(2), the penalty shall be assessed for each day the violation continues after it first occurred.

* * * * *

[FR Doc. 90–27795 Filed 11–26–90; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AE58

Loan Guaranty; Lender Participation Fees

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its loan guaranty regulations (38 CFR part 36) by requiring lenders to pay fees to participate in VA's Automatic Lending Program. These fees will defray in part the expenses incurred by VA in overseeing its activities of lenders.

DATES: Comments must be received on or before January 28, 1991. Comments will be available for public inspection until February 5, 1991. VA proposes to make these regulations effective 30 days after publication of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be availbale for public inspection in room 132, Veterans Service Unit, at the above address between the hours of 8 a.m and 4:30 p.m., Monday through Friday (except holidays) until February 5, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Acting Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 233–3555.

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. chapter 37, VA guarantees a portion of the loan made to an eligible veteran to acquire or refinance a home, condominium, or manufactured home, or to install certain energy conservation features or other home improvements. The guaranty is a promise by the Government to pay a portion of the veteran's indebtedness in the event of a loan default and eventual termination through foreclosure or other proceedings.

Lenders participating in the Loan Guaranty Program may process loans in one of two ways: either on the "prior approval" basis or the "automatic" basis. Loans which are processed on the prior approval basis are forwarded by the lender to VA for underwriting approval before closing. Loans processed on the automatic basis are underwritten entirely by the originating lender and reported to VA after they are closed.

Lenders need no special approval to process loans on the prior approval basis. However, to process loans on the automatic basis, lenders must be either "supervised" or have approval of the Secretary of VA.

38 U.S.C. 1802(d) provides that housing loans may be automatically guaranteed by VA only if made: (1) By any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Secretary of Veterans Affairs, pursuant to standards established by the Secretary.

Lenders recognized for automatic processing under 38 U.S.C. 1802(d)(1) and (d)(2) are referred to as supervised lenders, because they are subject to examination and supervision by Federal or State agencies. The majority of VA guaranteed loans now being made, however, are originated by nonsupervised lenders, and specific approval by VA is needed for these lenders to process loans on the automatic basis. The standards which nonsupervised lenders must meet to be approved are set forth in VA's DVB (now VBA) Circular 26-88-11. VA is currently in the process of incorporating these standards into regulations.

VA has been granting nonsupervised lenders authority to process loans on the automatic basis since 1975. To obtain this authority lenders must meet specific qualifying criteria in such areas as experience, minimum assets, and lines of credit. Since 1975, approximately 1,000 nonsupervised lenders have been granted automatic underwriting authority. In 1988, the qualifying criteria were changed to allow more lenders to participate in the program. The number of lenders granted automatic authority has steadily increased, and at present approximately 100 requests for actions are received each month from lenders applying for automatic authority or those already in the Automatic Lending Program (ALP). The actions processed include applications for automatic authority, requests for reconsideration, approval of new underwriters or regional underwriting centers, expansion of authority, and approval of agent relationships. Also, lenders are required, on a yearly basis, to submit annual audited financial statements to demonstrate that they meet minimum working capital requirements.

On August 17, 1990, VA published in the **Federal Register** (55 FR 33724) proposed amendments which set forth in regulatory form the standards nonsupervised lenders must meet to be approved to process loans on the automatic basis. VA proposed to incorporate these standards into its regulations at 38 CFR 36.4225 for the manufactured home loan program and at 38 CFR 36.4348 for loans for conventionally built homes. Please refer to the August 17, 1990, **Federal Register** for a complete discussion of the proposed regulations.

VA proposes to further amend 38 CFR 36.4225 and 36.4348 to provide for the payment of fees by lenders participating in the Automatic Lending Program. To partially defray the expenses incurred in administering this program, VA proposes to charge participating lenders the following fees: $500 for new applications; $200 for reinstatement of lapsed or terminated automatic authority; $100 for each underwriter approval, $100 for each agent approval; $100 for each regional office approval; and a minimum fee of $100 for any other VA administrative action pertaining to a lender's participation in ALP. In addition, lenders will be required to remit annual recertification fees as follows: $200 for recertification of home offices; $100 for recertification of regional offices; and $100 for each agent renewal. The agent approval and annual renewal fees will apply to both supervised and non-supervised lenders. Lender participation fees will be incorporated into VA Regulations at 38 CFR 36.4225(d) for the manufactured home loan program and at 38 CFR 36.4348(d) for conventionally built homes. Nonpayment of fees will become a reason for withdrawal of automatic authority under 38 CFR 36.4226 and 38 CFR 36.4349.

The fees are primarily based on VA's cost in processing the actions involved in operating the Automatic Lending Program. In some cases these fees are identifical to fees charged lenders by the Department of Housing and Urban Development (HUD) for participating in the Federal Housing Authority's Direct Endorsement Program. In other cases because of dissimilarities in the program the fees are different. For example, HUD has a $100 fee for branch office approval and an annual branch office recertification fee of $100. VA does not approve branches but does charge a $100 approval and a $100 annual fee for regional underwriting centers.

The Secretary hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The fees VA proposes to charge lenders are not large amounts and should have a minimal impact on small entities. These fees would be charged on either a one-time or infrequent basis for each lender. These fees are also very small in comparison with the operating income and expenses of home mortgage lenders. Furthermore, the fees are similar to those charged lenders by the Department of Housing and Urban Development for participating in the Federal Housing Authority's Direct Endorsement Progam.

The Secretary has also determined that the proposed regulatory amendments are not a "major rule" within the meaning of Executive Order 12291, Federal Regulation. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers or individual industries, nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing Loan programs—housing and community development, Manufactured homes, Veterans.

These amendments are proposed under the authority granted the Secretary by 38 U.S.C. 210(c), 1803(c)(1), and 1812(g).

Approved: October 15, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 36, Loan Guaranty, is proposed to be amended as follows:

PART 36—[AMENDED]

Section 36.4225 and 36.4348 are added to read as follows:

§ 36.4225 Authority to close manufactured home loans on the automatic basis.

(a) Supervised lenders of the classes described in 38 U.S.C. 1802(d)(1) and (2) are authorized by statute to process VA guaranteed manufactured home loans on the automatic basis. This category of lenders includes any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union or mortgage and loan company that is subject to examination and supervision by an agency of the United States or of any State or by any State.

(b) Nonsupervised lenders of the class described in 38 U.S.C. 1802(d)(3) must apply to the Secretary for authority to process manufactured home loans on the automatic basis. The following minimum requirements must be met:

(1) *Minimum Assets.* A minimum of $50,000 of working capital must be maintained. Working capital is defined as the excess of current assets over current liabilities. Current assets are defined as cash or other assets that could readily be converted into cash within 1 year on the normal accounting or business cycle. Current liabilities are defined as obligations that would be paid within a year on a normal accounting or business cycle. The lender's latest financial statements (profit and loss statements and balance sheets), audited and certified by a CPA (certified public accountant), must accompany the application. If the date of the financial statement precedes that of the application by more than 6 months, the lender-applicant must also attach a copy of its latest internal quarterly report. In addition, the lender-applicant must agree that if the application is approved, the applicant will provide within 120 days following the end of each of its fiscal years and audited financial statement to the Director, Loan Guaranty Service, for review.

(2) *Experience.* The firm must have been actively engaged in originating manufactured home loans for at least the last 2 years. Alternately, each principal officer of the firm who is actively involved in managing origination functions must have a minimum of 2 recent years' total experience in the field of VA manufactured home mortgages in managerial functions in either the present company of employment or in companies other than that of his or her present employment. In either case, every principal officer (president and vice presidents) must submit a resumé of his or her experience in the mortgage lending field. Should the secretary and/or treasurer participate in the management of origination functions, they too must submit a resumé and meet the minimum experience requirement if the company does not meet the experience requirement. Should the lender or any of its directors or officers ever have been suspended by any Federal Agency or Department or any of its directors or officers have been a director or officer of any other lender or corporation that was so suspended, or if the lender-applicant ever had a servicing contract with an investor terminated for cause, a statement of the facts must also be submitted. Lender-applicants will submit individual requests for each branch office they wish to have approved. The parent organization must agree to accept full responsibility for the actions of branch offices.

(3) *Underwriter.* If it is proposed that all loans to be made by the lender will be submitted to its home office for approval or rejection, the lender must have at least one full-time designated underwriter in its home office. If the loans will be approved or rejected by branch managers, the lender must have at least one full-time designated underwriter in each branch. In either event, the designated underwriters must be identified and a resume on each submitted to VA. The underwriters should have at least 3 years of experience in consumer installment finance. If changes in underwriting personnel occur, the lender must notify VA.

(4) *Lines of Credit.* The identity of the source(s) of warehouse lines of credit must be revealed to VA and the applicant must agree that VA may contact the named source(s) for the purpose of verifying the information.

(5) *Secondary Market.* If the lender-applicant customarily sells the manufactured home loans it originates, it must provide a listing of all permanent investors to whom the loans are sold, including the investor's address, telephone number and names of persons to contact.

(6) *Liaison.* The lender-applicant must designate one employee to act as liaison on its behalf with VA. If possible, the lender-applicant should select employees other than VA approved underwriters to act as liaison. Officers from branch or regional offices should also be appointed to act as liaison with local VA offices. The lender must notify VA of any changes in liaison personnel.

(7) *Courtesy Closing.* The lender-applicant must certify to VA that it will not close loans on an automatic basis as a courtesy or accommodation for other mortgage lenders whether or not such lenders are themselves approved to close on an automatic basis. The lender must agree that the processing of forms other than the initial credit application will not be delegated to the dealer or developer.

(8) *Subsidiaries/Affiliates.* A lender approved for automatic processing may not close manufactured home loans on the automatic basis involving any dealership or manufacturer in which it has a financial interest or which it owns, is owned by, or with which it is affiliated. This restriction may be eliminated for lenders that can provide documentation which demonstrates to VA's satisfaction that the lender and the manufacturer and/or dealer are separate entities that operate independently of each other, and the percentage of all VA manufactured home loans originated by the lender during at least a 1-year period on which payments are past due 90 days or more is no higher than the national average for the same period for all mortgage loans.

(9) *Lender Agents.* A lender using an agent to perform a portion of the work involved in originating and closing a VA guaranteed loan on an automatic basis must take full responsibility by certification or corporate resolution for all acts, errors and omissions of the agent and its employees. Any such acts, errors or omissions will be treated as those of the lender and appropriate sanctions may be imposed against the lender and its agent.

(10) *Minimum Use of Automatic Authority.* If approved, lenders must use their automatic authority to the maximum extent possible. Any lender with automatic authority who submits a loan on the prior approval basis will be required to submit an explanation from the designated underwriter as to why the loan was not closed automatically. Such a statement will not be needed for loans that must be processed on the prior approval basis; e.g., joint loans.

(11) *Probation.* Lender-applicants meeting the requirements of this section will be approved to close loans on an automatic basis for a 1-year probationary period. Poor underwriting and/or consistently careless processing by the lender during the probationary period will be a basis for withdrawal of automatic authority.

(12) *Quality Control System.* In order to be approved as a nonsupervised lender for automatic processing authority, the lender must implement a written quality control system which ensures compliance with VA requirements. The lender must agree to furnish findings under its system to VA on demand. The elements of the quality

control system must include the following:

(i) *Underwriting Policies.* Each office of the lender shall maintain copies of VA Credit Standards and all available VA underwriting guidelines.

(ii) *Corrective Measures.* The system should ensure that effective corrective measures are taken promptly when deficiencies in loan originations are identified by either the lender or VA. Any cases involving major discrepancies which are discovered under the system must be reported to VA.

(iii) *System Integrity.* The quality control system should be independent of the loan production function.

(iv) *Scope.* The review of underwriting decisions and certifications must include compliance with VA underwriting requirements, sufficiency of documentation and soundness of underwriting judgments.

(c) A lender approved to close loans on the automatic basis who subsequently fails to meet the requirements of this section must report the circumstances surrounding the deficiency and the remedial action to be taken to cure it to VA.

(Authority: 38 U.S.C. 210(c), 1803(c)(1), and 1812(g))

(d) To participate in VA's automatic program, nonsupervised lenders of the class described in 38 U.S.C. 1802(d)(3) shall pay fees as follows:

(1) $500 for new applications;

(2) $200 for reinstatement of lapsed or terminated automatic authority;

(3) $100 for each underwriter approval.

(4) $100 for each agent approval;

(5) $100 for each regional underwriting office approval;

(6) A minimum fee of $100 for any other VA administrative action pertaining to a lender's participation in ALP;

(7) $200 annually for certification of home offices;

(8) $100 annually for certification of regional offices; and

(9) $100 annually for each agent renewal.

(e) Supervised lenders of the classes described in 38 U.S.C. 1802 (d)(1) and (d)(2) participating in VA's Loan Guaranty Program shall pay fees as follows:

(1) $100 fee for each agent approval; and

(2) $100 annually for each agent renewal.

(Authority: 38 U.S.C. 1812(g))

§ 36.4348 Authority to close loans on the automatic basis.

(a) Supervised lenders of the classes described in 38 U.S.C. 1802(d) (1) and (2) are authorized by statute to process VA guaranteed home loans on the automatic basis. This category of lenders includes any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union or mortgage and loan company that is subject to examination and supervision by an agency of the United States or of any State or by any State.

(b) Nonsupervised lenders of the class described in 38 U.S.C. 1802(d)(3) must apply to the Secretary for authority to process loans on the automatic basis. The following minimum requirements must be met:

(1) *Minimum Assets.* A minimum of $50,000 of working capital must be maintained. Working capital is defined as the excess of current assets over current liabilities. Current assets are defined as cash or other assets that could readily be converted into cash within 1 year on the normal accounting or business cycle. Current liabilities are defined as obligations that would be paid within a year on a normal accounting or business cycle. The lender's latest financial statements (profit and loss statements and balance sheets), audited and certified by a CPA (certified public accountant), must accompany the application. If the date of the financial statement precedes that of the application by more than 6 months, the lender-applicant must also attach a copy of its latest internal quarterly report. In addition, the lender-applicant must agree that if the application is approved, the applicant will provide within 120 days following the end of its fiscal year an audited financial statement to the Director, Loan Guaranty Service for review.

(2) *Experience.* The firm must have been actively engaged in originating VA mortgages for at least 3 recent years. Alternately, each principal officer of the firm who is actively involved in managing origination functions must have a minimum of 3 recent years' total experience in the field of VA mortgages in managerial functions in either the present company of employment or in companies other than that of his or her present employment. In either case, every principal officer (president and vice presidents) must submit a resume of his or her experience in the mortgage lending field. Should the secretary and/or treasurer participate in the management of origination functions, they too must submit a resume and meet the minimum experience requirement if the company does not meet the experience requirement. Should the lender or any of its directors or officers ever have been suspended by any Federal Agency or Department or any of its directors or officers have been a director or officer of any other lender or corporation that was so suspended, or if the lender-applicant ever had a servicing contract with an investor terminated for cause, a statement of the facts must also be submitted.

(3) *Underwriter.* The senior officer of the firm must nominate and recommend a full-time qualified employee(s) to act in the firm's behalf as underwriter(s) to personally review and make underwriting decisions associated with the submission of loans to VA which will be closed on the automatic basis. Nominees for underwriter must have a minimum of 3 years' experience in mortgage lending in reviewing credit and making underwriting decisions, with at least 2 recent years in connection with loans submitted to VA for guaranty. This experience must have been with an institutional investor originating for its own portfolio or purchasing this type of loan, or with an originator selling this type of loan to investors.

(4) *Lines of Credit.* The lender-applicant must have one or more lines of credit aggregating at least $1 million. The identity of the source(s) of warehouse lines of credit must be revealed to VA and the applicant must agree that VA may contact the named source(s) for the purpose of verifying the information.

(5) *Secondary Market.* If the lender-applicant customarily sells loans it originates, it must have a minimum of two permanent investors. These may consist of the Government National Mortgage Association (GNMA) and other Government agencies, including State housing agencies, and the Federal National Mortgage Association (FNMA).

(6) *Lender Processing.* The lender-applicant must agree that all prospective VA loans will be reviewed at its home or main office prior to closing and the decision to make or reject the loan will be made at that office by an approved underwriter, unless VA authorizes that company to operate through regional underwriting offices.

(7) *Liaison.* The lender-applicant must designate one employee and an alternate to act as liaison on its behalf with VA. If possible, the lender-applicant should select employees other than VA approved underwriters to act as liaison with VA.

(8) *Courtesy Closing.* The lender-applicant must certify to VA that it will

not close loans on an automatic basis as a courtesy or accommodation for other mortgage lenders, whether or not such lenders are themselves approved to close on an automatic basis, without the express approval of VA. However, a lender with automatic authority may close loans for which information and supporting credit data have been developed on its behalf by a duly authorized agent.

(9) *Lender Agents.* A lender using an agent to perform a portion of the work involved in originating and closing a VA guaranteed loan on an automatic basis must take full responsibility by certification or corporate resolution for all acts, errors and omissions of the agent and its employees. Any such acts, errors or omissions will be treated as those of the lender and appropriate sanctions may be imposed against the lender and its agent.

(10) *Subsidiaries/Affiliates.* A lender approved for automatic processing may not close loans on the automatic basis for any builder, real estate broker, or other entity in which it has a financial interest or which it owns, is owned by, or with which it is affiliated. However, when the only relationship that exists between a lender and a builder is a construction loan, the lender may close the permanent mortgage on an automatic basis. This restriction may be eliminated for lenders that can provide documentation which demonstrates to VA's staisfaction that the lender and builder or other affiliate are separate entities that operate independently of each other, and the percentage of all VA loans based on the affiliate's production originated by the lender during at least a 1-year period on which payments are past due 90 days or more is no higher than the national average for the same period for all mortgage loans.

(11) *Minimum Use of Automatic Authority.* If approved, lenders should use their automatic authority to the maximum extent possible. Any lender with automatic authority who submits a loan on the prior approval basis will be required to submit an explanation from VA approved underwriter as to why the loan was not closed automatically. Such a statement will not be needed for loans that must be processed on the prior approval basis; e.g., joint loans.

(12) *Probation.* Lender-applicants meeting the requirements of this section will be approved to close loans on an automatic basis for a 1-year probationary period. Poor underwriting and/or consistently careless processing by the lender during the probationary period will be a basis for withdrawal of automatic authority.

(13) *Quality Control System.* In order to be approved as a nonsupervised lender for automatic processing authority, the lender must implement a written quality control system which ensures compliance with VA requirements. The lender must agree to furnish findings under its system to VA on demands. The elements of the quality control system must include the following:

(i) *Underwriting Policies.* Each office of the mortgage shall maintain copies of VA Credit Standards and all available VA underwriting guidelines.

(ii) *Corrective Measures.* The system should ensure that effective corrective measures are taken promptly when deficiencies in loan originations are identified by either the lender or VA. Any cases involving major discrepancies which are discovered under the system must be reported to VA.

(iii) *System Integrity.* The quality control system should be independent of the mortgage loan production function.

(iv) *Scope.* The review of underwriting decisions and certifications must include compliance with VA underwriting requirements, sufficiency of documentation and soundness of underwriting judgments.

(v) *Appraisal Quality.* For lenders approved for the Lender Appraisal Processing Program (LAPP), the quality control system must specifically contain provisions concerning the adequacy and quality of real property appraisals. While the lender's quality control personnel need not be appraisers, they should have basic familiarity with appraisal theory and techniques so that they can select appropriate cases for review if discretionary sampling is used, and prescribe appropriate corrective action(s) in the appraisal review process when discrepancies of problems are identified. Copies of the lender's quality control plan or self-policing system evidencing appraisal related matters must be provided to the VA office of jurisdiction.

(c) A lender approved to close loans on the automatic basis who subsequently fails to meet the requirements of this section must report the circumstances surrounding the deficiency and the remedial action to be taken to cure it to VA.

(Authority: 38 U.S.C. 210(c), 1803(c)(1))

(d) To participate in VA's Automatic Lending Program (ALP), nonsupervised lenders of the class described in 38 U.S.C. 1802(d)(3) shall pay fees as follows:

(1) $500 for new applications;

(2) $200 for reinstatement of lapsed or terminated automatic authority;

(3) $100 for each underwriter approval;

(4) $100 for each agent approval;

(5) $100 for each regional underwriting office approval;

(6) A minimum fee of $100 for any other VA administrative action pertaining to a lender's participation in ALP;

(7) $200 annually for certification of home offices;

(8) $100 annually for certification of regional offices;

(9) $100 annually for each agent renewal.

(e) Supervised lenders of the classes described in 38 U.S.C. 1802 (d)(1) and (d)(2) participating in VA's Loan Guaranty Program shall pay fees as follows:

(1) $100 fee for each agent approval; and

(2) $100 annually for each agent renewal.

(Authority: 38 U.S.C. 1812(g))

[FR Doc. 90-27632 Filed 11-26-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[FRL 3864-3]

Approval and Promulgation of Air Quality Implementation Plans; California

In the matter of California State Implementation Plan Revision, Bay Area Air Quality Management District, Fresno County Air Pollution Control District, South Coast Air Quality Management District.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) that were adopted by the Bay Area Air Quality Management District (AQMD) on March 4, 1987 and May 4, 1988, by the Fresno County Air Pollution Control District (APCD) on December 1, 1987, and by the South Coast AQMD on March 4, 1988.

The California Air Resources Board (CARB) submitted these revised rules to EPA on February 7, 1989. All of these rules consist of regulations that control emissions from organic liquids, primarily gasoline. EPA has evaluated each of the regulations in this notice and is proposing to approve those revisions

because they meet the requirements of the Clean Air Act (CAA) (section 110 and/or part D), 40 CFR part 51, appendix D (as specified in the document entitled, "Issues Relating to VOC Regulation Cut Points, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register**"), and EPA policy.

DATES: Comments may be submitted to EPA up to December 27, 1990.

ADDRESSES: Comments may be sent to: Colleen McKaughan, State Implementation Plan Section A-2-3, Air and Toxics Division, Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103.

Copies of the rules and of EPA's Evaluation Report for each rule are available for inspection during normal business hours at EPA, Region 9. All of the rules are also available from the California Air Resources Board. Rules of specific districts are available at the districts which adopted them. Addresses are given below.

California Air Resources Board, Rule Evaluation Section, Stationary Source Division, 1219 K Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93775.

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731.

FOR FURTHER INFORMATION CONTACT: John Estrem, State Implementation Plan Section (A-2-3), Air and Toxics Division, Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103, (415) 556-5291; FTS 556-5291.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the CAA that included the Bay Area AQMD, Fresno County APCD, and the South Coast AQMD (43 FR 8962). Because it was not possible for these Districts to reach attainment by the statutory attainment date of December 31, 1982, California requested, and EPA approved, extensions of the attainment date for ozone in these Districts to December 31, 1987. On May 26, 1988, EPA notified the Governor of California that the Bay Area, Fresno and South Coast Districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP call). The South Coast and Fresno Ozone Attainment Plans were subseqently disapproved by EPA on January 22, 1988 (53 FR 1780) and March 16, 1990 (55 FR 7878), respectively. The SIP approved versions of the rules in this notice, except for Bay Area AQMD's Rule 8-5, were specified in EPA's SIP call as being deficient and requiring revision to conform to EPA policy.

The State of California submitted rule revisions for incorporation into its SIP on February 7, 1989. Four of those revisions are proposed for approval in this notice. The revisions in this notice consist of regulations that control emissions from organic liquids, such as gasoline, for the primary purpose of achieving the National Ambient Air Quality Standard (NAAQS) for ozone. The emissions from organic liquids consist mainly of volatile organic compounds, (VOCs), which, when released into the atmosphere, lead to the formation of ozone and ultimately smog. A list of the regulations by district appears below. EPA's evaluation and proposed action follow the list.

List of Regulations

Bay Area AQMD:
- Regulations 8, Rule 5 (Rule 8-5), *Storage of Organic Compounds*
- Regulations 8, Rule 7 (Rule 8-7), *Gasoline Dispensing Facilities*

Fresno County APCD:
- Rule 412, *Bulk Gasoline and Other Organic Liquid Loading Facilities*

South Coast AQMD:
- Rule 461, *Gasoline Transfer and Dispensing*

Discussion

VOC rules which apply to ozone nonattainment areas must be fully enforceable and strengthen or maintain the existing federally enforceable State Implementation Plan (SIP) in order to be approved by EPA. In addition, all VOC rules must satisfy the CAA requirements set forth in section 110 and part D, comply with EPA requirements in 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), and satisfy EPA policies such as those in appendix D (November 24, 1987; 52 FR 45105), and in the document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register**". (Reference in this notice to appendix D deficiencies will actually refer to the "Clarifications to Appendix D" document.)

EPA also requires that all SIP revisions for areas designated as ozone nonattainment contain, as a minimum, regulations that provide for the implementation of reasonably available control technology (RACT) for major stationary sources of VOC emissions. For this purpose, EPA has prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved into the SIP. The CTG documents applicable to this notice are EPA-450/2-77-026, *Control of Hydrocarbons From Tank Truck Gasoline Loading Terminals* and EPA-450/2-77-035, *Control of Volatile Organic Emissions From Bulk Gasoline Plants*. Though not an official CTG, EPA further references the document, *Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations*, U.S. EPA, Office of Air Quality Planning and Standards, November 1975. EPA has evaluated the rules in this notice to determine if they meet the above requirements.

The Bay Area AQMD Rule 8-5, "*Storage of Organic Compounds*," includes the following changes: Expands the applicability of the rule to include organic liquids with vapor pressures between 0.5 and 1.5 psia; eliminates the equivalency provisions which allowed the Air Pollution Control Officer discretion to approve new control equipment; requires that all vapor control systems be at least 95 percent efficient (by weight); requires that records be kept for storage containers with capacities between 20,000 and 40,000 gallons; and sets a maximum allowable time interval between District certification of tank vapor seals. The rule additionally includes new definitions, tightens the guidelines for certain exemptions, specifies certain inspection procedures, and includes a table which itemizes all organic liquids and compounds which are subject to this rule. The rule, as amended, contains no appendix D or other EPA policy deficiencies and therefore it is being proposed for approval under section 110 and part D of the Clean Air Act.

The revisions to Bay Area AQMD Rule 8-7, "*Gasoline Dispensing Facilities*," consist of the following: Changes the Phase I and Phase II exemption cutoff from 180,000 gallons to 60,000 gallons capacity; requires that facilities equipped only with Phase II vapor control install Phase I vapor control as well; adds definitions of "vapor tight" and "gasoline dispensing facility"; and requires that all gasoline tanks greater than 260 gallons capacity, unless otherwise exempted, utilize both Phase I and Phase II vapor recovery

Rule 8–7 does, however, contain two Appendix D deficiencies. The first is the exemption of storage tanks which are used primarily for the fueling of implements of husbandry. EPA allows exemption of such storage tanks if they are used exclusively for the fueling of husbandry equipment and if they are 550 gallons in capacity or less. The second deficiency is the newly added definition of "Vapor Tight." EPA requires that the determination of vapor tight be made with a specified and approved test method. The District, however, has written the definition in such a way that the determination of vapor tight can be made based on a visual inspection alone. Such a method is not enforceable by EPA. However, it is EPA's understanding that the Bay Area Air Quality Management District did not intend to provide an alternative procedure, but rather to indicate that, in fact, the visual procedure is routinely employed to supplement the normal procedure of using an approved test method. EPA expects the definition of "vapor tight" to be corrected by the District in the near future.

EPA is therefore proposing to approve Rule 8–7 into the SIP under section 110 of the CAA because, despite the above noted deficiencies, the reduced throughput cutoff exemption for Phase I and Phase II vapor controls is expected to significantly reduce VOC emissions within the District. It is also anticipated that the emissions reduction achieved by restricting the allowed exemptions will more than offset the possible increased emissions due to exempting tanks used for husbandry which are greater than 550 gallons in capacity. However, because of the appendix D deficiencies noted above, EPA is not proposing to approve Rule 8–7 into the SIP under part D.

Fresno County APCD Rule 412, "*Bulk Gasoline and Other Organic Liquid Loading Facilities*," requires that organic loading facilities with throughputs of less than 20,000 gallons/day be required to utilize vapor recovery systems. The rule also requires that all transfer equipment be vapor tight and leak free and that only bottom loading be utilized for the transfer of organic liquids. The rule's appendix D deficiencies consist mainly of its failure to require any recordkeeping provisions and in its definition of a vapor leak, which does not conform to EPA's guidance.

EPA proposes that Fresno Rule 412 be approved into the SIP under section 110 of the CAA because, despite these deficiencies, the expanded applicability of the rule, which includes all facilities with throughputs less than 20,000 gallons/day (all gasoline bulk plants as defined by EPA), is expected to greatly reduce VOC emissions within the District. The emissions reduction achieved will more than offset the deficiencies noted above. However, because of the appendix D deficiencies noted above, EPA is not proposing that Rule 412 be approved into the SIP under part D.

The South Coast AQMD's amended Rule 461, "*Gasoline Transfer and Dispensing*," adds several specific equipment and procedural requirements for Phase I and Phase II vapor control systems, such as: Restrictions on hatch openings; dry break fittings to prevent above ground leaks; and vapor tight gaskets and seals for various components. The rule also itemizes specific Phase II equipment defects subject to a violation under the requirements of this rule. The proposed rule requires that all vapor recovery equipment be clearly marked with the name of the certified manufacturer and that each facility utilizing a Phase II vapor recovery system conspicuously post operating instructions and warning signs regarding the breathing of fumes. The rule also eliminates most of the previously contained vapor control exemptions, such as that for some small capacity storage containers and some outlying communities of the South Coast AQMD.

The rule's revisions fail to specify any recordkeeping requirements or provide that the exemption for storage tanks servicing husbandry equipment shall apply only to those tanks which exclusively service such equipment and which are less than 550 gallons capacity. EPA, however, does not consider these deficiencies significant compared to the overall reduction in VOC emissions expected from the adoption of this rule. Since only certain small capacity tanks are exempted, the failure to specify any recordkeeping requirements will not significantly impede the determination of applicability to this rule. It is also anticipated that the emissions reductions achieved by limiting the allowed exemptions will more than offset the possible increased emissions due to exempting tanks used for husbandry which are greater than 550 gallons in capacity. However, because of these appendix D deficiencies, EPA is not proposing to approve Rule 461 into the SIP under part D.

EPA has evaluated these rules to determine whether they meet the requirements of the Clean Air Act (section 110 and/or part D), 40 CFR part 51, appendix D (as specified in the document entitled, "Issues Relating to VOC Regulation Cut Points, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 Federal Register"), and EPA policy. EPA has also determined whether the revisions to these rules strengthen and maintain the existing SIP. All of the rules being proposed for approval in this notice limit the emissions of organic vapors during the storage and/or transfer of organic liquids, such as gasoline. These revisions include, but are not limited to: Additional and revised definitions; expanded applicability of vapor control; elimination of certain exemptions; elimination of equivalent control allowances, and increased recordkeeping requirements.

The Bay Area AQMD Rule 8–5 is proposed for approval under both section 110 and part D of the Clean Air Act (CAA) because it significantly strengthens the existing SIP and because it contains no appendix D or other EPA policy deficiencies. The Bay Area AQMD Rule 8–7, The Fresno County APCD Rule 412, and the South Coast AQMD Rule 461 are proposed for approval only under section 110 of the CAA because, although they strengthen the existing SIP, the rules contain appendix D or other EPA policy deficiencies. These deficiencies, however, are expected to allow only minor additional emissions relative to the anticipated emissions reductions due to the increased controls required by the new rules.

Proposed Action

EPA is proposing the approval of the following rules under section 110 of the Clean Air Act:

Bay Area AQMD:
- Regulation 8, Rule 5 (Rule 8–5), *Storage of Organic Compounds*
- Regulation 8, Rule 7 (Rule 8–7), *Gasoline Dispensing Facilities*

Fresno County APCD:
- Rule 412, *Bulk Gasoline and Other Organic Liquid Loading Facilities*

South Coast AQMD:
- Rule 461, *Gasoline Transfer and Dispensing*

In addition, EPA is proposing the approval of the following rule under both part D and section 110 of the Clean Air Act:

Bay Area AQMD:
- Regulation 8, Rule 5 (Rule 8–5) *Storage of Organic Compounds*

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state

implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under 5 U.S.C. section 605(b), I certify that these VIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Reporting and Recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: November 16, 1990.

John Wise,

Acting Regional Administrator.

[FR Doc. 90–27814 Filed 11–26–90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3864-4]

Approval and Promulgation of Air Quality Implementation Plans; California

In the matter of California State Implementation Plan Revision, Fresno County Air Pollution Control District, Madera County Air Pollution Control District, South Coast Air Quality Management District.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to disapprove revisions to the California State Implementation Plan (SIP) that were adopted by the Fresno County Air Pollution Control District (APCD) and the Madera County Air Pollution Control District on December 1, 1987 and January 5, 1988, respectively, and by the South Coast Air Quality Management District (AQMD) on April 1, 1988.

The California Air Resources Board (CARB) submitted these new and revised rules to EPA on February 7, 1989. All of these rules consist of regulations that control emissions from organic liquids, primarily gasoline. EPA has evaluated each of the regulations in this notice and is proposing to disapprove these revisions because they do not meet the requirements of the Clean Air Act (CAA) (section 110 and/or part D), or of appendix D (as specified in the document entitled, Issues Relating to VOC Regulation Cut Points, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register**).

DATES: Comments may be submitted to EPA up to December 27, 1990.

ADDRESSES: Comments regarding this proposal may be sent to: Colleen McKaughan, State Implementation Plan, Section A–2–3, Air and Toxics Division, Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103.

Copies of the rules and of EPA's Evaluation Report for each rule are available for inspection during normal business hours at EPA, Region 9. All of the rules are also available from the California Air Resources Board. Rules of specific districts are available at the districts which adopted them. Addresses are given below.

California Air Resources Board, Rule Evaluation Section, Stationary Source Division, 1219 K Street, Sacramento, CA 95814.

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93775.

Madera County Air Pollution Control District, 135 West Yosemite Avenue, Madera, CA 93637.

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731.

FOR FURTHER INFORMATION CONTACT: John Estrem, State Implementation Plan Section A–2–3, Air and Toxics Division, Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103, (415) 556–5291; FTS 556–5291.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the CAA that included Fresno County APCD, Madera County APCD and the South Coast AQMD (43 FR 8962). Because it was not possible for the Fresno and South Coast Districts to reach attainment by the statutory attainment date of December 31, 1982, California requested, and EPA approved, extensions of the attainment date for ozone in those Districts to December 31, 1987. Madera County did not receive an extension of the attainment deadline to 1987 because, as a rural ozone area (an area with ozone National Ambient Air Quality Standard (NAAQS) violations, but without an urbanized area of 200,000 population (1970 census), EPA policy does not require a demonstration of attainment and maintenance as a criterion for SIP approval. On May 26, 1988, EPA notified the Governor of California that the Fresno and South Coast Districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP call). The South Coast and Fresno Ozone Attainment Plans were subsequently disapproved by EPA on January 22, 1988 (53 FR 1780) and March 16, 1990 (55 FR 7878), respectively. The rules in this notice submitted by Fresno County APCD are specified in EPA's SIP call as being deficient and requiring revision to conform to EPA policy. Although it was not included in EPA's SIP call, Madera County, as a designated nonattainment area for ozone, is nevertheless required to meet the provisions of part D of the CAA. There is, as yet, insufficient emissions data to determine whether the South Coast Rule 1149 will come under EPA's SIP call criteria. However, as with Madera County, the South Coast AQMD must also meet the provisions of part D of the CAA for all of its rules.

The State of California submitted rule revisions for incorporation into its SIP on February 7, 1989. Three of those revisions are proposed for disapproval in this notice. The revisions addressed in this notice consist of regulations that control emissions from organic liquids, such as gasoline, for the primary purpose of achieving the National Ambient Air Quality Standard (NAAQS) for ozone. The emissions from organic liquids consist mainly of volatile organic compounds (VOCs), which, when released into the atmosphere, lead to the formation of ozone and ultimately smog. A list of the regulations by district appears below. EPA's evaluation and proposed action follow the list.

List of Regulations

Fresno County APCD:
- Rule 411, *Gasoline Transfer into Storage Containers*

Madera County APCD:
- Rule 417, *Gasoline Transfer into Stationary Containers;* Rule 419, *Organic Liquid Loading*

South Coast AQMD:
- Rule 1149, *Storage Tank Degassing*

Discussion

VOC rules which apply to ozone nonattainment areas must be fully

enforceable and maintain or strengthen the existing federally enforceable State Implementation Plan (SIP) in order to be approved by EPA. In addition, all VOC rules must satisfy the CAA requirements set forth in Section 110 and part D, comply with EPA requirements in 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), and satisfy EPA policies such as those in appendix D (November 24, 1987; 52 FR 45105), and in the document entitled, "Issues Relating To VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register**." (Reference in this notice to appendix D deficiencies will actually refer to the "Clarifications to appendix D" document.)

EPA also requires that all SIP revisions for areas designated as ozone nonattainment contain, as a minimum, regulations that provide for the implementation of reasonably available control technology (RACT) for major stationary sources of VOC emissions. For this purpose, EPA has prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved into the SIP. The CTG documents applicable to this notice are EPA-450/2-77-026, *Control of Hydrocarbons From Tank Truck Gasoline Loading Terminals* and EPA-450/2-77-035, *Control of Volatile Organic Emissions From Bulk Gasoline Plants.* Though not an official CTG, EPA further references the document entitled, "*Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations,* U.S. EPA, Office of Air Quality Planning and Standards, November, 1975." EPA has evaluated the rules in this notice to determine if they meet the above requirements. The Fresno, Madera and South Coast rule evaluations are given below in order by District and rule number.

The submitted Fresno County APCD Rule 411, "*Gasoline Transfer into Stationary Storage Containers,*" strengthens the existing rule by eliminating the vapor control exemption for vehicles which exclusively service low-throughput exempted bulk plants, as well as the vapor control exemption for those same vehicles servicing retail gasoline stations. However, Fresno Rule 411 contains appendix D and CTG deficiencies, such as: It does not require that all gasoline vapor recovery systems be CARB-certified; it does not include a definition of "vapor tight"; it does not specify that above ground storage containers be equipped with pressure-vacuum valves; it does not specify EPA Reference Method 21 for the determination of a leak, or EPA Reference Method 27 for the determination of the leak tightness of gasoline delivery vehicles; and it fails to specify and recordkeeping requirements. For these reasons, EPA is proposing to disapprove Fresno Rule 411 under both section 110 and Part D of the Clean Air Act.

The revised Madera County APCD Rule 417, "*Gasoline Transfer into Stationary Storage Containers,*" strengthens the existing SIP by limiting the exemption of certain gasoline storage containers from vapor control to those containers having a capacity of 2,000 gallons or less and that were installed prior to July 1, 1975. The rule also limits the exemption of vehicles from vapor controls to those which exclusively service exempt tanks, requires that all equipment be maintained in good working order, and that certain exemptions will not apply unless the facility is in full compliance of the rule.

Madera Rule 417, however, contains several appendix D and CTG deficiencies. For example, the newly added definitions of "vapor tight" and "leak free" are vague and allow for the possibility of alternate interpretations. The rule also fails to require that all gasoline vapor recovery systems be CARB-certified or to include test methods for the testing of "vapor tight" equipment and gasoline delivery vehicles. The rule fails to include some general operational and maintenance procedures, such as: that gasoline will not be spilled, stored in open containers, or disposed of into sewers. Because the proposed rule does not significantly strengthen the SIP and because several of the rule provisions are not federally enforceable due to a lack of test methods and specific definitions of "vapor tight" and "leak free", EPA is proposing to disapprove Madera Rule 417 under both section 110 and part D of the Clean Air Act.

The changes to Madera Rule 419, "*Organic Liquid Loading,*" consist of: adopting a standard District organization format; including the requirement, "* * * under design conditions * * *" with respect to the venting of vapors to the vapor collection and/or destruction system; and the addition of incineration as an option for vapor destruction.

While the changes to Madera Rule 419 strengthen the existing SIP somewhat, the deficiencies in Rule 419 are many. In particular, the rule fails to require that gasoline vapor recovery systems be CARB-certified, that compliance records be maintained, that the total amount of allowed emissions be limited to no more than 80 mg VOC per liter of gasoline transferred, or to specify any test methods. Since the proposed rule is nearly identical in its requirements to the existing SIP, and since it contains significant appendix D and CTG deficiencies, EPA is proposing to disapprove Madera Rule 419 under both section 110 and part D of the Clean Air Act.

The South Coast Rule 1149, "*Storage Tank Degassing,*" is a new rule which sets certain vapor control standards for previously uncontrolled emission sources. The rule requires vapor controls during the degassing of above ground tanks greater than 150,000 liters (39,630 gallons) storing organic liquids with vapor pressures greater than 2.6 psi and for tanks smaller than 150,000 liters, but larger than 75,000 liters (19,815), storing organic liquids with vapor pressures greater than 3.9 psi. Additionally, vapor controls are required for the degassing of underground storage tanks greater than 500 gallons capacity and storing organic liquids with vapor pressures greater than 3.9 psi. Specific control strategies are suggested, such a liquid balancing, negative pressure displacement, or a refrigerated vapor condenser.

Rule 1149 contains several appendix D deficiencies which make it unenforceable by EPA. The rule does not specify that tank owners or operators maintain records of the vapor pressures of the stored liquids, nor does it specify test methods to determine compliance with the rule. Without strict recordkeeping provisions, EPA would be unable to determine whether or not a facility was required to meet the provisions of the rule and without specific test methods, EPA would be unable to determine whether or not a facility was meeting the provisions of the rule. The rule also requires that use of any vapor control equipment not specified in the rule must be at least "90% efficient in reducing VOC emissions * * *", but it does not specify that use of any vapor control equipment specified in the rule must meet any control efficiency. With these deficiencies, it is unclear whether the SIP would, in fact, be strengthened with the approval of this rule. For these reasons, EPA is proposing to disapprove Rule 1149 under both section 110 and part D of the Clean Air Act.

In summary, all of the rules being considered in this notice limit the emissions of organic vapors during the storage and/or transfer of organic

liquids, primarily gasoline. The revisions to these rules consist mainly of new definitions and the elimination of certain exemptions. Fresno County APCD Rule 411, Madera County Rules 417 and 419, and South Coast AQMD rule 1149 are all proposed for disapproval under both section 110 and part D of the CAA because they contain significant appendix D or other EPA policy deficiencies. Although Fresno Rule 411 attempts to strengthen the existing SIP by eliminating certain exemptions, the rule deficiencies create significant enforceability problems. The Madera County APCD Rules 417 and 419, in addition to containing appendix D and CTG deficiencies, do not significantly strengthen, or even change, the existing SIP. And although the South Coast AQMD Rule 1149 is a new rule which requires vapor controls on previously uncontrolled emission sources, the rule does not include specific test methods and recordkeeping requirements. EPA has evaluated these rules and found that they do not meet all the requirements of the Clean Air Act (part D and/or section 110), appendix D (as specified in the document entitled, "Issues Relating to VOC Regulation Cut Points Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 Federal Register"), 40 CFR part 51, and/or EPA Policy. PA has also determined that they do not strengthen the existing California SIP.

Proposed Action

EPA is proposing to disapprove the following rules under both section 110 and Part D of the Clean Air Act:

Fresno County APCD
Rule 411, *Gasoline Transfer into Storage Containers*
Madera County APCD:
Rule 417, *Gasoline Transfer into Stationary Containers* Rule 419, *Organic Liquid Loading*
South Coast AQMD:
Rule 1149, *Storage Tank Degassing*

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

Regulatory Process

This action imposes no new regulations on the subject Districts. Therefore, under 5 U.S.C. section 605(b), I certify that these SIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Reporting and Recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: November 16, 1990.

John Wise,

Acting Regional Administrator

[FR Doc. 90–27815 Filed 11–26–90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 901199-0299]

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Notice of proposed 1991 initial specifications of groundfish and prohibited species catch allowances; request for comments.

SUMMARY: NOAA proposes 1991 initial specifications of total allowable catches (TACs) and apportionments of the TAC for each category of groundfish in the Bering Sea and Aleutian Islands (BSAI) area. This action is necessary to solicit public comments on preliminary determinations of the initial specifications of TAC and apportionments of groundfish that may be harvested in the BSAI area in 1991. The intended effect of this notice is to provide the Secretary of Commerce (Secretary) with the best available information on which to base final 1991 initial specifications of TAC and apportionments and to provide opportunity for public participation in this decision-making process.

DATE: Comments will be received on or before December 27, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to Federal Building Annex, suite 6, 9109 Mendenhall Mall Road, Juneau, Alaska. The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter, Fishery Management Biologist, NMFS, 907–586–7229, or Hal Weeks, Groundfish Plan Coordinator, North Pacific Fishery Management Council, 907–271–2809.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BASI area, governed by Federal regulations at 50 CFR 611.93 and part 675, implement the Fishery Management Plan for Bering Sea/Aleutian Island Groundfish (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) and approved by the Secretary under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP and implementing regulations require the Secretary, after consultation with the Council, to specify each calendar year the TAC for each target species and the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). The regulations further require the Secretary annually to publish preliminary TACs and the apportionments of each TAC and solicit public comment on these amounts for a period of 30 days (§ 675.20(a)(7)). Table 1 and this notice satisfy this requirement. After considering all timely comments and after consultation with the Council, the Secretary will publish the final annual TACs for 1991 and initial apportionments as soon as practicable after December 15, 1990.

TABLE 1.—PRELIMINARY 1991 TOTAL ALLOWABLE CATCH (TAC) AND APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1]

Species	TAC	Initial TAC [2]	DAP [3]	JVP [4]	DAH [5]	TALFF [6]
Pollock:						
BS	1,280,000	1,088,000	1,088,000	0	1,088,000	0
AI	100,000	85,000	85,000	0	85,000	0
Pacific cod	227,000	192,950	192,950	0	192,950	0
Sablefish:						
BS	2,700	2,295	2,295	0	2,295	0
AI	4,500	3,825	3,825	0	3,825	0
Atka mackerel	21,000	17,850	17,850	0	17,850	0
Yellowfish sole	207,650	176,502	12,750	163,752	176,502	0
Rock sole	60,000	51,000	51,000	0	51,000	0
Greenland turbot	7,000	5,950	5,950	0	5,950	0
Arrow tooth flounder	10,000	8,500	8,500	0	8,500	0
Other flatfish	60,150	51,128	10,200	40,928	51,128	0
Pacific Ocean perch:						
BS	6,300	5,355	5,355	0	5,355	0
AI	6,600	5,610	5,610	0	5,610	0
Other rockfish:						
BS	500	425	425	0	425	0
AI	1,100	935	935	0	935	0
Squid	500	425	425	0	425	0
Other species	5,000	4,250	4,250	0	4,250	0
Total	2,000,000	1,700,000	1,495,320	204,680	1,700,000	0

[1] Amounts are in metric tons and apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Initial TAC (ITAC)=0.85 of TAC; initial reserve=TAC−ITAC=300,000.
[3] DAP=domestic annual processing.
[4] JVP=joint venture processing.
[5] DAH=DAP+JVP.
[6] TALFF=total allowable level of foreign fishing.

The specified TACs for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel, and the Scientific and Statistical Committee annually review biological information about the condition of groundfish stocks in the BSAI area. This information is compiled by the Council's BSAI groundfish Plan Team and presented in the SAFE Report. The Plan Team annually produces this report as the first step in the process of specifying TACS. The SAFE Report contains a review of the latest scientific analyses; estimates of each species' biomass, maximum sustainable yield (MSY), acceptable biological catch (ABC), and other biological parameters; and summaries of the economic condition of groundfish fisheries off Alaska. The most recent SAFE Report is dated November 1989. Stock assessments based on biological survey work done during the summer of 1990 will be used in a new edition of the SAFE Report, published by and available from the Council in November 1990. Estimated ABCs for the 1991 fishing year will be based on these latest stock assessments. For purposes of this notice, the ABCs adopted by the Council for the 1990 fishing year are used as ABCs for the 1991 fishing year and are the best available scientific information.

Procedure for Estimating ABC

Calculation of ABC varies among species depending on the quality of available data and prior knowledge of a species' stock status. The Plan Team has adopted three steps for estimating ABCs. First, the exploitable biomass of a stock is estimated. Second, the ABC for a stock is calculated by multiplying an exploitation rate times the estimated exploitable biomass. Various exploitation rates or fishing mortality rates (F) may be used in this calculation. For example, the exploitation rate that would produce maximum sustainable yield (F_{MSY}) may be used when the stock is known to be in good condition, high in abundance, and not in danger of drastic declines. When particular caution is indicated, the more conservative $F_{0.1}$ harvest strategy is used to determine an exploitation rate. This strategy determines a level of F at which the marginal increase in yield per recruit due to an increase in F is 10 percent of the marginal yield per recruit in a newly exploited fishery. Recruitment refers to the growth of juvenile fish into the adult or exploitable population. Generally, the $F_{0.1}$ harvest strategy produces a more conservative exploitation rate than F_{MSY}. Another alternative is to use historical exploitation rates when historical fishery data indicate that a stock is not adversely affected by such rates. Finally, an empirical estimation of ABC based on historical catch levels may be used when information is insufficient to estimate the biomass of a stock. Details of this and other calculation procedures are discussed in the November 1989 SAFE Report, available from the Council at the previously cited address.

A summary of ABCs for each species for 1990 and other biological data from the November 1989 SAFE Report is provided in the preliminary SAFE Report for 1991. Before the Council's December 1990 meeting, the Plan Team will revise the November 1989 SAFE Report at its November 1990 meeting and produce a final SAFE Report for 1991 with ABC recommendations. In December 1990, the Council will develop TAC recommendations to the Secretary based on the ABCs and adjusted for other biological and socioeconomic considerations. The TACs may be further adjusted so that their sum does not exceed the maximum optimum yield allowed by the FMP.

For purposes of this notice, the Council recommended the TACs and apportionments in Table 1 and based them on the best available biological and socioeconomic information. Because there are no new data, the Council approved, for purposes of public comment, the same preliminary ABC estimates, TACs, and apportionments for the 1991 fishing year as those published in the final notice of initial specifications for the 1990 fishing year (55 FR 1434, January 16, 1990).

Apportionment of TAC

As required by § 675.20(a)(3), the amount of groundfish in each species TAC initially is reduced by 15 percent. The sum of these 15 percent amounts is the reserve. The reserve is not designated by species or species group and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, provided that such reapportionments do not result in overfishing.

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year (equal to 85 percent of TAC) is then apportioned between the domestic annual harvest (DAH) category and the total allowable level of foreign fishing (TALFF). Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process catch on board of deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the U.S. exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). The initial DAP and JVP amounts for each target species and the "other species" category equal the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming year, subject to available TAC and accommodation of DAP. This projection is based on the latest reliable information that is available, including industry surveys, market data, and the stated intentions of U.S. fishing industry representatives (§ 675.20(a)(4)).

The preliminary TACs, ITACs, reserve, and initial apportionments of groundfish in the BSAI area for 1991 are given in Table 1 of this notice. For purposes of this notice and the reasons stated above, the TACs and apportionments in Table 1 are the same as those published in Table 1 of the final notice of initial specifications for groundfish for 1990 (55 FR 1434, January 16, 1990).

Amendment 16 to the FMP (proposed rule published September 18, 1990, at 55 FR 38347) requires one quarter of the preliminary DAP, JVP, and TALFF (Table 2) to be made available on an interim basis for harvest at the beginning of the fishing year (January 1) until superseded by final notice of initial specifications.

TABLE 2.—INTERIM 1991 INITIAL TOTAL ALLOWABLE CATCH (ITAC) AND APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLAND AREA (1)

Species	Interim ITAC (2)	Interim DAP (3)	Interim DAH (5)	Interim DAH(5)
Pollock:				
BS	272,000	272,000	0	272,000
AI	21,250	21,250	0	21,250
Pacific cod	48,238	48,238	0	48,238
Sablefish:				
BS	574	574	0	574
AI	956	956	0	956
Atka mackerel	4,462	4,462	0	4,462
Yellowfin sole	44,126	3,188	40,938	44,126
Rock sole	12,750	12,750	0	12,750
Greenland turbot	1,488	1,488	0	1,488
Arrowtooth flounder	2,125	2,125	0	2,125
Other flatfish	12,782	2,550	10,232	12,782
Pacific Ocean perch:				
BS	1,339	1,339	0	1,339
AI	1,402	1,402	0	1,402
Other rockfish:				
BS	106	106	0	106
AI	234	234	0	234
Squid	106	106	0	106
Other species	1,062	1,062	0	1,062
Total	425,000	373,830	51,170	425,000

[1] Amounts, are in metric tons and apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Amounts are 25 percent of ITAC amounts in Table 1.
[3] DAP = domestic annual processing; amounts are 25 percent of ITAC amounts in Table 1.
[4] JVP = joint venture processing; amounts are 25 percent of ITAC amounts in Table 1.
[5] DAH = DAP + JVP; amounts are 25 percent of ITAC amounts in Table 1.

If the TACs and apportionments in Table 1 of this notice are adopted by the Council and the Secretary as the final specifications for 1991, then an initial apportionment from reserve to JVP would be needed to prevent wastage of other groundfish species taken as bycatch in the JVP fishery targeting on yellowfin sole and other flatfish. Such an apportionment was made in the final notice of initial groundfish specifications for 1990 (see Table 3 at 55 FR 1434).

These preliminary specifications are subject to change as a result of public comment, analysis of the current biological condition of the groundfish stocks, results of a November 1990 survey of domestic processing intentions in 1991, and consultation with the Council at its meeting scheduled for December 3–7, 1990.

Prohibited Species Catch (PSC) Limits

Crab and Pacific Halibut

Amendment 16 to the FMP (proposed rule published September 18, 1990 at 55 FR 38347) establishes PSC limits for red king crab and *Chionoecetes bairdi* Tanner crab in specific zones of the Bering Sea subarea and for Pacific halibut throughout the BSAI area. The proposed PSC limits are:

—200,000 red king crabs applicable to Zone 1,

—1 million *C. bairdi* Tanner crabs applicable to Zone 1,

—3 million *C. bairdi* Tanner crabs applicable to Zone 2,

—4,400 mt catch of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H, and

—5,333 not catch of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

Amendment 16 apportions each PSC limit into PSC allowances that are assigned to each of five specified fisheries. The Council adopted the provisional apportionments proposed in Table 3 of this notice, based on the currently anticipated bycatch of crabs and Pacific halibut during the 1991 fishing year. These estimates may be revised in December 1990 when the 1990 bycatch performance is better known and fishing patterns in 1991 can be better anticipated.

TABLE 3—PRELIMINARY 1991 PROHIBITED SPECIES CATCH ALLOWANCES

Fisheries	Zone 1	Zone 2	Zones 1+2H Primary	BSAI-wide Secondary
Red king crab, animals:				
DAP flatfish	21,007			
DAP rocksole	150,584			
DAP turbot	3			
DAP other	5,982			
JVP flatfish	22,424			
C. bairdi Tanner crab, animals:				
DAP flatfish	55,543	364,920		
DAP rocksole	557,077	288,275		
DAP turbot	0	224,520		
DAP	295,910	1,886,864		
JVP flatfish	91,470	235,421		
Pacific halibut, metric tons:				
DAP flatfish			57	69
DAP rocksole			562	681
DAP turbot			363	440
DAP other			2,519	3,053
JVP flatfish			899	1,090

Amendment 16 to the FMP also requires that appropriate PSC amounts (see Table 4) be made available on an interim basis for harvest at the beginning of the fishing year (January 1) until superseded by final notice of initial specifications.

TABLE 4.—INTERIM 1991 PROHIBITED SPECIES CATCH ALLOWANCES [1]

Fisheries	Zone 1	Zone 2	Zones 1+2H Primary	BSAI-wide Secondary
Red king crab, animals:				
DAP flatfish	5,252			
DAP rocksole	37,646			
DAP turbot	1			
DAP other	1,496			
JVP flatfish	5,606			
C. bairdi Tanner crab, animals:				
DAP flatfish	13,886	91,230		
DAP rocksole	139,269	72,069		
DAP turbot	0	56,130		
DAP other	73,978	471,716		
JVP flatfish	22,868	58,855		
Pacific halibut, metric tons:				
DAP flatfish			14	17
DAP rocksole			140	170
DAP turbot			91	110
DAP other			630	763
JVP flatfish			225	272

[1] Amounts are 25 percent of those in Table 3.

Seasonal Apportionments of PSC Limits

Amendment 16 to the FMP also authorizes establishing seasonal apportionments of bycatch PSC allowances among the fisheries to which bycatch has been apportioned. No preliminary seasonal apportionments are proposed in this notice; however, the Council may recommend them during the December 1990 meeting. The public is invited to submit comments about appropriate seasonal apportionments as part of the final specification process.

Groundfish PSC Limits

No PSC limits for groundfish species are specified in this notice. Authority to specify annual PSC limits for groundfish species or species groups for which the TAC can be completely harvested by domestic fisheries is provided at § 675.20(a)(6). In practice, these PSC limits apply only to JVP fisheries for species which have a zero JVP apportionment. All anticipated JVP incidental catches of groundfish could be accommodated from the reserve. If the specifications proposed in this notice are made final, amount apportioned from reserve would be similar to the apportionments in Table 3 of the final notice of initial specifications for groundfish for 1990 (55

FR 1434). Apportionment of groundfish from the reserve for this purpose would reduce waste by allowing incidental catches to be retained and used because any target species or "other species" category of groundfish that has a zero amount specified for JVP must be treated in the same manner as a prohibited species and discarded. No directed JVP fishing will be allowed on amounts of grondfish provided for bycatch purposes. No PSC allowances are proposed for foreign fisheries since no allocations are recommended for foreign directed fishing.

Pollock Split Season

The Council has proposed Amendment 14 to the FMP that allows the TAC of pollock for each subarea of the BSAI area to be allocated between two seasons (i.e., the roe season, January 1 through April 15 and the non-roe season, June 1 through December 31). The pollock TAC would be dividied into seasonal allowance after subtraction of reserves as provided under § 675.20(a)(3). Amendment 14 currently is under Secretarial review to determine its consistency with the Magnuson Act and other applicable law. A notice of proposed rulemaking explaining he provisions of Amendment 14 and requesting public comment was published September 14, 1990 (55 FR 37907). Assuming Secretarial approval and implementation of Amendment 14 before the beginning of the 1991 fishing year, the Council adopted provisional allowances of the pollock TAC of 25 percent to the roe season and 75 percent to the non-roe season. The Council will also consider two other options at its December 1990 meeting: 40 percent of the pollock TAC during the roe season and 60 percent during the non-roe season, or 60 percent of the pollock TAC during the roe season and 40 percent during the non-roe season. This seasonal allocation would be the same in the Bering Sea subarea and the Aleutian Islands subarea.

Under Amendment 14, the Council and the Secretary would consider the following nine factors when setting seasonal allowances of the pollock TAC:

1. Estimated monthly pollock catch and effort in prior years;
2. Expected changes in harvesting and processing capacity and associated pollock catch;
3. Current estimates of, and expected changes in, pollock biomass and stock conditions, conditions of marine mamal stocks, and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;
4. Potential impacts of expected seasonal fishing for pollock on pollock stocks, marine mammals, and stocks and species taken as bycatch in directed pollock fisheries;
5. The need to obtain fishery data during all or part of the fishing year;
6. Effects on operating costs and gross revenues;
7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;
8. Potential allocative effects among users and indirect effects on coastal communities; and
9. Other biological and socioeconomic information that affects the consistency of seasonal pollock harvests with the goals and objectives of the FMP.

These factors were not rigorously considered by the Council at its meeting of September 24–29, 1990, because of the absence of current fishery data. Public comment is solicited especially on the effects of the provisional seasonal allowances with respect to these nine factors. If Amendment 14 is implemented as proposed, the pollock TAC for 1991 in each subarea is specified as indicated in Table 1 of this notice, and the Council reaffirms its provisional 25/75 apportionment for each subarea, then the pollock TAC for 1991 would be divided into the seasonal allowances listed in Table 5.

TABLE 5—PROVISIONAL ALLOCATION OF POLLOCK TAC BY SEASON [1]

Subarea	TAC [2]	ITAC [3]	Roe season [4]	Non-Roe season [5]
Bering Sea	1,280,000	1,088,000	272,000	816,000
Aleutian Islands	100,000	85,000	21,250	63,750

[1] Amounts are in metric tons.
[2] TAC=total allowable catch.
[3] Initial TAC (ITAC)=0.85 of TAC; 0.15 of TAC is apportioned to reserve.
[4] January 1 through April 15.
[5] June 1 through December 31.

Sablefish Gear Allocation

Sablefish TACs for the Bering Sea and Aleutian Islands subareas are divided between users of trawl and longline fishing gears provided under Amendment 13 to the FMP and implemented by final rule published December 6, 1989 (54 FR 50386). Longline fishing gear is defined at § 675.2 as a stationary, byoyed, and anchored line with hooks or pots (other than king or Tanner crab pots) attached. Gear allocations of TACs are specified at § 675.24(a) and (b) in the following proportions:

Bearing Sea subarea: trawl gear—50 percent; longline gear—50 percent, and *Aleutian Islands subarea:* trawl gear—25 percent; longline gear—75 percent.

If the specifications in Table 1 are adopted for the 1991 fishing year, trawl gear and fixed-gear catch limits of sablefish in each subarea are equivalent shares of the TACs and ITACs listed in Table 6.

TABLE 6.—PRELIMINARY GEAR SHARES OF SABLEFISH TAC

Subarea	Gear	Percent of TAC	Share of TAC (mt)	share of ITAC (mt) [1]
Bering Sea	Trawl	50	1,350	1,147
Bering Sea	Longline	50	1,350	1,147
Aleutian Islands	Trawl	25	1,125	956
Aleutian Islands	Longline	75	3,375	2,869

[1] Initial TAC (ITAC)=0.85 of TAC, rounded to the nearest whole mt; 0.15 of TAC is apportioned to reserve. The sum of both ITAC gear shares in a subarea is equal to the ITAC for that subarea in Table 1 (adjusted for rounding error).

Other Matters

This action is authorized under 50 CFR 611.93(b) and 675.20, complies with Executive Order 12291.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 675

Fisheries.

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

Dated: November 20, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 90-27808 Filed 11-21-90; 12:16 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 228
Tuesday, November 27, 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 COMMERCE

Foreign-Trade Zones Board

[Docket No. 45-90]

Foreign-Trade Zone 122—Nueces County, TX, Corpus Christi Customs Port of Entry; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of Foreign-Trade Zone 122, requesting authority to expand its zone in Nueces County, Texas, within the Corpus Christi Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 14, 1990.

On September 5, 1985, the Port received authority from the Board to establish a foreign-trade zone (5 sites—393 acres) in Nueces County, Texas (Board 310, 50 FR 38020, 9/19/85). The main site (50 acres) is at the Port of Corpus Christi complex in Nueces County, adjacent to the City of Corpus Christi.

The grantee requests authority to expand the main site to include additional sections of the Port terminal complex along the Ship Channel (560 acres). No manufacturing approvals are being sought at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057-3012 and Colonel Brink P. Miller, District Engineer, U.S. Army Engineer District Galveston, PO Box 1229, Galveston, Texas 77553-1229.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before January 10, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Government Plaza, 400 Mann Street, suite 305, Corpus Christi, Texas 78401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, room 4213, Washington, DC 20230.

Dated: November 20, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-27848 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-05-M

International Trade Administration

[A-401-601]

Brass Sheet and Strip From Sweden; Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: On October 17, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Sweden. The review covers one manufacturer/exporter of this merchandise and the period August 22, 1986 through February 29, 1988.

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioners and the respondent, we held a public hearing. Based on the comments received and the correction of certain clerical errors, we have changed the margin for Metallverken AB from 6.03 percent to 5.64 percent.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 42533) the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Sweden (52 FR 6998, March 6, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by the review are shipments of brass sheet and strip from Sweden. During the review period, such merchandise was classifiable under item numbers 612.3960, 621.3982, and 621.3986 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. The TSUSA and HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispostive.

The review covers one manufacturer/exporter of this merchandise to the United States, Metallverken AB, and the period August 22, 1986 through February 29, 1988.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner and the respondent we held a public hearing on November 30, 1989. We received comments from the petitioner and the respondent.

Comment 1: Petitioner maintains that the Department erred in not comparing sales of the same grade (alloy). Petitioner contends that, when identical matches did not exist, the Department considered gauge to be more important than grade for product comparison purposes. Petitioner maintains that in

the brass industry, grade designations reflect chemical composition which affect cost of production. Therefore, grade should be the major criterion for product comparison selections. In its final analysis, the Department should revise its product comparisons and consider, in order of importance, grade, gauge, and width.

Department's Position: In our preliminary results of review, we inadvertently ranked gauge as more important than grade in making product comparisons. In the final results, we have adjusted our criteria to reflect grade as more critical than gauge in making comparisons.

Comment 2: Petitioner maintains that the Department, in making its product comparisons where contemporaneous sales did not exist, correctly compared sales of different grades and made an adjustment for differences in chemical composition. However, the Department failed to make an additional adjustment for differences in fabrication costs between U.S. and home market merchandise.

Department's Position: We agree and have made an adjustment for fabrication costs as well as an adjustment for chemical composition, where appropriate.

Comment 3: Petitioner contends that when the Department compared U.S. sales of grade 1060 with home market sales of grade 1063, it failed to recognize that Metallverken sells two varieties of grade 1063 in the home market, regular and polishing quality. Petitioner maintains that both grade 1060, sold in the U.S., and grade 1063 of polishing quality, sold in the home market, feature special surface finishing. Therefore, these grades are most similar for comparison purposes.

Department's Position: From the information submitted by the respondent, the Department was unable to distinguish grade 1063 polishing quality brass from grade 1063 regular brass. In addition, Metallverken has stated for the record that it did not sell grade 1063 polishing quality brass. Therefore, we compared U.S. sales of grade 1060 to all home market sales of grade 1063 as best information available.

Comment: Petitioner argues that the Department erred in allowing Metallverken's claim for an adjustment for quantity differences. Petitioner maintains that Metallverken has neither established that its prices were a function of quantities sold nor established that its prices were a function or costs incurred.

Department's Position: In our fair value investigation, we concluded that Metallverken met the requirements of our regulations by demonstrating that the quantity discounts were warranted on the basis of savings which resulted from larger production volumes. Metallverken has provided the same basis for this claim in this review. Since we verified and accepted this claim during the fair value investigation, we have accepted Metallverken's claim for an adjustment for differences in quantities in this review.

Comment 5: Petitioner contends that the Department erred in its calculation for value added to U.S. merchandise after importation. Petitioner argues that the use of transfer prices, rather than the cost of manufacture in the calculation of profit, will most likely result in an understatement of Metallverken's further processing profit amount. Petitioner suggests that, in the absence of cost of manufacture data, the Department use the best information otherwise available in our final analysis.

Department's Position: In general, we prefer to use cost of manufacture data in our calculation of profit for value added analyses. However, we did not realize until late in our preliminary analysis that we lacked specific cost of manufacture data. As a result, the Department relied on transfer prices as the only information available.

Comment 6: Petitioner argues that the Department erred in accepting Metallverken's home market credit expense claim since Metallverken based its claim on its standard terms of payment rather than actual experience. Therefore, Metalverken's claim should be denied by the Department for the final results of review.

Department's Position: While Metallverken did not furnish actual terms of payment for its home market sales, Metallverken stated in its questionnaire response that most of its customers pay within the standard time period. Therefore, we are satisfied that Metallverken's standard terms of payment form the appropriate basis for a credit adjustment.

Comment 7: Petitioner maintains that the Department erred in using Metallverken's reported interest rate, instead of the subsidiary's rate, to calculate its exporter's sales price (ESP) and purchase price credit expense adjustments. Petitioner contends that, since Metallverken's U.S. subsidiary incurred a credit expense on these sales, the Department should have used the subsidiary's short-term cost of borrowed funds in its credit expense calculations.

Department's Position: In the preliminary results of review, the Department used the subsidiary's interest rate in its credit calculations. In the final results of review, we have continued to use the subsidiary's interest rate in calculating credit on ESP and purchase price transactions.

Comment 8: Petitioner argues that the Department should not have allowed Metallverken's home market inland freight claim since Metallverken based its claim on standard costs instead of actual costs.

Department's Position: In our fair value investigation, we accepted Metallverken's standard costs because verification in the investigation established that standard costs reflected actual costs. Therefore, we have accepted Metallverken's standard costs for this adjustment.

Comment 9: Petitioner argues that the Department should not have accepted Metallverken's reported zero amounts for certain movement charges on U.S. sales. Petitioner suggests that the Department use the best information otherwise available in those instances where Matallverken failed to provide the information.

Department's Position: We agree. In the final results of review, we have calculated an average amount for these expenses as the best information otherwise available in those cases where movement charges were not reported.

Comment 10: Metallverken asserts that the Department erred in its comparison of certain U.S. sales of alloy SM 1060 to home market sales of allloy SM 1063. According to Metallverken, the Department applied the July 1986 metal cost differential to all home market sales, regardless of the month in which the U.S. sale or its home market comparison sale actually occurred.

Department's Position: We agree and have corrected these final results to reflect the cost differential for the month of the U.S. sale.

Comment 11: Metallverken believes that, for purposes of determining the difference indirect expenses in the U.S. and home market, the Department should also include the indirect selling expenses incurred by the U.S. subsidiary.

Department's Position: We agree and have included the subsidiary's selling expenses in the calculation of the ESP offset.

Comment 12: Metallverken requests that, when determining the comparison home market sale for U.S. sales, the Department add a fourth width group, comprised of merchandise 15 inches and over in width.

Department's Position: We disagree. In the preliminary results of review, the Department used the width groups that

were established during the original fair value investigation. Metallverken did not request this change until after publication of the preliminary results of review. Therefore, we consider Metallverken's request untimely.

Comment 13: Metallverken states that its questionnaire response incorrectly identified a number of purchase price sales as ESP sales. Metallverken explains that these transactions consist of sales make prior to importation into the United States, with full prior knowledge of Metallverken that the sales were to identified, unrelated purchasers in the United States.

Department's Position: We disagree. Since the merchandise was warehoused in the United States by Metallverken's subsidiary, the sales in question are ESP sales. The mere fact that sales were made prior to important does not make them purchase price sales under section 772(b) of the Tariff Act. Therefore, we have made no change in classification of Metallverken's ESP sales in these final results of review.

Comment 14: Metallverken requests that certain modifications be made to the ESP and purchase price sales lists, such as deletion of sales where entries have been liquidated and deletion of sales outside the period of review. For the latter, Metallverken is concerned that the sales in question will be covered in the next administrative review, and, therefore, deletion of these sales in this review is necessary to avoid "double counting."

Department's Position: Metallverken did not identify these sales until after publication of the preliminary results of review. In addition to this untimely identification, the manner in which Metallverken listed these transactions in its case brief was inadequate to ensure accurate deletion by the Department. Therefore, we are including them in this review. Metallverken will have an opportunity to identify these sales as part of the next review, which is currently underway.

Comment 15: Metallverken requests that the Department make certain data base corrections. Metallverken states that its questionnaire response inadvertently identified charges for air freight shipments twice and certain purchase price transactions twice. Metallverken also claims that, because it either did not furnish, or incorrectly furnished, information with respect to dates of payment, ocean freight and duty, it has supplied the correct data in its case brief.

Department's Position: We have corrected the amounts reported for ocean freight and duty. We have also deleted those purchase price transactions that clearly were reported twice. However, we are not making corrections with regard to payment dates. Prior to the publication of our preliminary results of review, Metallverken was asked to supply the missing payment dates and failed to do so. Metallverken did not supply the missing data until the submission of its case brief. Consequently, in the final results, we have continued to use the average time between shipment date and payment date as best information otherwise available where we lacked data.

Final Results of Review

As a result of our review of the comments received, we have determined that a weighted-average margin of 5.64 percent exists for Metallverken AB.

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

Furthermore, as provided for by section 751(a)(1) to the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for all shipments of Swedish brass sheet and strip. Because Metallverken is now known as Outokumpu Rolled Products AB, these cash deposit requirements shall apply to shipments by Outokumpu. For any further entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipment occurred after February 29, 1988, and who is unrelated to Metallverken or Outokumpu, a cash deposit of 5.64 percent shall be required. These deposit requirements are effective for all shipments of Swedish brass sheet and strip entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until the publication of the final results of the next adminstrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.22(1990).

Dated: November 16, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-27849 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

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

ACTION: Notice of preliminary results of antidumping duty administrative review and intent to revoke in part.

SUMMARY: In response to a request by a respondent, the Department of Commerce has conducted an administrative review of the antidumping finding on elemental sulphur from Canada. The review covers one exporter of this merchandise and the period December 1, 1988 through November 30, 1989. The Department intends to revoke in part the antidumping finding with respect to InterRedec Sulphur Corporation.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 43152) the final results of its last administrative review of the antidumping finding on elemental sulphur from Canada (38 FR 35655, December 17, 1973). A respondent, InterRedec Sulphur Corporation, requested in accordance with 19 CFR 353.22 that we conduct an administrative review. We published a notice of initiation on February 16, 1990 (55 FR 5640). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of elemental sulphur from Canada. During the review period such merchandise was classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff System (HTS) item 2501.01.00. The TSUSA and HTS item numbers are provided for

convenience and Customs purposes. The written description remains dispositive.

The review covers one exporter of Canadian elemental sulphur to the United States, InterRedec Sulphur Corporation, and the period December 1, 1988 through November 30, 1989. We will publish in a separate notice the results for other exporters which requested an administrative review for the period.

Preliminary Results of the Review and Intent To Revoke in Part

As a result of our review, we preliminarily determine that the following margin exists for the period December 1, 1988 through November 30, 1989:

Exporter	Margin (percent)
InterRedec Sulphur Corp	[1] 0

[1] No shipments during the period; margins from last review in which there were shipments.

InterRedec has had sales at not less than fair value for at least three years. Therefore, we intend to revoke the antidumping finding on Canadian elemental sulphur in part with respect to InterRedec. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise produced by InterRedec and exported to the United States entered, or withdrawn from warehouse, for consumption, on or after December 1, 1989. Should this partial revocation become final, as provided in 19 CFR 353.25(a)(2)(iii), InterRedec has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that Canadian elemental sulphur exported to the United States by InterRedec is being sold at less than fair value.

Parties to the proceeding may request disclosure within 5 days of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on this exporter directly to the Customs Service.

For any shipments of this merchandise produced or exported by the remaining known producers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for those firms. For any future entries of this merchandise from a new producer and/or exporter, not covered in this or prior administrative reviews, whose first shipment occurred after November 30, 1989, and who is unrelated to the reviewed firms or any previously reviewed firm, no cash deposit will be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, intent to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c), 19 CFR 353.22, and 19 CFR 353.25.

Dated: November 16, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-22850 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-807]

Initiation of Antidumping Duty Investigations; Oscillating Fans and Ceiling Fans From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the Department of Commerce (the Department), we are initiating antidumping duty investigations to determine whether imports of oscillating fans and ceiling fans from the People's Republic of China (the PRC) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that industries in the United States are materially injured, or are threatened with material injury, by reason of imports from the PRC of oscillating fans and ceiling fans. If these investigations proceed normally, the ITC will make its preliminary determinations on or before December 17, 1990. If those determinations are affirmative, we will make preliminary determinations on or before April 9, 1991.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Bradford Ward or Steven Lim, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5288 or 377-4087, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On October 31, 1990, we received a petition filed by Lasko Metal Products, Inc., of West Chester, Pennsylvania. Petitioner alleges that imports of oscillating fans and ceiling fans are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that industries in the United States are materially injured, or are threatened with material injury, by reason of imports from the PRC of oscillating fans and ceiling fans.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industries producing the products that are subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

Petitioner alleges that the PRC is a nonmarket economy country within the meaning of section 773(c) of the Act. Accordingly, petitioner based foreign market value (FMV) on constructed value using factors of production valued in market economy countries as well as various price-to-price methodologies described below.

A. Oscillating Fans

Petitioner utilized three methodologies to calculate alleged dumping margins for oscillating fans from the PRC. Method (1) bases the United States price (USP) on price quotations from manufacturers

of oscillating fans in the PRC and bases FMV on petitioner's own factors of production, valued in Thailand, Taiwan, and the United States. Method (2) bases USP on the average unit import value for Chinese-origin oscillating fans and FMV on the average unit import value of oscillating fans originating in Thailand. Method (3) bases USP on the average unit import value for Chinese-origin oscillating fans and FMV on the average unit wholesale price of oscillating fans in Thailand. he petition alleges dumping margins ranging from 15.7 to 165 percent.

The Department is not utilizing methods (2) and (3) in our petition analysis because they rely on import values obtained from "basket" Harmonized Tariff Schedule (HTS) subheadings. Products listed under this subheading include subject and non-subject merchandise. The remaining methodology alleges dumping margins ranging from 15.7 percent to 25.4 percent.

B. Ceiling Fans

Petitioner utilized four methodologies to calculate alleged dumping margins for ceiling fans from the PRC. Method (1) bases USP on price quotations from an exporter of Chinese-origin ceiling fans and FMV on petitioner's own factors of production, valued in Taiwan and the United States. Method (2) bases USP on price quotations from an exporter of Chinese-origin ceiling fans and FMV on price quotations in Thailand from a Thai producer of ceiling fans. Method (3) bases USP on the average price quotation of an exporter of Chinese-origin ceiling fans and FMV on the average unit import value for Thai-origin ceiling fans. Method (4) bases USP on the average unit import value for Chinese-origin ceiling fans and FMV on the average unit import value for Thai-origin ceiling fans. The petition alleges dumping margins ranging from 10.9 percent to 21.4 percent.

The Department is not utilizing method (1) in our petition analysis because the factor valuation information that was presented relies predominantly on costs in Taiwan and the United States. Accordingly, method (1) is less representative of the values of ceiling fans than methods (2), (3), and (4) which are based on actual prices and/or narrowly defined HTS subheadings. The remaining methodologies allege dumping margins ranging from 10.9 percent to 21.4 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

In accordance with 19 CFR 353.52(b)(1) and our longstanding practice, we reviewed the PRC's per capita gross national product (GNP) and the percentage of its labor force in agricultural and non-agricultural production to select those economies most comparable to that of the PRC. Based on a comparison of these and other factors, there were many surrogate countries more comparable in economic development to the PRC than Thailand, Taiwan, and the United States which petitioner used to value the factors of production. We requested that petitioner explain why it had valued the factors of production in Thailand, Taiwan, and the United States and why those countries were appropriate surrogates for the PRC. On November 14, 1990, petitioner supplemented its petition by explaining why its original valuation of the factors of production was reasonable for purposes of initiation. More importantly, petitioner explained that other countries could not be used because of a lack of available data and/or a lack of production of comparable merchandise. (Petitioner did provide constructed values for certain fans using a limited number of factors valued in Pakistan and the Philippines. These constructed values varied only slightly from the originally-submitted constructed values and resulted in slightly higher alleged dumping margins.)

Accordingly, we have accepted those comparisons submitted in the petition as described above in the "United States Price and Foreign Market Value" section of this notice. Those comparisons meet the minimal sufficiency requirements set forth in 19 CFR 353.13(a). The petition and subsequent submissions by the petitioner allege the basis on which an antidumping duty order may be imposed and contain information reasonably available to the petitioner supporting the allegations. Therefore, in accordance with section 732 of the Act, we are initiating antidumping duty investigtions to determine whether imports of oscillating fans and ceiling fans from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value. If our investigations proceed normally, we will make our preliminary determinations by April 9, 1991. In approximately 45 days we will present qustionnaires soliciting information necessary to make those determinations to the Embassy of the People's Republic of China.

Scope of Investigations

Petitioner has alleged, and we have determined for purposes of these initiations, that the products covered by these investigations constitute two separate classes or kinds of merchandise; we will thus conduct two separate investigations of these products and calculate two separate antidumping rates. The two separate "classes or kinds" are: (1) Oscillating fans; and (2) ceiling fans.

Oscillating fans are electric fans that direct a flow of air using a fan blade/motor unit that pivots back and forth on a stationary base ("oscillates"). Oscillating fans incorporate a self-contained electric motor of an output not exceeding 125 watts.

Ceiling fans are electric fans that direct a downward flow of air using a fan blade/motor unit. Ceiling fans incorporate a self-contained electric motor of an output not exceeding 125 watts. Ceiling fans are designed for permanent or semi-permanent installation.

Window fans and industrial or commercial ventilator fans are not included in these investigations.

The appropriate HTS subheading under which oscillating fans are classified is 8414.51.0090. The appropriate HTS subheading under which ceiling fans are classified is 8414.51.0030. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged an nonproprietary information. We will allow the ITC access to all privileged and business priprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 17, 1990, whether there is a reasonable indication that industries in the United States are materially injuried or are threatened with material injury by reason of imports from the People's Republic of China of oscillating fans and ceiling fans. If these determinations are negative, the investigations will be

terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 20, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-27851 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-807]

Preliminary Negative Countervailing Duty Determination: Silicon Metal From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute countervailable subsidies are being provided to manufacturers, producers, or exporters in Brazil of silicon metal as described below. If this investigation proceeds normally, we will make a final determination on or before February 4, 1990.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mi-Yong Kim or Ross Cotjanle, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0189 or (202) 377-3534, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that *de minimis* benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters of silicon metal in Brazil. We preliminarily determine that the following programs confer subsidies:

- Income Tax Exemption for Export Earnings
- Preferential Working Capital Financing for Exports Provided by the Department of Foreign Commerce of the Central Bank of Brazil (CACEX)

We determine the estimated net subsidy to be 0.36 percent *ad valorem* for all manufacturers, producers, or exporters in Brazil of silicon metal. Since this rate is *de minimis*, and therefore not countervailable, our preliminary countervailing duty determination is negative.

Case History

Since the publication of the notice of initiation in the **Federal Register** (55 FR 38729, September 20, 1990), the following events have occurred.

On September 25, 1990, we issued a questionnaire to the Government of Brazil (GOB) in Washington, DC, concerning petitioners' allegations. On October 16, 1990, we presented the GOB with a supplemental questionnaire. At the GOB's request, the due date for the questionnaire responses was extended until November 2, 1990. On November 2, 1990, we received responses from the GOB and six companies: Camargo Correia Metais S.A. (CCM); Companhia Brasileira Carbureto de Calcio (CBCC); Companhia Ferroligas Minas Gerais (Minas Ligas); Eletroila S.A.; Ligas de Aluminio S.A. (LIASA); and RIMA Electrometalurgia S.A. (RIMA).

On November 7, 1990, we issued a supplemental/deficiency questionnaire and received responses on November 14, 1990. In this response, the GOB stated that Cia Industrial Fluminense (CIF) ceased production of silicon metal in 1989.

On September 27, 1990, one of the respondents, CCM, alleged that petitioners lacked standing. For further discussion of this issue, see the *Standing* section, below.

On October 3, 1990, the petition was amended to include the following interested parties as petitioners: Oil, Chemical and Atomic Workers, Local 3-89; International Union of Electronics, Electrical, Machine, and Furniture Workers, AFL-CIO Local 693; Textile Processors, Service Trades, Health Care Professional and Technical Employees International Union, Local 60; United Steelworkers of America, Local 5171; United Steelworkers of America, Local 8538; and United Steelworkers of America, Local 12646.

On October 9, 1990, petitioners submitted additional information on programs on which we did not initiate. We determined that the additional information submitted by petitioners did not provide sufficient information to warrant initiation on these programs. Our reasoning is outlined in a memorandum to the file.

On October 11, 1990, the U.S. International Trade Commission preliminarily found that imports of silicon metal from Brazil materially injure, or threaten material injury to, a U.S. industry (55 FR 42079, October 17, 1990).

Scope of Investigation

The merchandise covered by this investigation is silicon metal containing at least 96.00 percent but less than 99.99 percent of silicon by weight. The subject merchandise is used primarily as an alloying agent from aluminum and in the chemical industry as a precursor to silicons. Silicon metal is currently provided for in subheadings 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule* (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to this investigation. The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The Department's written description of the merchandise under investigation remains dispositive.

Standing

As stated in the *Case History* section above, CCM alleges that petitioners lack standing. CCM cites *Suramerica de Aleaciones Laminadas, C.A.* v. *U.S.*, Slip. Op. 90-79 at 32 (CIT Aug. 22, 1990) in which the Court of International Trade held that the Department cannot presume industry support for a petition. The Department has appealed this decision to the Court of Appeals for the Federal Circuit because there is nothing in the Act, its legislative history, or our regulations which requires petitioners to affirmatively establish that they have the support of a majority of their industries. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing and antidumping duty laws. Therefore, consistent with our past practice, we have preliminarily determined that petitioner does not lack standing. See *Frozen Concentrated Orange Juice from Brazil: Final Determination of Sales at Less than Fair Value* (52 FR 8324, March 17, 1987); *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden* (52 FR 5794, February 26, 1987); and, *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish From Canada* (51 FR 10041, March 24, 1986).

Analysis of Programs

We received a response from the GOB and six producers or exporters (CCM, CBCC, Minas Ligas, Eletroila, LIASA, and RIMA). We did not receive a response from CIF. For CIF, we used as the best information available, the highest calculated rate for each program

found to be countervailable in this investigation.

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

For purposes of this preliminary determination, the period for which we are measuring subsidies ("the review period") is calendar year 1989, which corresponds to the most recently completed fiscal year for all of the respondent companies.

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

I. Programs Preliminarily Determined To Be Countervailable

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of silicon metal under the following programs:

A. *Income tax exemption for export earnings.* Under this program, exporters of silicon metal are eligible for a lower income tax rate on that portion of their profits attributable to exports. Companies using this program calculate the fraction of profit eligible for this lower rate as the ratio of export revenue to total revenue. Because this program provides a lower income tax rate which is limited to exporters, we preliminarily determine that it is countervailable.

The nominal corporate tax rate in Brazil in 1989 was 30 percent for profits attributable to domestic sales and three percent for profits attributable to export sales. Additionally, Brazilian tax law permits companies to reduce their income taxes by investing up to 26 percent of their tax liability in special companies and funds designated by the GOB. This tax credit effectively reduces the normal corporate tax rate. The five silicon metal exporters that claimed this reduction on their tax returns filed in 1989 invested in the specified companies and funds, and their effective tax rate was lower than the nominal rate during the review period.

We calculated the benefit for each company by subtracting the tax actually paid from the tax that would have been paid by that firm absent the lower tax rate for export profits. In order to calculate the tax that would have been paid, we multiplied total taxable profit by the 30 percent corporate tax rate and then deducted the 26 percent of tax liability derived from domestic profits which was invested in the specially designated companies and funds. We then divided each company's benefit by its total exports. Next, we weight-averaged the benefit by each company's proportionate share of total exports of the subject merchandise to the United States. On this basis, we preliminarily determie the benefit from this program to be 0.25 percent *ad valorem* for all manufacturers, producers, and exporters of silicon metal in Brazil.

CCM stated that they did not benefit from the preferential tax rate for export earnings because their taxable profit was not attributable to sales revenue. However, they did not provide an explanation for their claim. Therefore, as best information available, we used the highest calculated company rate as CCM's rate, which is 0.43 percent *ad valorem.*

According to the response, on December 28, 1989, by Law No. 7988, the tax rate on income attributable to export sales increased to 18 percent for the 1990 tax year. On April 12, 1990, by Law No. 8034, the tax rate or income attributable to export sales increased by 30 percent for the 1991 tax year, thereby taxing all income at the same rate.

B. *Preferential working capital financing for exports provided by the Department of Foreign Commerce of the Central Bank of Brazil (CACEX).* Under this program, the CACEX provides short-term working capital financing to exporters at preferential rates. The loans have a term of one year or less.

On May 2, 1985, Resolution 1009 made CACEX working capital financing available through commercial banks at prevailing market rates, with interest due at maturity. It authorized the Central Bank of Brazil to pay the lending institution an "equalization fee," or rebate of up to 15 percentage points, which the lending institution could pass on to the borrowers. On December 1, 1988, by Resolution 1538, CACEX reduced the equalization fee to 7.5 percentage points.

In addition, CACEX short-term loans are exempt from the "Imposto Sobre Operacoes Financieras" (IOF) tax. The IOF tax is a general tax of 1.5 percent imposed on the principal of all financial transactions in Brazil.

Since the interest charged on CACEX financing under Resolution 1009 and 1538 is at prevailing market rates, this program would not be countervailable absent the equalization fee and the exemption from the IOF.

Therefore, the benefit from these loans is equal to the equalization fee plus the 1.5 percent IOF. Because this program provides financing at preferential rates only to exporters, we preliminarily determine that it is countervailable. During the period of review, four exporters made interest payments on CACEX loans.

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

We consider the benefit from a short-term loan to occur when the borrower makes an interest payment. For CACEX loans on which interest was paid during the period of review, we multiplied the interest rate differential plus the amount of the IOF tax exemption by the loan principal. We divided the benefit by each firm's total exports. We then weight-averaged the benefit by each company's proportionate share of total exports on the subject merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.08 percent *ad valorem* for all manufacturers, producers, and exporters of silicon metal in Brazil.

According to the response, on August 30, 1990, Resolution 1744 terminated this program.

II. Programs Preliminarily Determined To Be Not Used

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

A. *Provision of electricity at preferential rates to silicon metal producers located in Minas Gerais.* CEMIG, the state-owned electrical utility in Minas Gerais, provides reduced power rates in exchange for

reduced power usage during peak periods. According to the response, CEMIG did not grant power rate reductions to any companies in the silicon metal industry; no silicon metal producers in Minas Gerais received or petitioned to receive reductions in power rates; and all silicon metal producers in Minas Gerais purchase power at the country-wide tariff rate applicable to their usage classification. Therefore, we preliminarily determined that none of the companies under review utilized this program during the period of review.

B. *Benefits provided by the Commission for granting of fiscal benefits to special export programs (BEFIEX).* BEFIEX allows Brazilian exporters, in exchange for export commitments, to take advantage of several types of benefits, such as import duty reductions, an increased IPI export credit premium, and tax exemptions or tax credits. According to the response of the GOB, none of the companies under review utilized this program during the period of review.

C. *Export financing provided by the Fundo de Financiamento a Exportacao (FINEX).* Resolutions 68 and 509 of the Conselho Nacional do Comercio Exterior (CONEX) provide that CACEX may draw upon the resources of FINEX to subsidize short- and long-term loans for both Brazilian exporters (Resolution 68) and foreign importers (Resolution 509) of Brazilian goods. CACEX pays the lending banks an "equalization fee" that makes up the difference between the subsidized interest rate and the prevailing commercial rate. CACEX also provides the lending bank with a "handling fee" equal to two percent of the loan principal in order to encourage foreign bank participation in the program. According to the response of the GOB, none of the companies under review utilized this program during the period of review.

III. Programs Preliminarily Determined To Be Terminated

We preliminarily determine that the following programs were terminated prior to the period of our review:

A. *Financing for the storage of merchandise destined for export (Resolution 330 of the Central Bank of Brazil).* According to the response of the GOB, this program was terminated on August 21, 1984, by Resolution 950.

B. *Export promotion financing provided under the Programa de Financiamento a Producao para a Exportacao (PROEX).* According to the response of the GOB, this program was terminated on July 2, 1985, by National Bank for Economic and Social Development ("BNDES") Resolution 613.

Verification

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

Critical Circumstances

Petitioner alleges that "circumstances" exist with respect to imports of silicon metal from Brazil. Section 703(e)(1) of the Act provides that critical circumstances exist if there is a reasonable basis to believe or suspect that:

(A) The alleged subsidy is inconsistent with the Agreement, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Because we preliminarily determined that no benefits which constitute counteravailable subsidies are being provided to manufacturers, producers, or exporters in Brazil of silicon metal, no subsidies exist which are inconsistent with the Agreement. Therefore, in accordance with section 703(e)(1) and (2) of the Act, we preliminarily determine that critical circumstances do not exist with respect to all manufacturers, producers, or exporters of silicon metal from Brazil.

Suspension of Liquidation

Due to the fact that the estimated net subsidy rate is *de minimis*, we are not directing the U.S. Customs Service to suspend liquidation on entries of silcicon metal from Brazil at this time.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, not later than 10 days after the date of publication of our preliminary determination. Such a hearing will be held at 10 a.m. on Tuesday, January 22, 1991, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than January 9, 1991. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submited to the Assistant Secretary no later than January 16, 1991. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with section 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified above.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: November 19, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-27852 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DS-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

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

ACTION: Notice of first request for panel review of Final Determination clarifying Scope of Antidumping and Countervailing Duty Order—Abolishment of End Use Certification Procedure—made by the Department of Commerce, International Trade Administration, Import Administration, respecting Oil Country Tubular Goods from Canada, filed by Stelco, Inc. with the United States section of the Binational Secretariat on November 5, 1990.

SUMMARY: On November 5, 1990, Stelco, Inc., filed a request for panel review with the United States section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Panel review was requested of the Final Determination Clarifying Scope of Antidumping and Countervailing Duty Orders—Abolishment of End Use Certification Procedure—respecting Oil Country Tubular Goods from Canada made by the International Trade Administration, Import Administration, Import Administration File Numbers A-122-506 and C-122-505. The Binational Secretariat has assigned Case Number USA-90-1904-02 to this Request.

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

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

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

Rule 35(2) requires the Secretary of the responsible section of the FTA Binational Secretariat to publish a notice that a first request for panel review has been received. A first request for panel review was filed with the United States section of the Binational Secretariat, pursuant to Article 1904 of the Agreement, on November 5, 1990, requesting panel review of the final determination described above.

Rule 35(1)(c) of the Rules provides that:

(a) A party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first request for panel review (the deadline for filing a Complaint is December 5, 1990);

(b) A party, investigating authority or interested person that does not file a Complaint may participate in the panel review by filing a notice of appearance in accordance with Rule 40 within 45 days after the filing of the first request for panel review (the deadline for filing a notice of appearance is December 20, 1990); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 20, 1990.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 90-27768 Filed 11-16-90; 8:45 am]

BILLING CODE 3510-GT-M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Panel of Judges

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that there will be a closed meeting of the Panel of Judges of the Malcolm Baldridge National Quality Award on Wednesday, December 12, 1990. The Panel of Judges is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is for the judges to critique their subcommittee reports on the 1990 selection process, and to prepare their report to the Board of Overseers. The discussions concerning the 1990 Award applications will reveal trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene December 12, 1990, at 6 p.m. and adjourn at approximately 9:30 p.m. on December 12, 1990. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 11, 1990 that the meeting of the Panel of Judges will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with section 552b(c)(4) of title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: November 20, 1990.

John Lyons,

Director.

[FR Doc. 90-27826 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Michael Galgano From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Secretary's decision in the Michael Galgano Consistency Appeal.

On July 8, 1988, Michael Galgano (Appellant), filed with the Secretary of Commerce a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's (Department) implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an Objection by the New York Department of State (State) to Appellant's consistency certification for a U.S. Army Corps of Engineer's (Corps) permit to construct a timber bulkhead

with backfill in Meyers Pond, Town of Southampton, Suffolk County, New York.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II).

Section 307(c)(3)(B). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122. The Appellant requested that the Secretary override the State's Objection based on Ground I.

Upon consideration of the information submitted by Appellant, the State, and several Federal agencies, the Secretary held that Appellant's project to construct a timber bulkhead with backfill is not consistent with the objectives of the CZMA. Accordingly, the Secretary declines to override the State's Objection to Appellant's consistency certification. The Secretary's decision precludes the Corps from issuing to the Appellant a permit to construct the timber bulkhead with backfill.

FOR FURTHER INFORMATION CONTACT: Kirsten Erickson, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., room 603, Washington, DC 20235, (202) 673-5200.

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

Dated: November 20, 1990.

Thomas A. Campbell,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 90-27770 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management, Federal Consistency Appeal by Davis Heniford From an Objection by the State of South Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

On September 25, 1990, Davis Heniford (Appellant) filed with the Secretary of Commerce (Secretary) a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the State of South Carolina (State) to the Appellant's consistency certification for a U.S. Corps of Engineers (Corps) permit to fill 2.5 acres of wetlands for the purpose of constructing a shopping center in Loris, South Carolina.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II).

Section 307(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that (1) the proposed activity furthers one or more of the national objectives or purposes contained in section 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within thirty days of the publication of this notice and should be sent to Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., suite 603, Washington DC 20235. Copies of comments should also be sent to H. Stephen Snyder, Director of Planning and Certification, South Carolina Coastal Council, 4130 Faber Place, suite 300, Charleston, South Carolina 29405.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the State and the Office of the Assistant General Counsel for Ocean Services, NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., suite 603, Washington, DC 20235 (202) 673-5200.

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

Dated: November 20, 1990.

Thomas A. Campbell,

General Counsel.

[FR Doc. 90-27771 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

November 21, 1990.

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

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

EFFECTIVE DATE: November 29, 1990.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6495. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being increased by application of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see* **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 52437, published on December 21, 1989.

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

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

November 21, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 15, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on November 29, 1990, the directive of December 15, 1989 is amended further to increase the limts for the following categories, as provided under the terms of the current bilateral agreement between the Government of the United States and Macau:

Category	Adjusted 12-Mo limit [1]
Group I:	
200-239, 300-369, 600-670 and 800-899, as a group.	80,377,489 square meters equivalent.
Sublevels in group I:	
333/334/335/833/834/835.	177,113 dozen of which not more than 87,192 dozen shall be in Categories 333/335/833/835.
338	218,758 dozen.
339	925,552 dozen.
340	215.806 dozen.
341	139,191 dozen.
347/348/847	536.379 dozen.
633/634/635	375,051 dozen.
640	83,039 dozen.
641/840	142,407 dozen.
642/842	83,152 dozen.
647.648	392,675 dozen.
Group II:	
400-469, as a group	1,433,266 square meters equivalent.

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

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-27846 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DR-M

Amendment and Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

November 21, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customers amending and adjusting limits.

EFFECTIVE DATE: November 21, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

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

The Governments of the United States and Pakistan have agreed to amend the bilateral to convert the current designated consultation level for Category 369-S to a specific limit at an increased level. The amended level is being increased further by application of swing and carryforward, reducing the limit for Category 334 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of United States (*see* **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 48293, published on November 22, 1989.

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

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 21, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of November 16, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on November 21, 1990, you are directed to adjust and amend the limits for cotton textile products in the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Pakistan:

Category	Adjusted and amended 12-mo limit [1]
334	41,614 dozen.
369-S [2]	452,000 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.
[2] Category 369-S: only HTS number 637.10.2005.

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

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-27847 Filed 11-26-90; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; Announcement of System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of System of Records.

DATES: Comments must be received on or before January 28, 1991.

ADDRESSES: Comments should be sent to the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207. Telephone: (301) 492-6980.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission is establishing a system of records within its Division of Personnel Management to manage the investigative reports on Commission employees or applicants for Commission employment that may be received from the Office of Personnel Management or other federal agencies.

These records are not covered by any existing government-wide system of records under the Privacy Act. The records will be used for internal management purposes by the Commission.

The system of records will become effective January 28, 1991, unless comments are received which justify a contrary determination.

The President of the Senate, the Speaker of the House of Representatives, and the Office of Management and Budget have been notified of this system.

Dated: November 20, 1990

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

CPSC-20

SYSTEM NAME:

Personnel Security File—CPSC-20.

SYSTEM LOCATION:

Division of Personnel Management, Directorate for Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Consumer Product Safety Commission, and applicants for employment with the Consumer Product Safety Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of name checks, inquiries, and investigations furnished by the Office of Personnel Management to determine suitability for employment with, or continued employment by, the Consumer Product Safety Commission. Information in records may include date and place of birth, citizenship, marital status, military status, and social security status. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations of law; information from present and former supervisors, co-workers, associates, educators; credit and National Agency checks; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450; 5 U.S.C. 301.

PURPOSE(S):

The records in this system of records are used by the Director, Division of Personnel Management and the Personnel Security Officer, Labor and Employee Relations Branch, to determine whether the employment of an applicant, or retention of a current employee, is in the interest of the Commission and to determine whether to grant an employee access to non-public information or restricted areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To request from a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance to an employee, or other administrative action concerning an employee.

2. To the Office of Personnel Management in their role as an investigating agency, and in their role as the agency responsible for conducting a continuing assessment of agency compliance with federal personnel security and suitability program requirements.

3. To the Office of Personnel Management for use in other personnel matters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are maintained in a safe-type combination lock file cabinet in the custody of the Personnel Security Officer, Labor and Employee Relations Branch, Division of Personnel Management, Directorate for Administration. Access is limited to the Personnel Security Officer, Labor and Employee Relations Branch, and the Director, Division of Personnel Management.

RETENTION AND DISPOSAL:

Records are maintained at the Consumer Product Safety Commission for at least two years from the date of any final decision placed in the record.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Security Officer, Labor and Employee Relations Branch, Division of Personnel Management, Directorate for Administration, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

NOTIFICATION PROCEDURE:

Freedom of Information/ Privacy Act Officer, Office of the Secretary, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207.

RECORD ACCESS PROCEDURES:

Same as notification. The Freedom of Information/Privacy Act Officer will forward the request to the agency which conducted the investigation, which will make the final determination.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Office of Personel Management reports and reports from other federal agencies.

[FR Doc. 90-27836 Filed 11-26-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Supplement to the Draft Environmental Impact Statement; Biological Aerosol Test Facility, New Alternative Action To Construct and Operate a Consolidated Life Sciences Test Facility

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice of Availability of Supplement to the Draft Environmental Impact Statement: Biological Aerosol Test Facility, New Alternative Action to Construct and Operate a Consolidated Life Sciences Test Facility at Dugway Proving Ground, Utah.

1. Summary

The Department of the Army, as Executive Agency for the Department of Defense (DOD), is responsible for research, development, testing, and evaluation of equipment and procedures for biological defense. Initially, the Army proposed construction of a Life Sciences Laboratory (LSL) operating at biosafety level three (BL-3) with a separate BL-4 capable Biological Aerosol Test Facility (BATF) to operate only at BL-3 level. Following public comment and additional internal evaluation, the Army concluded that a biological aerosol test capability limited to BL-3 would meet all Army requirements. Further evaluation concluded that consolidating construction of the BL-3 aerosol testing capability with the proposed LSL would meet the Army's testing requirements.

This consolidated facility is designated the LSTF in the SDEIS. This new alternative action, as part of the Biological Defense Research Program, will provide the necessary support for DOD activities in testing and evaluating protective equipment, detection devices, and decontamination techniques for biological threat materials. The facility will provide environmental analytical support for smoke/obscurant and chemical simulant field operations. This action is a new alternative to the proposed action, of the Draft EIS, presented in the **Federal Register** (53 FR 3768, February 9, 1989).

2. Alternatives

Other alternatives that were considered include the proposed action of the Draft EIS; "no action," i.e., continued use of present facilities at DPG; construction and operation of a BATF elsewhere; use of other existing facilities with DOD; use of biological simulants instead of pathogenic micro-organisms; construction and operation of a separate BATF at a BL-3 containment level; and construction of the BATF at an alternative site on DPG. The Supplement to the Draft EIS concludes that considering the nature of the work, the training regimen, personal safety interests, medical review of employees health status, and the available medical support, neither construction nor operation of the LSTF poses an unacceptable risk to the onsite workers. Similarly, there is no reasonably foreseeable risk to the public or to the environment.

3. The Supplement to the Draft Environmental Impact Statement

Biological Aerosol Test Facility, New Alternative Action to Construct and Operate a Life Sciences Test Facility at Dugway Proving Ground, Utah is available for public review and comment. A copy of the document may be obtained by contacting Mr. Richard Whitaker at commercial telephone (801) 831-2116, or by writing to the following address: Commander, U.S. Army Dugway Proving Ground, STEDP-PA, Dugway, UT 84022-5000. Written comment should be submitted to the same address. Public meetings are to be scheduled in Tooele and Salt Lake City, Utah. Specific meeting times and places will be published in various newspapers. Comments to be considered in preparation of the final Environmental Impact Statement must be received not later than 60 days from the date this Notice of Availability is published in the **Federal Register.**

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OSSA (I, L&E).

[FR Doc. 90-27812 Filed 11-26-90; 8:45 am]

BILLING CODE 3710-08-M

Availability of the Finding of No Significant Impact for the Handling of Waste Brines From the Johnston Atoll Chemical Agent Disposal System (JACADS)

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the Notice of Availability of the Finding of No Significant Impact of the proposed action to temporarily store and then ship to the U.S. for disposal the hazardous brines produced by the destruction of chemical agents and munitions in the Johnston Atoll Chemical Agent Disposal System (JACADS). The Army proposes to undertake this brine storage and shipment as an interim measure pending full operation of the Brine Reduction Area. The Brine Reduction Area is expected to be fully operational by approximately April 1991, after installation of an upgraded Pollution Abatement System. The Army also considered the no-action alternative which has been discussed in prior environmental documents that are available from the office listed below.

The Army has prepared an environmental assessment evaluating the proposed action. Reasons that the proposed action would not cause significant environmental impact include the following: no major construction would be involved nor would any new land be disturbed; the brines contain detectable levels of heavy metals but are not noxious, flammable, or otherwise inherently dangerous; water resource impacts would be minimal even if accidental spills of brines occurred during handling; hazardous brines would be shipped in single-wall, 316 stainless steel International Standardization Organization (ISO) Tanks with polyvinylchloride liners. Brines, in these Environmental Protection Agency-approved containers, would be shipped to the U.S. where they would be either dried and disposed of in licensed landfills or disposed of as liquids at licensed deep-well injection sites.

SUPPLEMENTARY INFORMATION: In the summer of 1990, the Army began destroying chemical agents and munitions currently stored at Johnston Atoll about 800 statute miles southwest of the Hawaiian Islands. Agents being destroyed are the nerve agents GB and VX, and the blistering agent HD. The agents are contained in bombs, rockets, projectiles, mines, and one-ton containers and will undergo thermal destruction in JACADS. The destruction process generates various types of waste, including brines, which result from scrubbers of the pollution abatement systems and brine reduction area. The brines consist mainly of inorganic salts and may contain detectable levels of heavy metals such as arsenic, barium, cadmium, chromium, lead, mercury selenium, and silver. Those brines, which have sufficiently high levels of heavy metals so as to be considered hazardous waste under the Resource Conservation and Recovery Act (RCRA), would be placed in portable ISO Tanks. The Army proposes to ship the brine in these portable tanks to the continental United States, where the brines would be disposed of in a licensed landfill or a licensed deep-well injection site. The ocean transportation would be by barge to Honolulu where the portable tanks would be transferred to a container ship for transportation to Long Beach, California. From Long Beach, some of the brines would be transported about 200 miles by truck to a disposal site at Kettleman Hills. The remainder would be shipped about 45 miles by truck to Azusa, California and from there about 1,450 miles by rail to the waste injection disposal site near Corpus Christi, Texas. Shipment from Johnston Island would be monthly and is proposed to commence on or around December 27, 1990. This proposal is consistent with the RCRA-established limit on storage of the brines in the ISO Tanks. Because of the RCRA limit on ISO Tank storage, agent destruction operations at JACADS might have to be suspended if brine shipment does not commence by January 4, 1990.

The proposed action would involve only minor new construction and increases in the work force so related impacts also should be minor. The final disposal of the brines, whether by deep-well injection or by landfill after drying operations which include concentrating in an evaporation pond, would take place in a licensed facility. The brines would meet the waste acceptance criteria for those facilities and as such would not be expected to result in significant impacts. The impacts would not be discernible from those that are already occurring at the disposal facilities since the brines would be combined with similar and compatible waste from other generators at the

disposal facilities. Hence, the impacts of the disposal operations at these facilities would be minor.

No significant impacts would be expected from routine operations. Minor spills could occur at any of the brine transfer points. These would be cleaned up using routine procedures. No special precautions would be required at Johnston Island, along the transport corridors, or at disposal sites beyond those normally needed to maintain occupational, health, and safety standards. Spills of hazardous brines during handling would likely be the highest consequence nonroutine events. These could occur at any point between the origin and the final U.S. disposal sites and would be expected to have only minor, short-term, and localized impacts.

The proposed action of temporary storage of hazardous brines on Johnston Island and eventual shipment to the U.S. for disposal does not constitute a major federal action normally requiring the preparation of an enironmental impact statement. Based on the analysis provided in the environmental assessment, the Army determines that this action will not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Therefore, an environmental impact statement is not required.

Pursuant to Army Regulation 200-2, no federal actions will take place in furtherance of this proposal until the close of the public comment period. The Army will accept comments from the public on this proposal until December 27, 1990, and will then indicate whether the record still supports a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Office of the Program Manager for Chemical Demilitarization, attn: SAIL-PMM (Colonel Carestia), Aberdeen Proving Ground, Maryland 21010-5401; telephone (301) 671-3337.

Lewis D. Walker,

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

[FR Doc. 90-27797 Filed 11-26-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: Interested persons are invited to submit comments on or before December 27, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: James O'Donnell (202) 708-5174.

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

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from James O'Donnell at the address specified above.

Dated: November 20, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: New.

Title: Performance Report for Student Literacy Corps Program.

Frequency: Annually.

Affected Public: Non-profit institutions.

Reporting Burden:

Responses: 209.

Burden Hours: 1254.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: Grantees who participate in the Student Literacy Corps Program submit this report to the Department. The Department uses the information to assess the accomplishment of project goals and objectives, and to aid in effective program management.

[FR Doc. 90-27724 Filed 11-26-90; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by December 21, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: James O'Donnell (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB

may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice with attached proposed information collection requests prior to submission of these requests to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting and/or Recordkeeping burden and (6) Abstract. Because an expedited review is requested, the additional information to be requested in this collection is included in the section on "*Additional Information*" in this notice.

Dated: November 20, 1990.

James O'Donnell,

Acting Director for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Expedited.

Title: Grant Application under the Education of the Handicapped Act.

Abstract: This form will be used by State educational agencies to apply for funding under the Education of the Handicapped Act, as amended. The Department uses the information to make grant awards.

Additional Information: An expedited review is requested due to Congress passing Public Law 101–476, the Education of the Handicapped Act Amendments of 1990, which added a requirement in section 610(b). Due to time restraints, this request is needed to allow grants to be awarded in FY 1991. This form contains the Standard Form SF–424 Federal Assistance Face Sheet and SF–424A Budget Information. The proposed changes to the program narrative are the following:

1. Under section entitled, "A. New Grants," a sentence would be added as follows:

Note also that, in the Education of the Handicapped Act Amendments of 1990, Congress directed the Secretary, where appropriate, to require applicants to address the needs of infants, toddlers, children and youth with disabilities from minority backgrounds.

2. Under section entitled, "3. Approach," add a new section:

(d) Describe, where appropriate, how the proposed project will address, in whole or in part, the needs of infants, toddlers, children and youth with disabilities from minority backgrounds.

Frequency: Annually.

Affected Public: State or Local Governments.

Reporting Burden:

Responses: 2,710.

Burden Hours: 97,820.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

[FR Doc. 90–27725 Filed 11–26–90; 8:45 am]

BILLING CODE 4000-01-M

President's Board of Advisors on Historically Black Colleges and Universities; Meeting

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda for a forthcoming meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: December 11, 1990, 9 a.m. until 5:30 p.m.

ADDRESSES: The Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Robert K. Goodwin, Executive Director, White House Inititative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue, SW., room 3682, ROB–3, Washington, DC 20202–5120, telephone (202) 708–8667.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities is established in accordance with Executive Order 12677, signed April 28, 1989. The Board is established to provide advice and make recommendations on developing an annual plan to increase the participation by historically Black colleges and universities in federally sponsored programs and on how to increase the private sector's role in strengthening historically Black colleges and universities. The Board is also responsible for developing alternative sources of faculty talent, particularly in the fields of science and technology; and for providing advice on how historically Black colleges and universities can achieve greater financial security through the use of improved business, accounting, management, and development techniques.

The proposed agenda for the first business meeting of the Board will be the official swearing in of Board Members, the discussion of the current and proposed public and private sector strategies to strengthen historically Black colleges and universities, and remarks by special guest.

Records are kept of all Board meetings and are available for public inspection at the White House Initiative, U.S. Department of Education, ROB–3, room 3682, Washington, DC from the hours of 8:30 a.m. to 5 p.m., Monday through Friday.

Dated: November 15, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90–27708 Filed 11–26–90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Wednesday, December 5, 1990, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 9:30 p.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the aforesaid location on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the agenda
2. Summary Record of SEQ Meeting of October 22, 1990
3. Current Emergency Response Situation
   —The Emergency Response Potential of IEA/OECD Countries in December 1990 (Draft Report by the

SEQ to the Governing Board Meeting of December 12, 1990)
—Questionnaire B (QuB) Import Data for Period to January 1991
—Short-term Oil Product Imbalance Issues
4. Emergency Response Reviews of IEA Countries
—Emergency Response Review of Germany
—Calendar for Emergency Response Reviews
5. Emergency Reserve Situation of IEA Countries
—Emergency Reserve and Net Import Situation of IEA Member Countries on July 1, 1990
6. Quarterly Oil Forecast—4Q90/3Q91
7. Emergency Data System
—QuA/QuB Data Quality and their Correspondence to Objectives and Use of QuA/QuB Data in IEA Emergency Preparedness
—Base Period Final Consumption 3Q89–2Q90
—Monthly Oil Statistics (MOS) to August 1990
—MOS to September 1990
8. Any Other Business
—Standing Group on the Oil Market Meeting of December 4, 1990
—Short-Term Work Schedule of the SEQ.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of Congress, representatives of the IEA, representatives of members of the SEQ, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, November 21, 1990.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 90–27837 Filed 11–26–90; 8:45 am]

BILLING CODE 6450–01–M

Office of the Deputy Secretary

Alternative Fuels Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: United States Alternative Fuels Council.

Date and Time: Wednesday, December 12, 1990, 9 a.m.–4 p.m.

Location: Russell Building, room 253, Washington, DC 20510.

Contact: Mark Bower, Office of Policy, Planning and Analysis, U.S. Department of Energy, Mail Stop PE–50, Washington, DC 20585, Phone: (202) 586–3891.

Purpose of the Council: To provide advice to the Interagency Committee on Alternative Motor Fuels to help:

1. "coordinate Federal agency efforts to develop and implement a national alternative motor fuels policy."

2. "ensure the development of a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels."

3. "ensure communication among representatives of all Federal agencies that are involved in alternative motor fuels projects or that have an interest in such projects."

4. "provide for the exchange of information among persons working with, or interested in working with, the commercialization of alternative motor fuels."

Alternative Fuels Council Agenda Outline December 12, 1990

9 a.m.–10:30 a.m.
Discussion of Alternative Fuel Policies: Part I
Chair: Robert W. Hahn
11 a.m.–12:30 p.m.
Discussion of Alternative Fuel Policies: Part II
Chair: Charles R. Imbrecht
12:30 a.m.–2 p.m.
Lunch
2 p.m.–3 p.m.
Future Activities of the U.S. Alternative Fuels Council
Chair: Robert W. Hahn
3 p.m.–4 p.m.
Agenda for Next Meeting, Dates of Future Meetings, and Public Comment Period
Chair: Charles R. Imbrecht
4
Adjourn.

Public Participation: The meeting is open to the public. Written statements may be filed with the Council either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact Mark Bower at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairpersons of the Council are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, room 1E190, Forrestal Building, 1000 Independence Ave., SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, DC, on November 21, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90–27838 Filed 11–26–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER89–391–000, et al.]

Mid-Continent Area Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directrate Filings

November 19, 1990.

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

1. Mid-Continent Area Power Co.

[Docket No. ER89–391–000]

Take notice that on November 15, 1990, the Mid-Continent Area Power Pool ("MAPP") filed on behalf of the investor-owned public utility members of MAPP supplemental and amendatory information regarding proposed revisions to several of the Pool rate schedules for the purpose of incorporating formula rates. The schedules affected include Schedule B (Seasonal Participation Power), Schedule C (Emergency and Scheduled Outage Energy Service), Schedule E (Economy Energy), Schedule G (Operational Control Energy), Schedule H (Peaking Power), Schedule I (Short Term), Schedule K (System Participation Power), and Schedule M (General Purpose Energy) which is being added. MAPP requests a retroactive effective date on May 1, 1989 for the rate change.

Comment date: December 3, 1990, in accordance with Standard Paragarph E at the end of this notice.

2. Union Electric Co.

[Docket No. ER91–115–000]

Take notice that Union Electric Company, (Union Electric) on November 13, 1990, tendered for filing a Letter Agreement and Attachment to Exhibit B, to the Wholesale Service Agreement of February 13, 1989 between City of Farmington, Missouri, and Union Electric.

Union Electric states the purpose of the Letter Agreement and Attachment to Exhibit B is to provide for a new delivery point between the parties.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Co.

[Docket No. ER91-118-000]

Take notice that Delmarva Power & Light Company (Delmarva) on November 13, 1990, tendered for filing proposed Supplement No. 5 to its FERC Rate Schedule No. 38. This Supplement, filed with the approval and concurrence of The City of Dover, Delaware (Dover), is being made to coordinate with similar internal accounting changes with respect to intra-pool installed capacity accounting between members of the Pennsylvania, New Jersey, and Maryland Interconnection (PJM).

Copies of this filing were served upon the City of Dover, the Mayor of the City of Dover and the Delaware Public Service Commission.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. CIE—AMP-Ohio Interconnection Agreement

[Docket No. ER91-119-000]

Take notice that on November 13, 1990, the Cleveland Electric Illuminating Company filed, on behalf of the above listed parties to the CEI—AMP-Ohio Agreement an initial rate schedule between the Cleveland Electric Illuminating Company and American Municipal Power-Ohio Inc.

This Agreement provides for Short Term Power supplied by CEI. The parties have requested an effective date of October 1, 1990 for this schedule.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corp.

[Docket No. ER91-111-000]

Take notice that Central Vermont Public Service Corporation (CVPS) on November 13, 1990, tendered for filing two agreements pursuant to which it has agreed to purchase from and sell power to New York Power Authority (NYPA) for resale to other utilities. CVPS states that with respect to its purchases from NYPA for resale to other utilities it is serving as a contracting agent for the purchase of Ontario Hydro power and energy by Vermont utilities. Central Vermont states that it has agreed to purchase the power and energy from the New York Power Authority (NYPA) for resale to the Vermont utilities, but that it imposes no additional charge for the purchase and resale and does not bill the utilities for the energy. The utilities instead are billed directly by Vermont Electric Power Company.

CVPS also states that it has sold system power and energy to NYPA for resale to Ontario Hydro pursuant to the agreement at rates that reflect less than its full allowed costs.

CVPS requests that the Commission waive its notice of filing requirements to allow the rate schedules to become effective retroactively as of September 1, 1989 and June 1, 1990.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER91-120-000]

Take notice that New England Power Company (NEP) on November 13, 1990, filed an executed Interconnection Agreement (Agreement) between NEP and L'Energia, Inc.

NEP requests waiver of the Commission's notice requirements so that the Agreement can be made effective May 9, 1990, the date of the Agreement. As good cause for the request for waiver, NEP states that it has begun construction of the Interconnection Facilities in reliance on the Agreement and in order to accommodate the developer.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Mid-Continent Area Power Pool

[Docket No. ER91-114-000]

Take notice that the Mid-Continent Area Power Pool, on November 13, 1990, tendered for filing Amendment No. 21 to the Mid-Continent Area Power Pool Agreement (Amendment).

Specifically, Amendment No. 21:

Adds Paragraph 3.34 to Article III—Definitions, to define the term "Contractor."

Revises Paragraphs 9.01 and 9.03 of Article IX to assure membership on the Executive Committee of representatives from the Participant allocated the largest portion of the MAPP Annual Budget and of other Participants allocated 20% or more of said Budget.

Eliminates the provision in Paragraph 15.01 of Article XV for selecting a Participant as Contractor.

Revises Paragraph 15.02 of Article XV by removing the Management Committee approval of the selection and retention of the MAPP Center Manager.

Clarifies Paragraph 15.07 of Article XV to name only the Contractor as responsible for the services required by the MAPP Committees.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Co.

[Docket No. ER91-109-000]

Take notice that on November 13, 1990, Southern California Edison Company (Edison) tendered for filing the Edison-Vernon Firm Transmission Service Agreement (Agreement) for Vernon's Purchases from the State of California, Department of Water Resources (CDWR) which has been executed by Edison and the City of Vernon, California (Vernon).

Under the agreement, Edison agrees to make firm transmission service available to Vernon in 1991-1993 from Vincent Substation to Vernon's Point of Delivery, during certain hours, for Vernon's purchase of capacity and associated energy from CDWR. Edison will be providing firm transmission service for up to 67 megawatts of capacity and associated energy from CDWR during the months of January, February, March, April, November, and December and 98 megawatts of capacity and associated energy during the months of May through October.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 3, 1990, in accordance with Standard Paragraph E end of this notice.

9. Central Vermont Public Service Corp.

[Docket No. ER91-112-000]

Take notice that on Central Vermont Public Service Corporation (CVPS) on November 13, 1990, tendered for filing as an initial rate schedule a contract and supplement thereto under which CVPS had agreed to sell an entitlement of up to 3.5 MW of the Vermont Yankee generating unit to Vermont Marble Company. The contract provides that Vermont Marble may designate between 1 MW and 3.5 MW of the entitlement in each month, on 45 days notice. CVPS states that the price for the transaction was negotiated by CVPS and Vermont Marble and reflects the parties' agreement concerning the split of the savings realized from the transaction. CVPS states that the average price under the agreement was at less than CVPS' fully allocated cost for Vermont Yankee.

CVPS requests the Commission to waive its notice of filing requirements to permit the rate schedule to become effective as of May 1, 1990.

Comment date: December 3, 1990, in accordance with Standard Paragraph E end of this notice.

10. Central Vermont Public Service Corp.

[Docket No. ER91-113-000]

Take notice that Central Vermont Public Service Corporation (CVPS) on November 13, 1990, tendered for filing agreements for the sale of incremental

capacity and energy to Johnson Water and Light Department and Hyde Park to sell to CVPS all of their entitlements other than CVPS system contract power and NYPA power; and for CVPS to sell to Johnson and Hyde Park incremental service to meet all of their needs in excess of those met by CVPS system contract and NYPA power. The agreements also provide that the price Johnson and Hyde Park will pay will pay will be no higher than the price they would have paid for service if the contracts were not in effect.

CVPS requests the Commission to waive its notice of filing requirements to permit the agreements to become effective as of May 1, 1990.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Central Vermont Public Service Corp.

[Docket No. ER91-117-000]

Take notice that Central Vermont Public Service Corporation (CVPS) on November 13, 1990, tendered for filing a one-year extension of a Purchase Agreement between CVPS and New England Power Company (NEP). The Agreement provides for the sale of a portion of the Central Vermont entitlement in the capacity and net electrical output of the Vermont Yankee Nuclear Power plant to NEP.

CVPS requests the Commission to waive its notice of filing requirements to permit the Agreement to become effective as of November 1, 1989.

Comment date: December 3, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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

Lois D. Cashell,

Secretary.

[FR Doc. 90-27731 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-3-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 20, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 14, 1990, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Algonquin states that it is filing revised tariff sheets 28 Rev Sheet No. 211, 24 Rev Sheet No. 214 and 5 Rev Sheet No. 220 pursuant to Section 10 of Rate Schedule STB, Section 9 of Rate Schedule SS-III and Section 4 of Rate Schedule ATAP to track changes in the underlying services, Texas Eastern Transmission Corporation's ("Texas Eastern") Rate Schedules SS-2, SS-3 and FT-1, respectively. On October 31, 1990 in Docket No. RP91-119 *et al.*, Texas Eastern filed to motion into effect its suspended rates in the subject Docket to be effective December 1, 1990. Accordingly, Algonquin is making the instant filing to track such changes.

Algonquin states that the proposed effective date of 28 Rev Sheet No. 211, 24 Rev. Sheet No. 214 and 5 Rev Sheet No. 220 is December 1, 1990 to coincide with Texas Eastern's filing.

The effect, at December 1, 1990, under Rate Schedule STB is, to increase the Firm Demand by $0.2180 per MMBtu, and increase the Withdrawal rate by $0.0046 per MMBtu. In addition, the demand-2 unit rate has been eliminated in favor of a one part demand rate structure. The effect is to decrease the demand-2 rate from $0.1637 to $0.0000 per MMBtu while increasing the demand-1 unit rate by $7.055 per MMBtu. Under Rate Schedule SS-III the effect is to increase the Firm Demand rate by $0.4070 per MMBtu, increase the FDDQ Withdrawal rate by $0.0462 per MMBtu and increase the Non-FDDQ Withdrawal rate by $0.1582 per MMBtu. Under Rate Schedule ATAP the effect of the changes is to increase the Commodity Maximum rate by $0.1848 per MMBtu, increase the Commodity Minimum rate by $0.0957 per MMBtu and increase the Interruptible Commodity rate by $0.2530 to $0.8083 per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 27, 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. 90-27738 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-45-002; RP88-46-005]

Arkla Energy Resources, a Division of Arkla, Inc.; Proposed Changes in FERC Gas Tariff

November 20, 1990.

Take notice that on November 16, 1990, Arkla Energy Resources ("AER"), a division of Arkla, Inc., tendered for filing changes in its FERC Gas Tariff, Volume Nos. 1, 1-A and 3 to be effective November 1, 1990. AER states that this filing is in compliance with the Commission's Order Approving Settlements in the above-referenced dockets, which was issued on October 30, 1990. The specific tariff sheets filed by AER are listed in Appendix A.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27735 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-11-001]

Arkla Energy Resources, a Division of Arkla, Inc., Proposed Changes in FERC Gas Tariff

November 20, 1990.

Take notice that on November 16, 1990, Arkla Energy Resources ("AER"), a division of Arkla, Inc., tendered for filing minor housekeeping changes in its FERC Gas Tariff, Volume Nos. 1 and 1-A. AER states that this filing is to amend the tariff sheets filed on October 23, 1990, in this docket to incorporate the rates approved by the Commission's Order Approving Settlements in Docket Nos. RP88-45-000 and RP88-46-000 issued on October 30, 1990. AER does not propose any change to its original filing in Docket No. RP91-11-000 with regard to its proposed recovery of take-or-pay buyout and buydown expenses, incurred in order to resolve disputed claims arising out of AER's alleged failure to take gas or to pay for gas not taken.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990).) All such protests should be filed on or before November 29, 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27739 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-32-000]

Colorado Interstate Gas Co.; Filing

November 20, 1990.

Take notice that Colorado Interstate Gas Company ("CIG") submitted for filing six copies of affected tariff sheets from Original Volume No. 1, Original Volume No. 2, and Original Volume No. 3 of its FERC Gas Tariff, increasing by 0.16 cent/Mcf the presently effective Gas Research Institute ("GRI") rate from 1.30 cent/Mcf to 1.46 cent/Mcf effective January 1, 1990.

CIG notes that pursuant to the Commission's order issued September 18, 1990, in Docket No. TA91-1-32-001 and RP90-166-001, CIG sought a waiver of the Commissions regulations permitting the "as billed" flow-through in its quarterly purchased gas adjustment filings of demand and commodity costs incurred under certain producer contracts. Since the Commission has yet to act on CIG's filing in Docket Nos. TA91-1-32-001 and RP90-1-166-001, CIG will conform its GRI filing, where necessary, to be consistent with such action.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

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 Capital Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 28, 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. 90-27744 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-26-000]

El Paso Natural Gas Co.; Tariff Filing

November 20, 1990.

Take notice that on November 16, 1990, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in accordance with sections 21 and 22, Take-or-Pay Buyout and Buydown Cost Recovery, of El Paso Natural Gas Company's ("El Paso") Second Revised Volume No. 1 and First Revised Volume No. 1-A FERC Gas Tariffs, respectively, El Paso tendered for filing and acceptance certain tariff sheets that reflect a revision to the Monthly Direct Charge and Throughput Surcharge based on additional buyout and buydown costs not included in any of El Paso's previous filings to recover certain buyout and buydown costs and adjustments to previous filings.

El Paso states that it has also tendered alternative tariff sheets in the event El Paso's motion filed November 7, 1990 at Docket No. RM91-2-000, *et al.*, requesting modification of Order No. 528 is denied.

Pursuant to section 21.6 of El Paso's Volume No. 1 Tariff, El Paso is required to file with the Commission certain information supporting the buyout and/or buydown amounts paid. Accordingly, El Paso states that it is submitting concurrently, under separate cover letter, the schedules reflecting such information for which El Paso has requested confidential treatment.

El Paso respectfully requested that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets to become effective December 1, 1990. In the event El Paso's motion filed November 7, 1990 at Docket No. RM91-2-000, *et al.*, is denied, El Paso respectfully requested that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit certain of the tendered tariff sheets to become effective December 7, 1990.

El Paso states that copies of the filing were served upon all interstate pipeline system sales customers and shippers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 29, 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. 90-27746 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-3-000]

Five Flags Pipe Line Co.; Petition for Rate Approval

November 19, 1990.

Take notice that on November 14, 1990, Five Flags Pipe Line Company filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum firm reservation charge of $7.46 per MMBtu per month and a firm commodity charge of $0.0992 per MMBtu and a maximum interruptible rate of $0.3445 per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978.

Five Flag's petition states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and operates solely within the state of Florida. Five Flag's previous maximum interruptible transportation rate for section 311(a)(2) service was approved by the Commission June 4, 1987 in Docket No. ST87-452-000.

Pursuant to § 284.123 (b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before December 5, 1990. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27734 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-37-010, RP89-82-001, CP90-406-001, CP75-104-068]

High Island Offshore System; Compliance Filing

November 19, 1990.

Take notice that on November 14, 1990, High Island Offshore System (HIOS) filed with the Federal Energy Regulatory Commission (Commission) the following revised tariff sheets that it states are in compliance with the Commission's October 30, 1990 order in the above referenced proceeding.

First Revised Volume No. 1

First Revised Sheet No. 1
Original Sheet No. 1A
Third Revised Sheet No. 8
Origional Sheet No. 8A
First Revised Sheet No. 9
Original Sheet No. 74
Original Sheet No. 75
Original Sheet No. 76
Original Sheet No. 76A
Original Sheet No. 76B

The Commission's October 30 order approves an uncontested settlement that provides for an experimental program of firm transportation capacity brokering on the HIOS system, and specifies the terms and conditions applicable to the brokering program. HIOS states that it accepts the certificate amendment and tenders the required tariff sheets within the 15-day period prescribed in ordering paragraph (B) of the Commission's Ocrober 30 order.

HIOS requests that Third Revised Sheet No. 8, which contains the settlement rates, be made effective December 1, 1990, and requests that the Commission's 30-day notice requirement be waived with respect to that sheet.

HIOS states that First Revised Sheet No. 9 is proposed to become effective when HIOS accepts the certificate amendment. HIOS states that the proposed effective date is Nobember 14, 1990. All of the other tariff sheets are proposed to be effective December 14, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214, 385.211 (1990). All such protests should be filed on or before November 27, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 90-27733 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-65-004]

The Inland Gas Co., Inc.; Report of Refunds

November 20, 1990.

Take notice that the Inland Gas Company, Inc. (Inland) on May 21, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds, made pursuant to a Commission order dated March 19, 1990, which directed Inland to make cash refunds 10 days after acceptance of its revised tariff sheets, which occurred on May 4, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the commission's rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1989)). All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to the proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27737 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-5-001]

Natural Gas Pipeline Co. of America; Changes in Tariff

November 20, 1990.

Take notice that on November 14, 1990 Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1A, Substitute Original Sheet No. 120 to be effective November 1, 1990.

Natural states the purpose of this filing is to comply with the Commission's October 31 order which approved Natural's unauthorized gas penalty subject to conditions.

The condition required National to retain unauthorized gas not claimed after one hundred twenty days at no cost to itself and to develop a method to pass any benefit of retained volumes to both sales and transportation customers.

Natural states that it proposes to treat the retained volumes as a purchase and to credit the assigned cost of the purchase to Account 495, Other Gas

Revenues. Other Gas Revenues is a credit to the cost of service for purposes of determining Natural's jurisdictional rates for sales and transportation services. Natural requested waiver, to the extent if any is required, of the Commission's order and Regulations to permit the approval of this procedure for accounting for unauthorized gas retained.

Natural states that a copy of the filing was mailed to Natural's jurisdictional customers, intervenors, and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27736 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-27-000]

Northwest Alaskan Pipeline Co.; Tariff Changes

November 20, 1990.

Take notice that on November 16, 1990, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, tendered for filing in Docket No. RP91-27 Twenty-Seventh Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that it is submitting Twenty-Seventh Revised Sheet No. 5 reflecting an increase in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to three of Northwest Alaskan's four U.S. purchasers, Northern Natural Gas Company ("Northern"), Panhandle Eastern Pipe Line Company ("Panhandle") and Pacific Interstate Transmission Company ("PIT") under Rate Schedules X-1, X-2, and X-4, respectively, and a decrease in total demand charges to Natgas U.S. Inc. ("Natgas") under Rate Schedule X-3. The increase in total demand charges for Northwest Alaskan's three customers results primarily from an increase in demand charges from Pan-Alberta and from foreign exchange rate fluctuations.

Northwest Alaskan states that it is submitting Twenty-Seventh Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Northern, Panhandle, Natgas and PIT, and pursuant to Rate Schedules X-1, X-2, X-3, and X-4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (January 1, 1991 through June 30, 1991) the demand charges and demand charge adjustments which Northwest Alaskan will charge during that period.

Northwest Alaskan requests that Twenty-Seventh Revised Sheet No. 5 become effective January 1, 1991.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 29, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27740 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-2-000]

Rhone-Poulenc Pipeline Co.; Petition for Rate Approval

November 20, 1990.

Take notice that on October 26, 1990, Rhone-Poulenc Pipeline Co. filed, pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.277 per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Rhone-Poulenc's petition states that it owns and operates an intrastate pipeline located in Southwest Wyoming. The primary purpose of this pipeline is to gather and transport gas for its parent, Rhone-Poulenc of Wyoming Co. from a gas processing plant operated in Wyoming by Exxon Company, U.S.A. to an existing interconnection with Colorado Interstate Gas Company.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before December 5, 1990. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27742 Filed 17-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-29-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Filing

November 20, 1990.

Take notice that on November 16, 1990, Tennessee Gas Pipeline Company, (Tennessee) tendered revised tariff sheets to its Third Revised Volume No. 1 and alternate sets of Volume No. 2 to its FERC Gas Tariff to be effective December 16, 1990.

Tennessee states that this filing is made to revise its tariff provisions which provide for customer funding of certain transition costs related to gas purchase contract settlement payments made by Tennessee to its producer-suppliers. These revisions are necessary to comply with the Commission's directives in Order No. 528, issued in response to the DC Circuit's decision in *Associated Gas Distributors* v. *FERC*, 893 F.2d 349 (DC Cir. 1989), *reh'g and suggestion for reh'g en banc denied*, 898 F.2d 809 (1990), *cert. denied sub nom.*, *The Berkshire Gas Co.* v. *Associated*

Gas Distributors, U.S. _____, _____ 59 U.S.L.W. 3271 (October _____, 1990).

Tennessee states that its preferred alternative is the tariff sheets listed on Appendix A attached to the filing which provide that Tennessee will direct bill 37% of the transition costs, absorb 37%, and establishes a volumetric surcharge to recoup the remaining 26%. The direct bill will apply to customers who are or were taking service under Tennessee's Rate Schedules CD, G and GS. Each of those customers' percentage share of the direct billed costs will be 50% of the lesser of (1) the customer's allocation percentage under the purchase deficiency method approved by the Commission in Docket Nos. RP86-119, *et al.* or (2) the ratio of the customer's AQL in effect on July 1, 1988 to the sum of all customers' AQLs in effect on that date. To complete the recovery of transition costs filed for by Tennessee on or before November 30, 1990, the customers will continue making the same payments as they are currently making or, for customer currently making no payments, the completion of such recovery will be through a lump sum payment. Any transition cost recovery filed for after November 30, 1990 will be recovered over a two-year amortization period based on an annuity method computed every six-months.

The volumetric surcharge will apply to all units of throughout on Tennessee's system, except those volumes which would otherwise be subject to a volumetric surcharge more than once. The transition costs assigned for volumetric recovery will be recouped over a three-year amortization period. Subsequently, incurred costs would be recovered through incremental three-year surcharges.

Tennessee states that its alternative tariff sheets reflect the direct billing of 50% of the transition costs and the absorption by Tennessee of the remaining 50%. The direct bill will apply to each customer under Tennessee's Rate Schedules CD, G and GS and will be allocated among those customers based on the ratio of each customer's AQL in effect on July 1, 1988 to the sum of all customer's AQLs in effect on that date. The direct billed costs will be recovered over a two-year amortization period based on an annuity method. The direct billing charge will be adjusted every six months to reflect additional charges.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990).) All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to the proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27747 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-115-014]

Texas Gas Transmission Corp.; Report of Refunds

November 20, 1990.

Take notice that Texas Gas Transmission Corporation (Texas Gas) on September 17, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds, made in accordance with the provisions of Article I of the Stipulation and Agreement filed in the proceeding and approved by Commission Letter Orders of November 24, 1989 and July 10, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the commission's rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1989). All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be take, but will not serve to make protestants parties to the proceeding. Persons that are already parties to the proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27741 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-42-004]

Transwestern Pipeline Co.; Revised Refund Report

November 20, 1990.

Take notice that on November 13, 1990, Transwestern Pipeline Company (Transwestern) filed with the Federal Energy Regulatory Commission (Commission) a revised refund report.

Transwestern states that it filed a refund report on October 12, 1990, pursuant to Ordering Paragraph (B) of the Commission's August 28, 1990 order in the above referenced proceeding. Transwestern states that subsequent to the filing of the refund report, Transwestern discovered that the principle refund amount of $696,150 has been collected in the direct bill proceedings (Docket Nos. TM90-3-42-000 and TM90-4-52-000) and should have been refunded on a straight percentage basis (after being adjusted for refunds associated with Rate Schedules SG-1, SG-2, RW-1, and Industrial customers) as approved in the Commission's May 11, 1988, July 29, 1988 and July 31, 1989 orders in Docket Nos. CP88-000, *et al.*

Transwestern is requesting a waiver of the requirements of the August 28, 1990 order for the making of refunds and the filing of the revised report.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC, 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before November 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27745 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-4-42-003]

Transwestern Pipeline Co.; Filing of Refund Report

November 19, 1990.

Take notice that on November 5, 1990, Transwestern Pipeline Company (Transwestern) filed pursuant to

Ordering Paragraph (C) of the Commission's September 18, 1990 order in the above reference proceeding its report verifying that it has made the refunds required by the September 18 order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before November 27, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27732 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-25-000]

United Gas Pipe Line Co.; Complaint and Request for Immediate Refund

November 20, 1990.

Take notice that on November 14, 1990, Texas Eastern Transmission Corporation (Texas Eastern) pursuant to rule 206 of the Federal Energy Regulatory Commission (Commission) rules of practice and procedure, 18 CFR 385.206, and the Commission's August 3, 1990 order, filed with the Commission a compliant directed to United Gas Pipe Line Company (United).

Texas Eastern complains that United has assessed a penalty and refused to make refunds of approximately $8.2 million to Texas Eastern for alleged unauthorized overrun service in December 1989 in contravention with its own tariff and relevant Commission orders. Texas Eastern also complains that United has assessed an annual unauthorized overrun penalty of approximately $5.6 million.

Texas Eastern states that it requested the delivery of sales gas commencing on December 23, 1989 from United up to its firm contract demand of 300,000 Mcf per day, and that United began selling gas to Texas Eastern. Texas Eastern states that at the time United stated that it would not consider the sales "authorized", nor would United waive any penalty associated with those sales. Texas Eastern states that United based its refusal to authorize the overrun service on the fact that Texas Eastern's monthly D-2 nomination was zero Mcf.

Texas Eastern states that it did not consent to the penalty at the time it requested the sales service. Texas Eastern states that United billed Texas Eastern a $5 per Mcf penalty, amounting to approximately $8.2 million in the aggregate, and that it paid the penalty amount under protest. Texas Eastern further notes that on November 7, 1990 United billed Texas Eastern an additional annual unauthorized penalty of approximately $5.6 million.

Texas Eastern requests that the Commission order United to refund the penalty amount of approximately $8.2 million with interest accrued since the date of payment and order that the annual unauthorized penalty of approximately $5.6 million has not been properly billed pursuant to United's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 20, 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. Answers to the complaint shall be due on or before December 20, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90-27743 Filed 11-26-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-76-NG]

Cascade Natural Gas Corp.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy Department of Energy.

ACTION: Notice of an order granting long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Cascade Natural Gas Corporation authorization to import a total of 42.2 Bcf of natural gas from Canada over a period of ten years, at a daily rate of up to 12,000 Mcf. The gas would be purchased from Mobil Oil Canada, Ltd. and delivered at the international border near Sumas, Washington, No new pipeline construction in the United States is required.

A copy of this order is available for inspection and copying in thie Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 30585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., November 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary Office of Fossil Energy.

[FR Doc. 90-27839 Filed 11-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No 90-78-NG]

Ocean State Power; Order Granting Authorization To Import and Export Canadian Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export Canadian natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Ocean State Power authorization to import and export up to a total of 36.5 Bcf of Canadian natural gas over a two-year term beginning on the date of the first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal Holdiays.

Issued in Washington, DC, November 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-27840 Filed 11-26-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00106; FRL-3841-2]

Renewal for the Biotechnology Science Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announces the renewal for the Biotechnology Science Advisory Committee following consultation with the Committee Management Secretariat, General Services Administration. EPA has determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues this advisory committee for 2 more years, unless otherwise terminated, will be filed with the appropriate Congresssional committees and the Library of Congress. The committee will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of the Act.

FOR FURTHER INFORMATION CONTACT: Elizabeth Milewski, Executive Secretary, Biotechnology Science Advisory Committee, TS-788, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 382-6900.

Dated: November 16, 1990.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 90-27818 Filed 11-26-90; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3863-9]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Cab-O-Sil Division, Cabot Corporation, Tuscola, IL

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final decision on exemption petition.

SUMMARY: Notice is hereby given by the USEPA that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Cab-O-Sil Division, Cabot Corporation (Cabot), of Tuscola, Illinois, for continued use of Well No. 2. As required by 40 CFR part 148, Cabot has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constitutents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by Cabot of specific restricted hazardous wastes, including hydrochloric acid and wastewaters contaminated with hydrochloric acid which are hazardous because they are corrosive (i.e., Ph is less than or equal to 2.0, hence its waste code is D002 under 40 CFR 261), a multi-source leachate (Code F039) contaminated with small amounts of 1,1-dichloroethylene, 1,2-dichloroethylene, methylene chloride, phenol, tetrachloroethylene, and trichloroethylene from a closed waste storage impoundment, and low concentrations of residual, spent acetone (Code F003) rinsed from laboratory glassware cleaned with solvent, into a Class I hazardous waste injection well, specifically identified as Well No. 2, at the Tuscola facility. This decision constitutes a final USEPA action for which there is no administrative appeal.

BACKGROUND: Cabot submitted a petition on April 14, 1988, requesting exemption for its two injection wells located in Tuscola, Illinois, from the land disposal restrictions for hazardous wastes. USEPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, regional and local geology, seismic activity, penetrations of the confining zone, and the mathematical models submitted by Cabot to demonstrate that no migration from the injection zone would occur. The USEPA has determined that the geological setting at the site as well as the construction and operation of Well No. 2 are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR Part 148. The injection zone at this site includes the upper part of the Franconia, all of the Potosi and Eminence, and the lower part of the Oneota Dolomite between the depths of 5,400 and 4,442 feet. The immediately overlying confining zone is the Shakopee Dolomite between 4,442 and 4,124 feet. The confining zone is separated from the lowermost source of underground drinking water at a depth of 2,750 feet by sequences of permeable and less permeable sedimentary rocks which provide additional protection from fluid migration into underground sources of drinking water. A fact sheet containing a complete summary of the decision now being finalized was published in the **Federal Register** of August 24, 1990.

A public notice of the proposed decision was issued on August 10, 1990, pursuant to 40 CFR 124.10, and a public hearing was subsequently held in Tuscola on September 10, 1990. The public comment period expired on September 24, 1990. A number of comments were received and all comments have been considered in making the final decision. Condition 6 of the proposed exemption required that the petitioner must restore the mechanical integrity of Well No. 1 before the exemption becomes final. Since this condition has not been met and the absence of mechanical integrity on the part of Well No. 1 does not pose a threat during operation of Well No. 2, the condition has been deleted, but the exemption has been limited to Well No. 2. When a demonstration of the mechanical integrity of Well No. 1 has been made, an exemption can be granted for the operation of that well, provided all other factors remain the same.

After considering all comments received, the USEPA has determined that its reasons for granting the exemption as set forth in the original fact sheet remain valid; accordingly, a final exemption is granted with specific conditions listed in this notice. A responsiveness summary has been prepared for distribution to all commentors and those who signed in at the public hearing.

Conditions

For this exemption to be effective, Cabot must meet the following conditions:

(1) The monthly average injection rate must not exceed 400 gallons per minute.

(2) The concentrations of the constituents included in the injected leachate will not exceed the amounts listed as proposed maximum allowable concentrations in Table 8-6 in the petition document;

(3) Injection shall occur only into the Franconia, Potosi, and Eminence Dolomites and the Gunter Sandstone;

(4) The injection zone shall consist of the Franconia, Potosi, Eminence, and Oneota Dolomites and the Gunter Sandstone, found between 5,400 and 4,442 feet in Cabot's Well No. 2; and

(5) Cabot must be in full compliance with all conditions of its permits and other conditions relating to the exemption found in 40 CFR Parts 148.23 and 148.24.

DATES: This action is effective as of November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, USEPA, Region V, telephone (312) 886-2939. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

Dale S. Bryson,

Director, Water Division.

[FR Doc. 90-27812 Filed 11-26-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Inquiry into Practices Affecting Shipping in the United States/Japan Trade: Harbor Management Fund; Extension of Time

On October 24, 1990, the Commission published a notice (55 FR 42893), inviting interested persons to submit information, views, or comments by November 20, 1990, with respect to the effect of the Harbor Management Fund on ocean shipping services used in the import or export of goods to or from the United States and Japan.

The time for submission of the comments has now been extended to December 10, 1990.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-27728 Filed 11-26-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

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 10220. 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.: 224-200016-016.

Title: Port of New Orleans/Coastal Cargo Company Terminal Agreement.

Parties: Board of Commissioners of the Port of New Orleans, Coastal Cargo Company.

Synopsis: The Agreement extends the term of the basic lease agreement for an additional 3-year term ending November 17, 1993, and increases the monthly rental payment.

Agreement No.: 224-200005-004.

Title: The Port Authority of New York and New Jersey/Maher Terminals, Inc. Terminal Agreement.

Parties: The Port Authority of New York and New Jersey (Authority), Maher Terminals, Inc. (Maher).

Synopsis: The Agreement amends the basic agreement to provide that the Authority's investment in certain terminal improvement work being performed by Maher be increased and to extend the time for the performance of certain improvement work and berth deepening.

By Order of the Federal Maritime Commission.

Dated: November 20, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-27726 Filed 11-26-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

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.: 203-009735-028.

Title: Steamship Operators Intermodal Committee Agreement.

Parties:

American President Lines, Ltd.
Atlantic Container Line
Columbus Line, Inc.
Companhia de Navegacao Martima Netumar
Crowley Maritime Corporation
Evergreen International (U.S.A.) Corporation
Farrell Lines, Incorporated
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Sea-Land Service, Inc.
Yang Ming Marine Line Corporation
Wilhelmsen Lines USA Inc.
Zim Container Service

Synopsis: The proposed amendment would revise and restate the basic Agreement among the parties, which provides for a voluntary discussion agreement with emphasis on intermodal transportation technology and special aspects of matters pertaining to containerized cargo handling and transportation equipment, employment and interchange of equipment among users and suppliers thereof, and requirements peculiar to the movement of hazardous cargo.

Agreement No.: 212-010320-022.

Title: Brazil/U.S. Gulf Ports Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro
Companhia Maritima Nacional
American Transport Lines, Inc.
Empresa Lineas Maritmas Argeninas S.A.
A. Bottacchi S.A. de Navegacion C.F.I.I.

Synopsis: The proposed amendment would extend the special carrying adjustments for wheels for automobiles and certain neo-bulk-type commodities through December 31, 1991. It would also extend the alternate coast port service provisions through December 31, 1991.

Agreement No.: 217-011304-001.

Title: FMG/PDN/CSAV/NACL Space Charter Agreement.

Parties:

Flota Mercante Grancolombiana
Promotora De Navegacion
Compania Sud Americana de Vapores
North American Caribbean Line Ltd.

Synopsis: The proposed Agreement would expand the geographic scope of the Agreement to cover Caribbean ports, as well as all ports in South America.

By Order of the Federal Maritime Commission.

Dated: November 20, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-27727 Filed 11-26-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barclays PLC and Barclays Bank PLC, London, England; Proposal To Act as Agent in the Private Placement of All Types of Securities and Purchase and Sell All Types of Securities on Order of Customers as Riskless Principal

Barclays PLC and Barclays Bank PLC, both of London, England (collectively referred to as "Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to engage *de novo* through its subsidiary, Barclays de Zoete Wedd Securities, Inc., New York, New York ("Company"), in acting as agent in the private placement of all types of securities and acting as riskless principal in buying and selling all types of securities on the order of customers. Applicant proposes to conduct these activities throughout the United States.

Company is currently authorized to conduct the following activities under section 4(c)(8) of the BHC Act: (1) Underwriting and dealing in securities eligible to be underwritten and dealt in by U.S. member banks, and providing investment or financial advice in connection with these activities; (2) securities brokerage activities; (3) futures commission merchant ("FCM") activities; and (4) underwriting and dealing in, to a limited extent, debt and equity securities. *See Canadian Imperial Bank of Commerce/The Royal Bank of Canada/Barclays PLC/Barclays Bank PLC*, 76 Federal Reserve Bulletin 158 (1990) ("*Canadian Imperial/RBC/Barclays*").

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with the Board's approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. 1843 (c) (8). The Board has previously determined that acting as agent in the private placement of all types of securities and acting as riskless principal in buying and selling all types of securities on the order of customers are closely related and proper incidents to banking. *Banking Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) ("*Bankers Trust* Order"); *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990) ("*J.P. Morgan* Order").

Applicant has proposed to act as agent in the private placement of all types of securities and to act as riskless principal in buying and selling securities on the order of customers, subject to the prudential limitations set forth in the *Bankers Trust* Order as modified by the *J.P. Morgan* Order. Applicant has proposed to modify these limitations to account for its status as a foreign bank, in accordance with prior Board orders. *Toronto Dominion Bank*, 76 Federal Reserve Bulletin 573 (1991); *Canadian Imperial/RBC/Barclays*.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." 12 U.S.C. 1843(c)(8). Applicant contends that permitting Company to engage in the proposed activities would result in increased competition, greater convenience to customers, and increased efficiency in the provision of financial services.

Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a member bank with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Applicant asserts that, in accordance with the Board's determination in the *Bankers Trust* Order and *J.P. Morgan* Order, the proposed private placement and riskless principal activities, when conducted subject to certain limitations, do not constitute the underwriting of or dealing in securities.

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

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than December 16, 1990. Any request for a hearing on this application must be accompanied, as required by § 262.3(e)) of the Board's Rules of Procedure (12 CFR 262.3(e)), by a statement of the reasons why 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.

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

Board of Governors of the Federal Reserve System, November 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27773 Filed 11-26-90; 8:45 am]

BILLING CODE 6210-01-M

Blackshear Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225-14 of the Board's Regulation Y (12 CFR 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 December 17, 1990.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Blackshear Bancshares, Inc.*, Blackshear, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Blackshear Bank, Blackshear, Georgia.

2. *Button Gwinnett Bancorp, Inc.*, Norcross, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Button Gwinnett Savings Bank, FSB, Norcross, Georgia.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Phelps County Bank Employee Stock Ownership Plan*, Rolla, Missouri; to acquire an additional 33 percent of the voting shares of Phelps County Bancshares, Inc., Rolla, Missouri, for a total of 68 percent, and thereby indirectly acquire Phelps County Bank, Rolla, Missouri.

Board of Governors of the Federal Reserve System, November 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27774 Filed 11-26-90; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp.; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 1990.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina; to engage *de novo* through its subsidiary, NCNB Capital Markets, Inc., Charlotte, North Carolina, in acting as adviser, agent and broker in connection with the leasing of real and personal property, and originating and holding leases of real and personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27775 Filed 11-26-90; 8:45 am]

BILLING CODE 6210-01-M

Valley Bancorp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 outweight 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 17, 1990.

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

1. *Valley Bancorporation*, Appleton, Wisconsin; to acquire Western Federal Savings and Loan Association, Sparta, Wisconsin, and thereby engaged in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Wisconsin.

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

1. *Whitcorp Financial Company*, Leoti, Kansas; to engage directly in the sale of general insurance in Leoti, Kansas, a town with a population of less than 5,000, pursuant to § 225.25(b)(8)(iii)(A); to acquire Securities Investment Company, Lamar, Colorado, and thereby engaged in the sale of credit-related insurance pursuant to § 225.25(b)(8), and acquiring consumer loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27776 Filed 11-26-90; 8:45 am]

BILLING CODE 6210-01-M

Valley Bancorporation Thrift and Sharing Plan, et al.; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the ntoice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than December 11, 1990.

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

1. *Valley Bancorporation Thrift and Sharing Plan*, Appleton, Wisconsin; to acquire 20 percent of the voting shares of Valley Bancorporation, Appleton, Wisconsin, and thereby indirectly acquire Valley Bank, Madison, Wisconsin; Valley Bank, Appleton, Wisconsin; Valley Bank, Northeast, Green Bay, Wisconsin; Valley Bank, Janesville, Janesville, Wisconsin; Valley Bank Southwest, Spring Green, Wisconsin; Valley Bank, Menomonie, Menomonie, Wisconsin; Valley Bank, Southeast, Hartland, Wisconsin; Valley Bank Thiensville Mequon, Thiensville, Wisconsin; Valley Bank of Shawano, N.A., Shawano, Wisconsin; Valley First National Bank, Rhinelander, Wisconsin; Valley Bank, Kewaskum, Wisconsin; Valley Bank of Oshkosh, Oshkosh, Wisconsin; Valley First National Bank of Beaver Dam, Beaver Dam, Wisconsin; Valley Bank, South Central, N.A., Watertown, Wisconsin; Valley First National Bank of Ripon, Ripon, Wisconsin; and Valley Bank, Milwaukee, Wisconsin.

Board of Governors of the Federal Reserve System, November 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-27777 Filed 11-26-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Technical Advisory Committee for Diabetes Translation and Community Control Programs; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Time and Date: 8 a.m.-4:30 p.m., Wednesday, December 12, 1990.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202.

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

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters to be Discussed: The Committee will discuss scientific findings and the mechanisms for transfer of these findings into practice. The Committee will also begin to develop long range goals and objectives and discuss current issues related to diabetes morbidity and mortality. Division of Diabetes Translation (DDT) staff will provide updates on major projects and program initiatives currently underway within the Division.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Frederick G. Murphy, Program Analyst, DDT, Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE, Mailstop F-48, Atlanta, Georgia 30333, telephone 404/639-1771 or FTS 236-1771.

Dated: November 20, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-27828 Filed 11-26-90; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

[BPD-717-N]

Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee. The public is invited to participate in the discussion of the topic areas.

DATES: The meeting will be held on Friday, December 7, 1990, from 9 a.m. to 4 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held in the multipurpose room of the Altmeyer Building of the Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235.

FOR FURTHER INFORMATION CONTACT: Laura Green, (301) 966-9364.

SUPPLEMENTARY INFORMATION: The ICD-9-CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related DHHS programs. The work of the ICD-9-CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use in Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use of Federal programs. It is co-chaired by the National Center for Health Statistics (NCHS) and the Health Care Financing Administration (HCFA).

The Committee holds public meetings to present proposed coding changes and other educational issues. The meetings provide an opportunity for input concerning these issues to representatives of organizations active in medical coding, as well as physicians, medical record administrators, and other members of the public. The Committee encourages the public to participate in these meetings. After considering the comments presented at the public meetings, the Committee makes recommendations concerning the proposed changes to the Director of NCHS and the Administrator of HCFA for their approval.

At this meeting, the Committee will discuss: positron emission tomography, teleradiotherapy of 1 to 25 MEV protons, dilation of the duodenum, harvesting and retrieval of ovum (egg) and implantation of embryo into fallopian tube, total body scan, monoclonal antibodies, hepatatis C, HIV infection manifestations, ultraviolet skin damage, acute exacerbation of chronic bronchitis, Kaposi's sarcoma, pneumococcal pneumonia, chronic fatigue syndrome, acute ischemic heart disease without myocardial infarction, and other topics.

(Catalog of Federal Domestic Assistance Program No. 93.714, Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; No. 93-774, Medicare—Supplementary Medical Insurance)

Dated: November 9, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-27824 Filed 11-26-90; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Final Special Consideration for Grants for Geriatric Education Centers

The Health Resources and Services Administration (HRSA) announces the final special consideration for fiscal year (FY) 1991, Grants for Geriatric Education Centers under the authority of section 789(a) of the Public Health Service Act, as amended by Public Law 100-607.

Section 789(a) of the PHS Act authorizes the award of grants to accredited health professions schools as defined by section 701(4), or programs for the training of physician assistants as defined by section 701(8), or schools of allied health as defined in section 701(10). Applicants conducting projects to be administered in other types of public or nonprofit private entities may be considered for geriatric education center grants under section 301 of the PHS Act. Applicants must be located in the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, or the Federated States of Micronesia.

Grants may be awarded to support the development of collaborative arrangements involving several health professions schools and health care facilities. These arrangements, called Geriatric Education Centers (GECs), are established to facilitate training of medical, dental, optometric, pharmacy, podiatric, nursing, clinical psychology, health administration and appropriate allied health and public health faculty, students, and practitioners in the diagnosis, treatment, and prevention of diseases and other health problems of the aged.

Projects supported under these grants may address any combinations of the statutory purposes listed below:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction;

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Grant supported projects may be designed to accomplish the statutory purposes in a variety of ways, emphasizing multidisciplinary, as well as discipline-specific, approaches to the development of geriatric education resources. For example:

- Health professions schools within a single academic health center, or a consortium of several eduational institutions, may share their educational resources and expertise through a Geriatric Education Center to extend a broad range of multidisciplinary educational services outward to other institutions, faculty, facilities and practitioners within a geographic area defined by the appliant.
- Educational institutions that have limited geriatric education resources and which traditionally have had linkages to a geographic area where substantial geriatric education needs exists, may seek to establish a geriatric education center. Such a center could be designed to enhance and expand the capability of collaborating professional schools to provide geriatric education resources in the geographic area in need.
- Projects may support the development of Geriatric Eduation Centers designed to focus on multidisciplinary geriatric education emphasizing high priority services and high risk groups among the elderly, minority aging, or other special concerns.

Review Criteria

The following criteria will be considered in the review of applications:

(1) The degree to which the proposed project adequately provides for the project requirements described in 42 CFR 57.4004;

(2) The extent to which the rationale and specific objectives of the project are based upon a needs assessment of the status of geriatrics training in the institutions to be assisted and/or the geographic area to be served;

(3) The ability of the project to achieve the project objectives within the proposed geographic area;

(4) The adequacy of educational facilities and clinical training settings to accomplish objectives;

(5) The adequacy of organizational arrangements involving professional schools and other organizations necessary to carry out the project;

(6) The adequacy of the qualifications and experience in geriatrics of the project director, staff and faculty;

(7) The administrative and managerial ability of the applicant to carry out the proposed project in a cost-effective manner, and;

(8) The potential of the project to continue on a self-sustaining basis.

Funding Preference and Funding Priorities for Fiscal Year 1991

The following funding preference and funding priorities will be used in FY 1991. This funding preference and these funding priorities were implemented in FY 1989 after public comment and are extended in FY 1991.

Funding Preference

In determining the order of funding of competing applications which have been recommended for approval, a funding preference will be given to approved applications for projects which will offer training involving four or more health professions, one of which must be allopathic or osteopathic medicine.

Funding Priorities

A funding priority will be given to:

1. Applications which identify minority faculty or scholars with expertise in minority aging who will have substantial roles in carrying out the project. (Only individuals already employed or recruited may be included.)

2. Applications which document formal linkages with predominantly minority educational institutions or health facilities for the purpose of carrying out specific aspects of the project. (Formal linkages may include subcontracts, clinical teaching affiliations, letters of understanding, etc.)

3. Applications proposing to provide for a high degree of areawide collaboration.

A proposed special consideration was published in the **Federal Register** of September 26, 1990 (FR 55 39324) for public comment. No comments were received during the 30-day comment period. This special consideration will be retained as proposed.

Special Consideration for Fiscal Year 1991

Special consideration will be given to applications which provide didactic and

clinical training experience concerning geriatric rehabilitation.

The *Catalog of Federal Domestic Assistance* number assigned to this program has been changed from 13.969 to 93.989. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: November 20, 1990.

John Kelso,

Acting Administrator.

[FR Doc. 90-27772 Filed 11-26-90; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3171]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

The Notices list the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 9, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Housing Owner's Certification and Application for Tenant Assistance Payments, Schedule of Tenant Assistance Payments Due, Schedule of Section 8 Special Claims, Special Claims Worksheet.

Office: Housing.

Description of the Need for the Information and its Proposed Use: These forms are used by owners to request monthly housing assistance payments for eligible families, to limit the number of Section 8 units to those families whose incomes are less than 50 percent of the area median, and to restrict admission of ineligible tenants.

Form Number: HUD-52670, HUD-52670A, and HUD-52672A thru D.

Respondents: Individuals or Households and Businesses or other For-Profit.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collections	352,045		1		.452		159,124

Total Estimated Burden Hours: 159,124.

Status: Revision.

Contact: Brenda K. Gronewold, HUD, (202) 708-4162, Scott Jacobs, OMB, (202) 395-6880.

Date: November 9, 1990.

Proposal: Survey of State-Assisted Section 236 Non-Insured Projects.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The survey will collect basic data for each Section 236 non-insured project to determine which are eligible for low-income housing and which are not. The Department will use this information to develop programmatic guidelines and budgetary requirements.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	13		1		38		494

Total Estimated Burden Hours: 494.
Status: New.
Contact: Kevin East, HUD, (202) 708–2300, Scott Jacobs, OMB, (202) 395–6880.

Dated: November 9, 1990.

[FR Doc. 90–27752 Filed 11–26–90; 8:45 am]
BILLING CODE 4210-01-M

Office of Policy Development and Research

[Docket No. N-90-3170]

Commission on Regulatory Barriers to Affordable Housing; Meeting

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of open meeting.

SUMMARY: The Commission was established on March 14, 1990 in accordance with the provisions of the Commission's charter and the Federal Advisory Committee Act (FACA). The Commission was created to advise the Secretary on the nature and impact upon costs, of Federal, State and local regulations governing the construction of housing and to present its findings as well as advisory recommendations as to possible remedial Federal, State, and local actions that can be taken to eliminate excessive, duplicative or unnecessary regulations that increase the cost of housing.

Commission meetings have been held in Washington, DC on May 31 and September 26, and in Chicago, IL on August 1. Regional public hearings were held in Trenton, NJ on July 11, in Chicago, IL on July 31 and August 1, in San Francisco, CA, on September 12 and 13, and in Washington, DC, on September 25, 1990. The purpose of these hearings was to solicit testimony on the nature and extent of regulatory barriers to affordable housing reform.

TIME AND PLACE: The Commission will meet on Friday, December 14, 1990 from 9:30 a.m. to approximately 4:30 p.m. The meeting will take place at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC. This is an open meeting.

AGENDA: The Commission expects to discuss the structure of a final report and address proposed recommendations for the report.

PUBLIC PARTICIPATION: The public is invited to submit written comments on any aspect of the Commission's mandate or activities. The last 30 minutes of the meeting will be set aside for oral comments and questions.

FOR FURTHER INFORMATION CONTACT: David Engel, Office of Policy Development and Research, room 8140, Department of Housing and Urban Development, 451 Seventh Street, SW., Wasington, DC 20410. Telephone: (202) 755–4370. (This is not a toll-free number.)

Dated: November 16, 1990.

John C. Weicher,
Assistant Secretary for Policy Development and Research, United States Department of Housing and Urban Development.

[FR Doc. 90–27753 Filed 11–26–90; 8:45 am]
BILLING CODE 4210-10-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-320-1-4212-02]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0153), Washington, DC 20503, telephone number (202) 395–7340.

Title: Conveyance of Federally-Owned Mineral Interest, 43 CFR Part 2720.

OMB approval number: (1004–0153).

Abstract: The information collected is used to determine an applicant's eligibility for benefits and whether all statutory requirements have been met.

Bureau form number: None.

Frequency: Once.

Description of respondents: Owners of land surface whose ownerships overlie federally-owned mineral interests.

Estimated completion time: 10 hours each report.

Annual Responses: 50.

Annual Burden Hours: 500.

Bureau Clearance Officer: (Alternate) Gerri Jenkins, 202–653–8853.

Dated: November 9, 1990.

Vincent J. Hecker,
Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 90–27713 Filed 11–26–90; 8:45 am]
BILLING CODE 4310-84-M

[NV-930-91-4212-16; Nev-061603; N-22848, N-24788, N-32339, N-40267, N-40271, N-40272, N-40279, N-40280]

Correction; Termination of Desert Land Classifications; Nevada

November 15, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice makes a second correction to a termination notice published in 55 FR 30984 as Document No. 90–17599 on July 30, 1990.

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702–785–6526.

SUPPLEMENTARY INFORMATION: The termination notice published in 55 FR 30984 as Document No. 90–17599 on July 30, 1990, is hereby corrected as follows:

1. The legal description under T. 4 N., R. 55 E., sec. 7 should read: Lots 1–8, NE¼, E½SW¼, E½NW¼, SE¼.

2. The total acreage figure should read: 2163.66.

Robert G. Steele,
Deputy State Director, Operations.

[FR Doc. 90–27714 Filed 11–26–90; 8:45 am]
BILLING CODE 4310-HC-M

[NV-030-01-4370-12]

Helicopters and Motorized Vehicles Used in Gathering Wild Horses and Burros; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of hearing.

SUMMARY: A Public Hearing will be held on Monday, December 10, 1990, at 10: a.m., in the Carson City District Office Conference Room, 1535 Hot Springs Road, suite 300, Carson City, Nevada.

The purpose of the hearing is to obtain public input on the Bureau of Land Management's use of helicopters and motorized vehicles in the management of wild horses and burros.

FOR FURTHER INFORMATION CONTACT: Jim Gianola, Carson City District, Bureau of Land Management, 1535 Hot

Springs Road, suite 300, Carson City, Nevada, 89706, telephone (702) 885-6100.

Dated this 13th day of November, 1990.

James W. Elliott,

District Manager, Carson City District.

[FR Doc. 90-27378 Filed 11-26-90; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 754123

Applicant: Robert Kullman, Woodmere, NY

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. D. Parker, Eldansberg Farms, Constantia, South Africa, for the purpose of enhancement of survival of the species.

PRT 752165

Applicant: Andres De Cabo, Coral Gables, Florida

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Frank Bowker, Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

PRT 752162

Applicant: Eduardo Gomez De Molina, Miami, FL

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Frank Bowker, Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

PRT 754530

Applicant: William Fetner Lange, Kerrville, TX

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. D. Parker, Elandsberg Farms, Constantia, South Africa, for the purpose of enhancement of survival of the species.

PRT 753968

Applicant: Milwaukee County Zoo, Milwaukee, WI

The applicant requests a permit to import six captive born Amazon River turtles (=tartaruga) (*Podocnemis expansa*) from the Belem Zoo, Museo, Paraense Emilio Goeldi, Belem, Brazil, for display and breeding purposes.

PRT 753641

Applicant: The Rare Feline Breeding Cen. Inc., Center Hill, FL

The applicant requests a permit to export one male and one female captive born Clouded leopard (*Neofelis neublosa*) to Mr. Peter James, Welwyn, Herts, United Kingdom, for captive propagation purposes.

PRT 752739

Applicant: Houston Zoological Gardens, Houston, TX

The applicant requests a permit to export one captive born female Sooty Mangabey (*Cercocebus torquatus atys*) to Pensynor Wild Animal Park, West Glamorgan, S. Wales, Unitd Kingdom, for purposes of propagation and exhibition.

PRT 753826

Applicant: Roger Williams Park Zoo, Providence, RI

The applicant requests a permit to import blood samples and skin biopsies taken from approximately 45 wild Cotton-top tamarins (*Saguinus oedipus*), to be collected in a cooperative program with the Instituto Nacional de los Recursos Naturales Renovables y del Ambiente, Coloso, Colombia, for research purposes.

PRT 747674

Applicant: Barbara Hoffman, Gibsonton, FL

The applicant requests a permit to export and reimport two male and two female tigers (*Panthera tigris*), three female leopards (*Panthera pardus*), and one male snow leopard (*Panthera uncia*) for entertainment purposes. The applicant will educate the public regarding these species' ecological roles and conservation needs during each performance. All of the cats were born in captivity in the United States and may be exported and reimported in the future for the same types of entertainment exhibitions.

Documents and other information submitted with these applications, are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) room 430, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: November 20, 1990.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90-27755 Filed 11-26-90; 8:45 am]

BILLING CODE 4310-55-M

Marine Mammal Annual Report Availability, Calendar Year 1989

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of calendar year 1989 Marine Mammal Annual Report.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has issued the 1989 annual report on administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period January 1 to December 31, 1989, and was submitted to the Congress on October 26, 1990. By this notice, the public is informed that the 1989 report is available and that interested individuals may obtain a copy by written request to the Service.

ADDRESSES: Written requests for copies should be addressed to: Publications Unit, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 130—Arlington Square, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. James G. Geiger, Chief, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 820—Arlington Square, 1849 C Street, NW., Washington, DC 20240, (703) 358-1718.

SUPPLEMENTARY INFORMATION: The Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972. These species are polar bear, sea and marine otters, walrus, manatees (three species) and dugong. The report reviews the Service's marine mammal-related activities during the report period. Administrative actions discussed include appropriations, marine mammals in Alaska, endangered and threatened marine mammal species, law enforcement activities, scientific research and public display permits, certificates of registration, research,

Outer Continental Shelf environmental studies and international activities.

This notice was prepared by Jeffrey L. Horwath, Wildlife Biologist, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: November 15, 1990.

Bruce Blanchard,

Acting Director.

[FR Doc. 90-27712 Filed 11-26-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Meeting; Advisory Committee on Microenterprise

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of an A.I.D. Advisory Committee on Microenterprise public meeting on Tuesday, December 4, 1990, in the Grand Hotel, Georgetown, Washington, DC (202-429-0100). The Advisory Committee will review the current issues being dealt with by the Agency for International Development's microenterprise programs and will review plans for Committee meetings over the coming two years.

The December 4 public meeting will begin at 9:30 a.m. and adjourn at 1 p.m. The meeting is open to the public. Any interested person may attend, file written statements with the Committee before or after the meeting, or present oral statements in accordance with procedures established by the Committee and as time permits.

Dr. Ross E. Bigelow, Deputy Director, Office of Small, Micro and Informal Enterprise, Bureau for Asia and Private Enterprise, is designated as the A.I.D. representative at the meeting. Those who plan to attend the December 4 meeting, or who wish more specific information concerning this meeting, should contact Dr. Bigelow, at 202-647-2727.

Dated: November 16, 1990.

Ross E. Bigelow,

Federal Representative, A.I.D. Advisory Committee on Microenterprise.

[FR Doc. 90-27711 Filed 11-26-90; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984, Semiconductor Research Corporation

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("Act"), the Semiconductor Research Corporation ("SRC"), on October 17, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following companies have been added to SRC: The Aluminum Company of America (Alcoa) as a member, Los Alamos National Laboratory and Sandia National Laboratories as associate members, and Mission Research Corporation and Advanced Technology Applications, Inc. as affiliate members. Perkin-Elmer Corporation withdrew as a member of SRC. No other changes have been made in either the membership of planned activities of SRC.

On January 7, 1985, SRC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 30, 1985, 50 FR 4281. The most recent notification of SRC membership changes published in the **Federal Register** with a then current and complete membership list was filed by SRC on October 25, 1989, and published by the Department on November 29, 1989, 54 FR 49123-24. Subsequent notifications filed on February 20, 1990, May 16, 1990, and July 18, 1990, were published on April 5, 1990 (55 12750), June 13, 1990 (55 FR 23989), and August 15, 1990 (55 FR 33389-390), respectively, disclosing only membership changes.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-27715 Filed 11-26-90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. 9622(i), and Department Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Consent Decree in *United States* v. *Town of North Hempstead*, Civil Action No. 90-3486, was lodged, together with the complaint, in the United States District Court for the Eastern District of New York on October 10, 1990. The proposed Decree, if entered, will resolve the liability of the Town of North Hempstead (the "Town") under section 106 of the CERCLA, 42 U.S.C. 9606, if the Town satisfactorily performs the remedial work outlined in the Decree at the Port Washington Landfill Superfund Site (the "Site") in Nassau County, New York. The proposed Decree, if entered, will also resolve the liability of the Town under section 107 of the CERCLA, 42 U.S.C. 9607, for certain costs that will be incurred in connection with EPA's oversight of the remedial activities performed by the Town. In addition, the proposed decree provides a mechanism for resolving the Town's liability for certain other costs that have been incurred by EPA in response to the alleged release or threatened release of hazardous substances at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of publication of this notice, written comments relating to the proposed Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Town of North Hempstead*, Department of Justice No. 90-11-2-514.

The proposed Decree may be examined at the office of the United States Attorney, One Pierrepont Plaza, Eleventh floor, Brooklyn, New York, 11201; at the Region II office of the United States Environmental Protection Agency, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278; and at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed consent 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 $17.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

George Van Cleve,

Deputy Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 90-27716 Filed 11-26-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-90-168-C]

Beech Nut Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Beech Nut Mining, Inc., P.O. Box 901, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 2 Mine (I.D. No. 15-16943) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous mining machines, longwall face equipment and loading machines. The monitor is required to be properly maintained and frequently tested.

2. As an alternate method, petitioner proposes to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors as outlined in the petition.

3. In support of this request, petitioner states that:

(a) No methane has been detected in the mine;

(b) Each three-wheel tractor would be equipped with a hand-held continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(c) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any methane buildup between trips; and

(d) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 27, 1990. Copies of the petition are available for inspection at that address.

Dated: November 15, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-27707 Filed 11-26-90; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Advisory Committee on International Exhibition; Renewal

In accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that renewal of the Federal Advisory Committee on International Exhibitions has been approved by the Chairman of the National Endowment for the Arts for a period of two years from the date this Charter is renewed. This committee will make recommendations on the selection of significant, contemporary American visual art, for presentation internationally in the context of major exhibitions, including multinational festivals, periodic exhibitions, and other major cultural events. The committee will also advise on the significance of participation by the United States Government in both existing and new exhibition opportunities and venues outside the United States.

The committee will report its recommendations to the Chairman of the Arts Endowment, for transmittal by the Chairman or the Chairman's designee to the Director of the United States Information Agency (USIA) or the Director's designee.

The function of this advisory committee cannot be performed by the USIA, the Arts Endowment, an existing advisory committee or other means, such as public hearing. Neither agency nor any existing advisory committee possesses sufficient expertise regarding major international art exhibition venues or breadth of representation to offer such advice. Other means, such as public hearings, are not suitable for obtaining the necessary advice. Therefore, the renewal and use of this advisory committee is in the public interest.

This charter has been filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and over the USIA and with the Library of Congress.

Dated: November 15, 1990.

Yvonne Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-27787 Filed 11-26-90; 8:45 am]

BILLING CODE 7537-01-M

Education Advisory Committee; Meeting

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that the following meeting of the Education Advisory Committee be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506; telephone (202) 786-0322.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 786-0322.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to advise the Chairman and the Deputy Chairman of the National Endowment for the Humanities on efforts to strengthen general education programs in colleges and universities. Advice will be sought about general education requirements, faculty incentives to improve the teaching of undergraduates, and ways to involve trustees, administrators, and faculty in a cooperative effort to improve teaching and learning. The meeting will be held December 17, 1990, from 10 a.m. to 3 p.m. in room M-14 of the Old Post Office Building. The meeting will be open to the public.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 90-27804 Filed 11-26-90; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Regulatory Guides; Issuance, Availability

The Nuclear Regulatory Commission has issued revisions to three guides in

its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 27, "Design and Fabrication Code Case Acceptability, ASME Section III, Division 1," and Regulatory Guide 1.85, Revision 27, "Materials Code Case Acceptability, ASME Section III, Division I," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. Revision 8 to Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," lists those code cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants. These three guides are periodically revised to update the listing of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publication Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 OR (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Authority: 5 U.S.C. 552(a).

Issued at Rockville, Maryland, this 14th day of November 1990.

For the Nuclear Regulatory Commission.

Themis P. Speis,

Deputy Director for Research, Office of Nuclear Regulatory Research.

[FR Doc. 90-27789 Filed 11-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co. for the Pilgrim Nuclear Power Station; Environmental Assessment

Introduction

The Pilgrim Nuclear Power Station (PNPS or the plant) is currently licensed for operation for 40 years commencing with the issuance of the construction permit. The license expires on August 26, 2008. By letter dated February 28, 1986, and as supplemented on July 13, 1989, Boston Edison Company (BECo or the licensee) requested that the license expiration date for the plant be extended to June 8, 2012 or 40 years after the date of the issuance of the "low-power" operating license. The currently effective Facility Operating License (DPR-35) was issued on June 1, 1972 and authorizes operation at full power, not to exceed 1998 megawatts thermal.

Need for the Proposed Action

The granting of this request would allow the licensee to operate the plant for approximately 3 years and 9 months beyond the current license expiration date, thus recapturing the construction period. This extension would also permit the plant to operate for the full 40-year design basis lifetime, consistent with previously stated Commission policy (Memorandum dated August 16, 1982, from William J. Dircks, Executive Director for Operations, to the Commissioners) and as evidenced by the issuance of over 30 similar extensions to other licensees.

Environmental Impacts of the Proposed Action

The anticipated impact of the plant on the environment was evaluated in the Staff's Final Environmental Statement (FES) for PNPS dated May 10, 1972, and in the FES for Pilgrim Unit 2, dated September 1974. Since that time its impact on the environment has been observed and recorded. In order to arrive at a finding on the acceptability of the plant's impact on the environment the following considerations will be evaluated in this assessment:

1. Radiological Impacts of the Hypothetical Design Basis Accident
2. Radiological Impacts of Annual Releases
3. Environmental Impact of Uranium Fuel Cycle
4. Non-Radiological Impacts
5. Plant Modifications
6. Conclusion on Environmental Impacts.

Each of these considerations is sequentially discussed below:

1. Radiological Impacts of the Hypothetical Design Basis Accident (DBA)

The offsite exposure from releases due to postulated accidents has been analyzed by the licensee in the PNPS Final Safety Analysis Report (FSAR). The results of these analyses were within the bounds of 10 CFR part 100 and thus acceptable. This type of analysis is a function of four parameters: (1) The types of accidents postulated, (2) the radioactivity release calculated for each accident, (3) the assumed meteorological conditions, and (4) population distribution versus distance from the plant. The staff has concluded that neither the types of accidents nor the calculated radioactivity releases will change through the proposed amendment term. Furthermore, the site meteorology as defined in the FSAR is essentially a constant and consideration herein is therefore unwarranted. Thus, the one parameter that is dependent of the proposed license amendment is the population size and distribution, as it could vary with time. A 1988 study projected population changes through the year 2012. There are no significant land-use changes expected during the amendment term that could affect offsite dose calculations. The results of the 1988 study and those of the other studies are presented in Enclosure 1, Projected Permanent Populations of Towns within the Pilgrim Station EPZ derived from KLD Associates' letter of October 2, 1990.

None of the projected changes in population between the years 2008 and 2012, the added term of the proposed license amendment, will significantly impact any accident analysis previously calculated. Furthermore, the current exclusion area boundary, low population zone and nearest population center distance are not likely to be significantly changed through the amendment term from those originally and currently used by the PNPS. Accordingly, we conclude that the proposed license amendment will not significantly change previous conclusions on the potential environmental effects of offsite releases from postulated accidents.

The staff stated in their proposed no significant hazards consideration determination (51 FR 15393) dated April 23, 1986, that the change in expiration date to June 8, 2012 is consistent with current NRC policy and the originally engineered design life of the plant, *i.e.*, 40 years of operation. Due to design conservatism, maintenance and surveillance programs, inspection programs and the Plant Technical Specifications, the proposed additional 3 years and 9 months of operation will have no significant impact on safety. That is, regardless of the age of the facility, the above mentioned programs and Technical Specifications ensure that components, systems and structures will be refurbished or replaced to maintain their requisite safety function.

2. Radiological Impacts of Annual Releases

a. Onsite Doses

The PNPS occupational (onsite) exposure trend and comparative magnitude with the industry's average boiling water reactor (BWR) site, based on average annual exposures in terms of person-rem per 5-year period, is taken from the licensee's February 28, 1986 letter. The data in regards to both total dose and average dose per worker, indicate that the licensee has implemented a successful program under 10 CFR part 50, appendix I "As Low as Reasonably Achievable" (ALARA) guidelines. Given the licensee's continued implementation of its improved ALARA program and their excellent performance as noted in the interim Systematic Assessment of Licensee Performance (SALP) report dated October 4, 1990, we conclude that their projected exposures of about 350 person-rem, cumulative, will serve as an upper limit in future years of normal operation, *i.e.*, non-reload years and years without major maintenance such as fuel pool modifications. During the proposed amendment term, it is assumed that the PNPS will operate with an approximately 24-month-long fuel cycle. This would result in a maximum of two refueling outages during the proposed amendment term using projected exposures of 550 and 150 person-rem for years with and without typical refueling outages. PNPS estimates an average exposure of 350 person-rem per year during the requested extension period. The expected exposures for the plant are in accordance with 10 CFR part 20 and Regulatory Guide 8.8.

b. Offsite Doses

Appendix I guidelines on ALARA were briefly discussed above in regard to on-site doses; however, these guidelines also apply to releases that could cause offsite doses. In addition, routine releases to the environment are governed by 10 CFR 20.1(c), which states that such releases should be as low as reasonably achievable. Appendix I is more explicit in that it establishes radioactive design/dose objectives for liquid and gaseous offsite releases including iodine/particulate radionuclides.

Based on the continued operation of the plant's existing liquid and gaseous radwaste systems, we conclude that the anticipated offsite doses during the period covered by the proposed license amendment would remain a fraction of 10 CFR Part 50, appendix I limits.

The staff concludes that the releases from the plant, both onsite and offsite, have remained within the bounds of the FES and have complied with the applicable portions of 10 CFR parts 20 and 50 as discussed above. As a consequence, we would expect releases during the proposed license extension period to remain within these bounds.

3. Environmental Impact of the Uranium Fuel Cycle

The PNPS reactor contains 580 fuel assemblies. The Final Environmental Statement (FES) for PNPS, dated May 1972, assumed that one-quarter of these fuel assemblies would be replaced during annual refueling outages. No estimate of the total number of fuel assemblies to be used during the 40-year operating plant life was made in the FES. However, an estimate can be made. If one quarter of the fuel was expected to be replaced every year for 40 years, the total number of fuel assemblies replaced would be 5800 (580 fuel assemblies, divided by 4, times 40 years, equals 5800 assemblies replaced during the 40-year operating life of PNPS).

However, due to a combination of improved fuel designs and extended outages, actual fuel cycle lengths at PNPS have varied from approximately 20 months to 46 months. This has reduced the demand for fissile uranium. In the future, PNPS will be utilizing a 24-month cycle which will again reduce the need for additional fuel relative to the initial FES. Thus, the 40-year fuel use assumed in the FES, has been reduced by the use of improved fuel design and longer operating cycles. The total number of fuel assemblies to be used and stored if the amendment request is granted is now estimated to be approximately 4000. This is a reduction of 1800 fuel assemblies over the 40-year life of PNPS, including the additional 3 years, 9 months operating time requested.

The environmental impacts, both radiological and non-radiological, attributable to transportation of fuel and waste to and from plant sites, with respect to normal conditions of transport and possible accidents in transport have been assessed in several generic environmental impact statements. These assessments represent the contribution of such transportation to annual environmental costs including dose per reactor year to exposed transportation workers and to the general public. These annual environmental costs, which are displayed in Table S–4 of the Commission's regulations, 10 CFR 51.52, would not be changed by the extended period of operation.

Based on the above, the staff concludes that there are no significant changes in the environmental impact related to the uranium fuel cycle due to the proposed extended operation of PNPS.

4. Non-Radiological Impacts

For 15 years (1970–1985) environmental programs and monitoring have been conducted at the Pilgrim Station site. These non-radiological studies and their results are documented in various reports issued to the Nuclear Regulatory Commission (NRC), Environmental Protection Agency (EPA) and Massachusets Division of Water Pollution Control (DWPC). They include: Applicant's Environmental Report (September 1970), Final Environmental Statement (FES, September 1974), 316 Demonstration (July 1975), Supplemental Assessment in Support of the 316 Demonstration (September 1977), Marine Ecology Studies Final Report (July 1978), and Marine Ecology Semi-Annual Reports Nos. 1–25 (1972–1984).

The FES of 1974 is directed at the construction and operation of Pilgrim Station Unit 2. Its environmental impact statements include both Unit 1 and Unit 2 assessments, although Unit 2 construction was cancelled at 1981. Therefore, the FES of 1974 is conservative on the high side for assessing only Unit 1 non-radiological environmental impacts. Assessment of non-radiological impacts was based on different factors depending on the type of impact, including fixed life-of-plant, plant design considerations, renewable resource loss or loss/degradation of habitat. Impacts on the terrestrial ecology of the 517 acre tract of land

were determined to be acceptable (FES, 2–14). The reports cited above following the 1974 FES, covering the period from 1975 to 1984, provide a great deal of additional data generally supporting the earlier impact assessments of the FES.

Entrainment and impingment losses have been assessed as small compared to the standing crops of susceptible organisms in the Station vicinity (FES, pp. 5–26 through 5–30). Thermal and chemical discharge impacts on marine biota have been documented, but on a spatial and population basis were acceptable as not causing significant harm (FES, pp. 5–35 through 5–40). The intake structure has been reviewed for causing impingement and entrapment impacts (FES, p. 5–26) but the mean impingement rate of approximately two fish per hour is low, despite periodic instances of high impingement events for selected species. The use of chlorine in biofouling control was considered (FES, p. 5–40) and judged to have a negligible impact on the Cape Cod Bay ecosystem at a discharge concentration of 0.1 ppm.

Impacts on two very important commercial fisheries, the Irish moss and lobster fisheries, have analyzed (FES, p. 5–39). Both of these commercial fisheries have been samples for several years utilizing reference and surveillance station methodology, as well as inplant sampling for lobster larvae and Irish moss spores. Data taken during operational years have shown no consistent decline in productivity directly attributable to Station operation.

Two large gas bubble disease mortalities of Atlantic menhaden occurred in 1973 (FES, pp. 5–36 through 5–38) and 1975 in the Station discharge canal and vicinity. Both of these incidents, and a few other occasions when gas bubble disease symptoms were noted in selected species, were not considered to be of significant harm to the respective fishes' population. No additional mortalities due to gas bubble disease have been observed at Pilgrim Station from 1976 to 1985.

The NRC concluded in the FES (p. 10–1) that Pilgrim Station (including Unit 2) would not significantly impact the productivity of Cape Cod Bay regarding aquatic biological resources because of the Bay's recuperative capacity. This conclusion was based on NRC analyses of intake velocity, larval entrainment, fish impingement, chlorination and exposure time to elevated temperatures as detailed in the FES of 1974. Losses of biota associated with these impacts were determined not to be irreversible or irretrievable resource commitments.

The latest (1983–1988) Pilgrim Station National Pollutant Discharge Elimination System (NPDES) Permit (#MA0003557) recognizes (Section I.A.1.i) compliance of the circulating water intake system design with Section 316 of the Clean Water Act. Sections I.A.7.b and d require that the permittee conduct monitoring to determine continued compliance of thermal discharge, entrainment, and impingement effects. Based on this monitoring, the Station has been found to meet thermal impact requirements, and to have relatively low entrainment and impingement losses compared to other comparable power plants. Maintenance of these conformances is assured through an annually-reviewed environmental monitoring and surveillance program regulated via the Station NPDES Permit by the USEPA and Mass. DWPC.

The Station uses sodium hypochlorite for macrofouling and microfouling control in salt water circulation systems. The NPDES Permit allows chlorine to be discharged to Cape Cod Bay at a maximum concentration of 0.1 ppm total residual. This dicharge concentration is consistent with that evaluated in the FES (p. 5–40) to be adverse only to those organisms confined within the circulating water system (CWS) and salt service water system (SSWS). In 1983, the Pilgrim Station NPDES Permit was modified to allow for hypochlorite to be continuously injected at a rate not to exceed 0.25 ppm maximum daily average in the SSWS. It was determined that due to a dilution factor by the CWS of approximately 30:1, the concentration of total residual chlorine to be discharged to Cape Cod Bay would still not exceed the permissible limit of 0.1 ppm total residual chlorine.

Environmental protection and mitigation measures required by the Station's NPDES Permit in regard to intake and thermal discharge effects include: (1) Returning all live aquatic organisms trapped on intake screens to ambient temperature water, far enough away to avoid reimpingement (Section I.A.1.j); (2) Reducing large intake impingement and thermal-related mortalities by requiring monitoring for and notification of substantial events and, for each event, requiring a written report to include a discussion of precautions to be taken to avoid similar impingement or thermal mortality events (Section I.A.7.a); and (3) Maintaining a barrier net in the distal end of the discharge canal to prevent fish entry on a year-round basis (Section I.A.2.f).

Protection of Historic Properties (36 CFR Part 800)

In accordance with the requirements of 36 CFR Part 800 "Protection of Historic Properties," Boston Edison reviewed the "State Register of Historic Places/1988," published by the Massachusetts Historic Commission, for the current listings of historic sites surrounding Pilgrim Nuclear Power Station (PNPS). Representatives of the Pilgrim Society, the Plymouth Historical Commission, the Massachusetts Historical Commission, the Plymouth Chamber of Commerce, and the U.S. Department of the Interior were contacted regarding information about the sites and to assure us the listings are complete.

The State Register lists 131 historic sites located in Plymouth in an area generally contiguous to Plymouth Rock, which is approximately 4½ miles from Pilgrim Station. They are mostly in designated historic districts containing multiple, individually owned and occupied houses. Others are individual sites or houses, the most notable being Plymouth Rock, Cole's Hill Ground, and the National Monument to the Forefathers. It should be noted that with the exception of three sites; Cole's Hill, the Old County Courthouse, and Plymouth Rock, all Plymouth locations listed in the State Register were designated as historic sites after Pilgrim began operation.

Since December 1972, when Pilgrim started commercial operation, there is no known evidence of deterioration of any of these historic sites due to the operation of Pilgrim Station.

A similar assessment regarding protection of historical sites was noted in the FES issued by the AEC for Pilgrim Unit 2 dated September 1974. Section 2.3 "Historic Significance" states:

> According to the Massachusetts Historical Commission State Survey Director, none of the nearby historic sites will be impacted by construction of Unit 2. The staff agrees that no areas valued for their natural significance will be affected by the construction or operation of Unit 2 of the related transmission line corridor. The Conservative Commission of the Town of Plymouth agrees with this view.

In addition, the Pilgrim Unit 2 Environmental Report, Amendment 6, dated September 1976 provides the following in Section 2.3.1 "Review and Consultations:

> The Pilgrim Station site has been considered in accordance with the National Historical Preservation Act. In this regard, on April 25, 1968, Harold L. Price, Director of Regulation, AEC, requested George B. Hartzog, Jr., Director, National Park Service,

to obtain comments from the Advisory Council on Historical Preservation relative to the effects of Pilgrim Station on the general area of Plymouth Rock and Forefathers' Faith Monument. In a letter dated May 20, 1968, Robert R. Garvey, Executive Secretary of the Advisory Council on Historical Preservation, considered the effect of the Pilgrim site upon these National Register properties. It was concluded that: "The probable effect upon these properties cannot be judged to be sufficiently adverse to warrant Council comment."

Using the aforementioned assessments and the 1986 criteria of 36 CFR 800.9: "Criteria of effect and adverse effect," it is concluded that operation of Pilgrim Nuclear Power Station for the requested 3 years and 9½ months license extension will cause no adverse effect or induce any detrimental impact on the historic sites located in Plymouth.

The above is a summary of potential and real non-radiological, environmental impacts that have been reviewed and addressed by Boston Edison Company, NRC, USEPA, and Mass. DWPC. The reviews have been of the various impact statements and environmental reports submitted to the regulators by Boston Edison between 1970 and 1985. The impacts have been addressed in NRC Technical Specification and NPDES (EPA) Permit conditions, and mitigative actions by Boston Edison. In conclusion, the requested legal plant life expectancy extension of 3 years 9-½ months will not alter the validity of previous findings and assessments, or pose any additional significant biological resource impacts.

5. Plant Modifications

Many modifications and design changes have taken place at the plant since original construction. Those that involve an unreviewed safety question or require a change to the Technical Specifications are submitted to the NRC for prior review and approval. This review includes a determination of the environmental effects of the proposed change. As provided by our regulations, other changes may be implemented by the licensee without prior NRC approval. The licensee must first perform a safety evaluation for any such changes, subject to NRC inspection and audit. The licensee also submits such changes to the staff in an Annual Report, which is reviewed by the staff. A complete detailed description of all the changes including a summary of the safety evaluation is included in the annual update of the Final Safety Analysis Report (FSAR). The staff reviews the FSAR updates to verify that the changes did not require prior NRC review and approval. In general, these changes improve plant reliability and do not adversely impact the environment. While it is recognized that the requested license extension will possibly result in further routine design changes and modifications similar in nature to those already conducted, it is not anticipated that these would have any adverse impact on the environment.

6. Conclusion on Environmental Impacts

Based on the above, we conclude that the proposed extension will not have any significant impact on the environment.

Alternative to the Proposed Action

The alternative to the issuance of the proposed license extension would be the cessation of Pilgrim Station's operation on August 26, 2008. This would result in a large loss of capacity which would necessitate the replacement of equivalent electric power resources. The most viable option would be the purchase of additional capacity from other utilities, or extensive pre-planning before-the-fact, and construction of equivalent or additional generating capability.

Even considering significant changes in the economics of either option, operation of Pilgrim Station for an additional 3 years, 9-½ months would only require incremental yearly costs. These costs would be substantially less than the purchase of replacement power or the installation of new electrical generating capacity. Furthermore, the overall cost per year of the facility would decrease, since the large capital outlay would be average over a greater number of years.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the FES in relation to the operation of the plant.

Agencies and Persons Consulted

The Commission made a proposed determination that the amendment involves no significant hazards consideration which was published in the **Federal Register** (51 FR 15393) on April 23, 1986.

Basis and Conclusion for not Preparing an Environmental Impact Statement

The conclusions of the May 1972 and September 1974 (Unit 2) Final Environmental Statements remain valid and operation of the plant has demonstrated that its impact on the environment has been within the bounds predicated by the FES. The staff has reviewed the proposed license amendment relative to the requirements set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed license amendment will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action.

Dated at Rockville, Maryland, this 20th day of November 1990.

For the Nuclear Regulatory Commission.

Curtis J. Cowgill III,

Acting Director, Project Directorate I-3, Division of Reactor Projects—I/II.

ENCLOSURE 1.—PROJECTED PERMANENT POPULATIONS OF TOWNS WITHIN THE PILGRIM STATION EPZ

	1995 MISER project	2000 KLD project	2005 KLD project	2010 KLD project	2012 KLD project
Plymouth	47,980	53,234	59,063	65,531	68,178
Kingston	10,746	12,825	15,380	18,355	19,700
Carver	8,152	9,359	10,693	12,157	12,773
Duxbury	16,212	18,076	20,253	22,581	23,539
Marshfield	2,053	2,266	2,514	2,776	2,883
Total within EPZ	85,143	95,760	107,903	121,400	127,073

Notes:

1. The projected populations for 1995 were calculated by the Massachusetts Institute for Social and Economic Research (MISER) of the University of Massachusetts at Amherst.

2. Projections to later years were estimated by extending the trends of annual growth rates into the future.

3. Roy Williams of MISER indicated that MISER is currently extending their population projections into the 21st century.
4. The entire towns of Plymouth, Kingston and Duxbury lie within the Pilgrim EPZ. It is estimated that 58 percent of the population in Carver, and 8 percent of the Marshfield population reside within the EPZ. The above figures are those within the EPZ.

[FR Doc. 90-27790 Filed 11-26-90; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 26th meeting on December 12-14, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. each day. The entire meeting will be open to the public.

The purpose of the meeting will be to review and discuss the following topics:

• The Committee will meet with the Commissioners to discuss items of mutual interest (tentative).

• The Committee will be briefed by representatives of the Division of High-Level Waste Management (DHLWM) on the results of their reviews of the study Plans for characterization of volcanic features and mineralogy, petrology, and chemistry of transport pathways (tentative).

• The Committee will discuss the NRC staff's Study Plan, review plan, and staff plan for reviewing the Site Characterization progress reports.

• The Committee will begin to consider 10 CFR part 60, high-level waste repository subsystem performance requirements regarding their conformance with the EPA high-level waste standards.

• The Committee will hear reports from its working groups on mixed wastes, Carbon-14, and human intrusion.

• Discuss and begin preparation for ACNW presentation at Waste Management 1991 Symposium, Tucson, AZ, February 26, 1991.

• The Committee will consider a draft NRC staff Technical Position on Regulatory Considerations in Design and Construction of the Exploratory Shaft Facility (tentative).

• The Committee will discuss anticipated and proposed Committee activities, meeting agenda, administrative, and organizational matters, as appropriate. The members will also discuss matters and specific issues which were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley, (telephone 301/492-4516) prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: November 20, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-27779 Filed 11-26-90; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on December 6-8, 1990, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on October 17, 1990.

Thursday, December 6, 1990, Room P-110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.-8:45 a.m.: chairman's remarks (open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.-12 noon: FTOL conversions for the Palisades Nuclear Plant and the Dresden Nuclear Power Station, unit 2 (open/closed)—The Committee will review and report on the proposed conversions of provisional operating licenses to full term operating licenses for the Palisades Nuclear Plant and the Dresden Nuclear Power Station, Unit 2. Representatives of the NRC staff and the licensees will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the operation of these plants.

1:30 p.m.-3:30 p.m.: certification of standard plant designs—level of design detail (open)—The Committee will review and comment on the NRC proposal regarding the level of design detail required to certify standardized nuclear power plant designs.

Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

3:45 p.m.-5:15 p.m.: new standard technical specifications (open)—A briefing will be given by representatives of the NRC staff on activities to develop new standard technical specifications for nuclear power stations licensed by the NRC.

5:15 p.m.-6:30 p.m.: preparation of ACRS reports to the NRC (open)—The Committee will discuss proposed reports to the NRC regarding containment design criteria for future nuclear plants, and the preliminary design approval for the Westinghouse SP/90 Standardized Nuclear Plant.

Friday, December 7, 1990

8:30 a.m.-11 a.m.: operating experience and events (open)—A briefing and discussion will be held regarding recent operating experience and events at nuclear power plants, including: experience relating to problems with the operability of safety systems caused by the egress of noncondensible gas; events at the Brunswick plant relating to loss of offsite power and a main steamline isolation valve closure at full power; and a malfunction of the feedwater regulating system and subsequent failure of the reactor core isolation cooling system at the Pilgrim plant.

11 a.m.-12 noon: Future ACRS activities (open)—The Committee will discuss anticipated ACRS subcommittee activities, items proposed for consideration by the full Committee, and the scope and content of the forthcoming ACRS annual report to the U.S. Congress on the NRC Safety Research Program and budget.

1 p.m.–2:15 p.m.: high-level radioactive waste disposal (open)—A briefing and discussion will be held with a representative of the Radioactive Waste Management Board of the National Research Council regarding the National Academy of Sciences/National Research Council report on "Rethinking High-Level Radioactive Waste Disposal."

2:30 p.m.–3:30 p.m.: NRC safety research on severe accident scaling methodology (open)—A briefing and discussion will be held with Dr. N. Zuber, NRC staff, regarding development of a scaling methodology for direct containment heating experiments.

3:30 p.m.–6 p.m.: preparation of ACRS reports to the NRC (open)—The Committee will discuss proposed ACRS reports to the NRC regarding additional certification issues for evolutionary light-water reactors, and containment design criteria for future plants.

Saturday, December 8, 1990

8:30 a.m.–9 a.m.: election of ACRS officers (open/closed)—The Committee will elect ACRS officers for CY 1991.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

9 a.m.–11:30 a.m.: preparation of ACRS reports to the NRC (open)—The Committee will discuss proposed reports to NRC regarding items considered during this meeting and matters which were not completed at previous meetings as time and availability of information permit.

11:30 a.m.–12 noon: appointment and assignments of ACRS members (open/closed)—The Committee will discuss the status of appointment of candidates for membership on the Committee and selection of ACRS members for related assignments.

Portions of this session will be closed as necessary to discuss information the release of which would represent an unwarranted invasion of personal privacy and internal personnel rules and practices of the agency.

1 p.m.–2:30 p.m.: miscellanous (open)—The Committee will complete discussion of items considered during this meeting and items of an administrative nature as appropriate.

Procedures for the conduct of an participation in ACRS meetings were published in the **Federal Register** on October 2, 1990 (55 FR 40249). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered (5 U.S.C. 552b(c)(4)), information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and information that involves the internal personnel rules and practices of the agency (5 U.S.C. 552b(c))(2)).

Further information regarding topics to be discussed, whether the meting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time alloted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 7:45 a.m. and 4:30 p.m.

Dated: November 20, 1990.

John C. Hoyle,

Advisory, Committee Management Officer.

[FR Doc. 90–27780 Filed 11–26–90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on December 12, 1990, in the Delaware Room at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, December 12, 1990—8:30 a.m. until the Conclusion of Business

The Subcommittee will discuss the status of the NRC staff's program on interfacing systems loss of coolant accident (ISLOCA).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff members named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 19, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–27781 Filed 11–26–90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Planning and Procedures; Cancelled

The Subcommittee meeting on Planning and Procedures scheduled for December 4, 1990, 3 p.m., room P–422.

7920 Norfolk Avenue, Bethesda, MD has been cancelled.

Dated: November 20, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-27782 Filed 11-26-90; 8:45 am]

BILLING CODE 7590-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, December 11-12, 1990, at the Madison Hotel, 15th & M Streets, Northwest, Washington, DC.

The Subcommittee on Hospital Productivity and Cost-Effectiveness will meet in Executive Chambers 1, 2 and 3 at 9 a.m. on Tuesday, December 11, 1990. The Subcommittee on Diagnostic and Therapeutic Practices will convene its meeting at 9 a.m. on Tuesday, December 11, at 9 a.m. in Drawing Rooms 3 and 4.

The Full Commission will meet on Wednesday, December 11, 1990 at 9 a.m. in Executive Chambers 1, 2 and 3.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc 90-27627 Filed 11-26-90; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28627; International Series Release No. 194; File No. SR-CBOE-90-17]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Listing of Index Warrants Based on the Financial Times-Stock Exchange 100 Index

On June 21, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list warrants based on the Financial Times-Stock Exchange 100 Index ("FT-SE 100" or "Index").

The proposed rule change was published for comment in Securities Exchange Act Release No. 28225 (July 18, 1990), 55 FR 30770. No comments were received on the proposal.

The Exchange proposes to list index warrants [3] based on the FT-SE 100 Index, a broad-based, internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized and actively traded British stocks traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE").[4] The Index is updated each minute from 9 a.m. to 5 p.m. (London time).[5]

The CBOE proposes to trade FT-SE 100 warrants pursuant to its rules governing the trading of stocks, warrants and other securities.[6] Among other things, these rules permit the CBOE to list index warrants based on established market indexes, both foreign and domestic.

Specifically, consistent with the order approving these rules ("Index Warrant Approval Order"), the Exchange represents that the FT-SE 100 warrant issues will conform to the index warrant listing guidelines.[7] The listing guidelines of the CBOE require that:

(1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the Exchange's size and earnings requirements;

(2) The term of the warrants shall be for a period ranging from one to five years from the date of issuance; and

(3) The minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

The Exchange also represents that the FT-SE 100 warrants will be direct obligations of their issuer subject to cash settlement during their term, and either exercisable throughout their life (*i.e.*, American-style) or exercisable only on their expiration date (*i.e.*, European-style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the FT-SE 100 Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the FT-SE 100 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Because the index warrants are derivative in nature and closely resemble index options, the Exchange will impose several safeguards designed to meet the investor protection concerns raised by the trading of FT-SE 100 warrants. First, the Exchange proposes to apply its options suitability standards to Index warrant recommendations. Second, discretionary orders in Index warrants must be approved on the day entered by a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"). Third, the Exchange has recommended that the FT-SE 100 warrants only be sold to options approved accounts. Fourth, the Exchange, prior to commencement of trading of FT-SE 100 warrants, will distribute a circular to its membership calling attention to the specific risks associated with warrants on the FT-SE 100.

Finally, the ensure that there is an adequate mechanism for sharing surveillance information with respect to the Index's component stocks, the CBOE has entered into a Memorandum of Understanding with The Securities

[1] 15 U.S.C. 78S(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] Warrants on a stock index are securities that incorporate certain characteristics of both stocks and options. Like stock, they are issued by a corporation that serves as guarantor of the warrant obligation. Like a stock index option, however, an index warrant is based on the performance of an underlying index and has a fixed expiration date. Index warrants are also cash-settled and, as with options, the risk to a buyer is known and limited.

[4] The Index is composed of stocks of companies from 29 different industry groups, no one of which dominates the Index, and the percentage weighing of the five largest issues, as of October 31, 1989, accounted for approximately 21.38% of the Index's value. The total capitalization of the Index, as of October 30, 1989, was $521.6 billion. In addition, over the period January 1989 through June 1989, the average daily trading volume of each component stock was above 100,000 shares. The Index is administered by the FT-SE 100 Index Steering Committee, a committee composed of representatives from various U.K. financial institutions. The Steering Committee is responsible for, among other things, establishing rules to determine review, and modify the composition of the Index as well as how the Index is calculated.

[5] The Index is calculated by taking the summation of the multiple of the market price for each stock in the Index times the number of shares of that stock outstanding. This sum total is then divided by another number, termed the "divisor," to produce the Index value. The market price for each constituent stock is calculated by taking the mid-point between the highest bid and lowest offer for each stock. The divisor of the Index is continuously adjusted to reflect changes in market capitalization. The Index is published daily in the Financial Times and is available real-time on Reuters, Telerate and other market information systems which disseminate information on a minute-by-minute basis. For additional information regarding the calculation and composition of the Index, see letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to Joanne T. Medero, General Counsel, Commodity Futures Trading Commission "CFTC"), dated January 8, 1990 ("FT-SE 100 letter"), at 4-5.

[6] *See* Securities Exchange Act Release No. 28556 (October 19, 1990) (order approving File No. SR-CBOE-90-08).

[7] *See* CBOE Rule 31.5 (E).

Association ("TSA"), the self-regulatory organization responsible for regulating the U.K. equity securities market.[8] The Memorandum will allow the CBOE to obtain trading data and other market-based information from the TSA regarding the component securities of the FT-SE 100 Index.[9] The Exchange believes that this Memorandum is an appropriate and sufficient informational sharing arrangement for surveilling trading in FT-SE 100 warrants on the Exchange.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[10] Specifically, the Commission believes that the FT-SE 100 warrants are innovative securities instruments that can provide investors with a means by which to hedge investments in the U.K. equity market, and act as a surrogate instrument for trading in the U.K. securities market.[11] In particular, the FT-SE 100 warrants will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the FT-SE 100 moves in a favorable direction within a specified time period. Of course, if the FT-SE 100 moves in the wrong direction or fails to move in the right direction, the warrants will expire worthless and the investors will have lost their entire investment. Thus, the trading of warrants on the FT-SE 100 Index will provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the U.K. equity market.

The Commission also believes that the FT-SE 100 warrants are consistent with the guidelines set forth in the Index Warrant Approval Order. Because the FT-SE 100 is a broad-based index of actively traded, well-capitalized stocks, the trading of cash-settled warrants on the FT-SE 100 on the CBOE does not raise unique regulatory concerns.[12] The Commission notes that the CBOE rules and procedures that address the special concerns attendant to the secondary trading of index warrants will be applicable to the FT-SE 100 warrants. In particular, by imposing the special suitability, disclosure, and compliance requirements noted above, the CBOE has addressed adequately potential public customer problems that could arise from the derivative nature of FT-SE 100 warrants. Moreover, the CBOE plans to distribute a circular to its membership calling attention to the specific risks associated with warrants on the FT-SE 100 and, pursuant to the CBOE listing guidelines, only substantial companies capable of meeting their warrant obligations will be eligible to issue FT-SE 100 warrants.

In light of the fact that the FT-SE 100 is a foreign index, the Commission believes that an adequate surveillance sharing agreement between the CBOE and TSA is a necessary prerequisite to deter and detect potential manipulation or other improper or illegal trading involving the warrants. To address this concern, the CBOE entered into a Memorandum of Understanding with TSA providing for the sharing of market information related to the trading of FT-SE 100 warrants on the CBOE.[13] This Memorandum obligates the CBOE and TSA to use their best efforts to obtain and provide information necessary for them to fulfill their respective regulatory responsibilities. Accordingly, the Commission believes the Memorandum between the CBOE and TSA is adequate to provide an oversight framework regarding potential manipulation or other trading abuses between the markets with respect to the trading of FT-SE 100 warrants.

Finally, the Commission believes that trading in the FT-SE 100 warrants will not have an adverse impact on U.S. financial markets. In fact, the Commission believes the FT-SE 100 warrants will benefit U.S. investors by affording them an opportunity to better hedge against stock market fluctuations in the United Kingdom.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [14] that the proposed rule change (SR-CBOE-90-17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Dated: November 19, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-27729 Filed 11-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Extension, Rule 17Ac3-1(a) and Form TA-W, File No. 270-96]

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549-1002.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17Ac3-1(a) (17 CFR 240.17Ac3-1(a)) and Form TA-W under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*), which prescribed filing requirements for transfer agents desiring to withdraw from registration as transfer agents. A total of approximately 30 respondents incur a cumulative total of 15 annual burden hours to comply with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235-0151), room 3208,

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[8] See Memorandum of Understanding Concerning the Provision of Information for the Purpose of Regulation and Enforcement between the CBOE and TSA dated August 1, 1990 ("Memorandum"). TSA is the self-regulatory organization responsible for regulating the U.K. equity securities market. All ISE members must be members of TSA. TSA also includes members which may not be active on the ISE.

[9] Specifically, the Memorandum provides for the exchange of information concerning any security traded through the facilities of the CBOE, any security underlying a derivative instrument traded though the facilities of the CBOE, and any derivative instrument based upon or including a security traded through the facilities of the CBOE. Accordingly, the Memorandum allows for the provision of information relating to the FT-SE 100 warrants or any securities underlying the FT-SE 100 warrants.

[10] 15 U.S.C. 78f(b)(5) (1984).

[11] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[12] The Commission previously has examined the FT-SE 100 in the context of an application by the London International Financial Futures Exchange for certification that its futures contracts meet CFTC requirements to permit the contract's offer and sale to U.S. citizens. At that time, the Commission found that the FT-SE 100 was not readily susceptible to manipulation because of the representative nature of the various industry segments included in the Index, the weighted value of the Index's component stocks, and the substantial capitalization and trading volume of the component stocks. See FT-SE 100 letter, *supra* note 5.

[13] See *supra* notes 8 and 9 and accompanying text.

[14] 15 U.S.C. 78s(b)(2) (1982).

[15] 17 CFR 200.30-3(a)(12) (1989).

New Executive Office Building, Washington, DC 20503.

November 20, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-27822 Filed 11-26-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

November 20, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

American Reliance Group, Inc.
Common Stock, $.01 Par Value (File No. 7-6395)
Eco Corporation
Common Stock, Without Par Value (File No. 7-6396)
Ionics Incorporated
Common Stock, $1 Par Value (File No. 7-6397)
Michael Anthony Jewelers, Inc.
Common Stock, $.001 Par Value (File No. 7-6398)
Baroid Corporation
Common Stock, $.10 Par Value (File No. 7-6399)
Tremont Corporation
Common Stock, $.01 Par Value (File No. 7-6400)
Centura Banks, Inc.
Common Stock, No Par Value (File No. 7-6401)
Oak Industries Incorporated
Common Stock, $1 Par Value (File No. 7-6402)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 12, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-27842 Filed 11-26-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

November 20, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12F-1 thereunder for unlisted trading privileges in the following securities:

American Medical Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7-6403)
Societe Generale Warrants Limited, N.V.
CAC 40 Paris Stock Exchange Index Put Warrants Expiring November 14, 1992 (File No. 7-6404)
Allied Irish Banks, plc
American Depository Receipts (representing 6 ordinary shares of 1R 25p) (File No. 7-6405)
Chambers Development Company, Inc.
Class A Common Stock, $.50 Par Value (File No. 7-6406)
Conner Peripherals, Inc.
Common Stock, No Par Value (File No. 7-6407)
Ecology & Environment, Inc.
Common Stock, $.01 Par Value (File No. 7-6408)
Keystone International, Inc.
Common Stock, $1.00 Par Value (File No. 7-6409)
Koger Properties, Inc.
Common Stock, $.10 Par Value (File No. 7-6410)
Signet Banking Corporation
Common Stock, $5.00 Par Value (File No. 7-6411)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 12, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-27843 Filed 11-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28629; File No. SR-Phlx-90-19]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Execution of Orders Transmitted to the Exchange by Means of the PACE System

On July 23, 1990, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-Phlx-90-19) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") that amends supplementary material to rule 229, which governs the execution of orders in the Philadelphia's Automated Communications and Execution ("PACE") system. The amendments relate to the order delivery and execution process in the PACE system and are meant to improve reporting and reduce the burdens on processing mechanisms.

On November 9, 1990, the Phlx submitted an amendment to the filing making some technical corrections to clarify how the PACE system will execute certain orders that might be executed outside the primary market high-low range for the day on the PACE system and how the system will execute round-lot limit orders up to 500 shares and partial round lot limit orders up to 599 shares.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 28521 (October 5, 1990), 55 FR 42129. The Commission received no comments on the proposal. This order approves the proposal.

In its filing with the Commission, the Phlx stated that the proposed rule change will result in more efficient executions and reporting of transactions. The Exchange proposed the following amendments to the supplementary material to Exchange Rule 229.

Paragraph .05

Previously, only round-lot market orders up to 500 shares and partial round-lot orders ("PRL's") up to 599 shares were eligible for automated execution through the PACE system. The amended rule will allow a Phlx specialist to establish an eligible order size greater than 500 shares for PACE system automated execution.

Paragraph .06

This section provided for execution of market orders (round-lots, odd-lots and PRL's up to 1,099 shares) at the New York market opening price. The amended rule provides for execution of market orders of a size greater than 1,099 shares and up to 5,000 shares at the New York market opening price if received at least three minutes prior to such opening.

Paragraph .07(a)

Previously, this section provided that the PACE system would execute market orders (round-lots of 500 shares and PRL's up to 599 shares) entered after the opening at the PACE quote. Because the PACE quote is composed of the best bid/ask quote among the American, Boston, Cincinnati, Midwest, New York, Pacific or Philadelphia Stock Exchanges, or the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") quote, as appropriate, the automated execution of a round-lot market order at the PACE quote may occur at a price outside the New York market high-low range for the day. In its filing Phlx stated that certain users of the system wish to avoid such a result. In an effort to accommodate such users, Phlx modified the criteria so that users may opt for automated execution of all orders up to 599 shares at the PACE quote except for those that would be executed at a price outside the New York market high-low range for the day. Phlx specialists will manually execute and guarantee a price at or within the New York market high-low range for the latter orders.

Paragraph 7(b)

This section previously provided that market orders (round-lots of 600 to 1,000 shares and PRL's of 601 to 1,099 shares) entered after the opening shall not be subject to the execution parameters set forth in Rule 229 and shall be executed in accordance with other applicable rules of the Exchange. The amended rule extends such provisions to cover orders of a size greater than 1,099 shares that the specialist agrees to accept.

Paragraph 10(a)

This section provided that round-lot limit orders up to 500 shares and the round lot portion of PRL limit orders up to 599 shares be executed based on an accumulation of volume (1,000 shares) at the limit order price on any exchange eligible to compose the PACE quote. The amended rule provides for execution of such orders based on accumulation of volume (1,000 shares) at the limit order price or better on the New York market. In addition, Phlx stated that because stocks selling below $1.00 have different trading characteristics than those trading at higher prices, generally are traded in fractional increments of sixteenths, are not eligible for ITS, and usually have greater sizes for which bids and offers are available, the PACE system will not execute limit orders in such stocks under the same volume formula as other stocks and, instead, will execute these orders under the standards set forth in paragraph .10(b), which provides criteria for the execution of larger size limit orders.

In addition, Phlx noted that because each stock has unique trading characteristics, specialists establish order size eligibility of either 2,500 shares or 5,000 shares on a stock-by-stock basis. To provide for more precise eligibility standards, Phlx proposed three tiers of order size eligibility: Tier I: 1 to 599 shares; Tier II: 600 to 3099 shares; Tier III: 4000 to 5000 shares. The PACE system will execute orders in each tier under the terms of rule 229. Except under unusual circumstances, the specialist must remain committed to his or her order size eligibility elections for at least six months thereby providing stability and continuity to the list of issues in the program. Under exceptional or extraordinary circumstances, the Floor Procedure Committee may grant a specialist's withdrawal from the program.

Paragraph .17

Finally, Phlx proposed to add a new Paragraph .17, which states that "[o]rders received by 4 p.m. Eastern Time as determined electronically by the PACE system are eligible for execution. Orders received after such time will be rejected and returned to the order entry firm." The purpose of this provision is to clarify the treatment of orders that are entered by PACE users near the close.

Phlx stated in its filing that it believes that by providing a more balanced and competitive order delivery and execution process for participants in the PACE system, the resulting efficiency will translate into improved reporting and reduced burdens on processing mechanisms, such as the PACE system. Thus, Phlx believes, implementation of the changes will be consistent with section 11A(a)(1) of the Act which encourages the use of new data processing and communication techniques that create the opportunity for more efficient and effective market operations and assures economically efficient execution of securities transactions.

The Commission believes that the proposed rule change is consistent with the Act, particularly section 6(b)(5), which provides in part that the rules of the exchange are designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that File No. SR–Phlx–90–19, be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: November 20, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–27823 Filed 11–26–90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17860; 812–7495]

Shearson Lehman Brothers Equity Portfolios, Shearson Lehman Brothers Income Portfolios, SLH Investment Portfolios Inc.; Application

November 19, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Shearson Lehman Brothers Equity Portfolios, Shearson Lehman Brothers Income Portfolios and SLH Investment Portfolios Inc. (each an "Applicant" and collectively the "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 22(d) and Rule 22d–1.

SUMMARY OF APPLICATION: Applicants seek an order amending prior orders (Investment Company Act Release No. 16086 (October 27, 1987); Investment Company Act Release No. 16087 (October 27, 1987); and Investment Company Act Release No. 16464 (July 1,

1988)) (the "Prior Orders"), which permit the Applicants to assess a contingent deferred sales charge (a "CDSC") on specified redemptions of shares and to waive the CDSC in specified situations. The requested order, if granted, would permit the Applicants (a) to assess a CDSC different from that described in the Prior Orders in connection with certain redemptions of the Applicants's shares purchased by retirement plans qualified under section 401(k) of the Internal Revene Code of 1986 ("Covered Plans") and (b) to waive the CDSC On certain other redemptions of the Applicants' shares purchased by the Covered Plans.

FILING DATES: The application was filed on March 16, 1990 and amended on August 24, 1990 and September 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request by writing to the SEC's Secretary and serving the 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 Decmber 14, 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, 31 West 52nd Street, New York, NY 10019..

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Staff Attorney, at (202) 504–2274 or Max Berueffy, Branch Chief, at (202) 272–3016.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Applicant is an open-end, diversified, management investment company registered under the Act. Shearson Lehman Brothers Income Portfolios and Shearson Lehman Brothers Equity Portfolios are each organized as a business trust under the laws of the Commonwealth of Massachusetts. SLH Investment Portfolios Inc., which is currently doing business under the name "Shearson Lehman Brothers Investment Portfolios," is a corporation formed under the laws of the State of Maryland. Shares of all the portfolios currently offered by Applicants (a "Portfolio") are distributed by Shearson Lehman Brothers Inc. ("SLB"), through its Shearson Lehman Brothers Division ("Shearson"). SLB is an indirect wholly owned subsidiary of American Express Company ("American Express"). Affiliates and/or divisions of SLB serve as the investment adviser, the administrator, the custodian and the transfer agent of the Portfolios.

2. The Applicants assess and, in certain circumstances, waive a CDSC in accordance with the terms and conditions of the Prior Orders. The Applicants impose a CDSC on a redemption of shares of any Portfolio that causes the current value of the shares of the Portfolio held by a shareholder to fall below the total dollar amount of payments for the purchase of portfolio shares made by the shareholder during the preceding five years. The amount of the CDSC depends on the number of years since the shareholder made the purchase payment from which an amount is being redeemed. The CDSC is equal to 5% in the first year and decreases by 1% per year thereafter, so that a redemption in the sixth year following purchase is not subject to the CDSC.

3. In accordance with the terms of the Prior Orders, the Applicants currently waive the CDSC on certain redemptions, such as (1) redemptions in the circumstance of death or disability of a shareholder, (2) involuntary redemptions effected pursuant to each Applicant's right to liquidate shareholder accounts of a de minimis aggregate net asset value, (3) redemptions of shares in connection with distributions from certain qualified retirement plans, and (4) redemptions of shares by employees of American Express and its subsidiaries, including SLB, and individuals and plans related to those employees. The Applicants also offer a one-time only reinvestment privilege whereby a shareholder who redeems shares of a Portfolio subject to the CDSC and reinvests the proceeds of the redemption within 30 days after the redemption will receive a credit against the amount of the CDSC paid.

4. The Applicants now propose to assess a different CDSC on "Section 401(k) Plans" purchasing shares of the Portfolios under a new program to be offered by Shearson, tentatively called the "Shearson 401(k) Solution Program" (the "Program"), and to waive that CDSC under specified circumstances. In general, the Program is designed to assist employers or plan sponsors (each an "Employer Sponsor") in the creation and operation of section 401(k) Plans, which are employer-sponsored, individual account retirement plans for employees, qualified under section 401(k) of the Internal Revenue Code of 1986, as amended (the "Code"). Any section 401(k) Plan whose participants or employees are currently permitted to invest in the Portfolios will be given the opportunity to be covered by the Program.

5. Under the Program, each section 401(k) Plan covered by the Program (a "Covered Plan") will be permitted to designate up to four Portfolios (each an "Eligible Portfolio") as investment alternatives for its employee participants. The Employer Sponsor of a Covered Plan will be provided with a pre-selected trustee and recordkeeper. A Covered Plan will have a single shareholder account in each Eligible Portfolio and employees' transactions in Eligible Portfolio shares will be processed in the aggregate by the Applicants' transfer agent through daily purchases or redemptions of these shares. The transfer agent will submit account statements and confirmations to the Covered Plan's trustee.

6. The trustee, which will be the legal owner of the assets of a Covered Plan, will establish a co-mingled interest-bearing trust fund account to accept the monthly aggregated individual account contributions of all participating employees. These contributions will be invested in the specified Eligible Portfolio after the trustee receives specific investment instructions from the Covered Plan's recordkeeper. The trustee will also distribute from the co-mingled trust fund account all required disbursements for a particular Covered Plan, but only after the trustee receives specific instructions from the Plan's recordkeeper. The trustee will provide its services for a predetermined or stated fee to be paid by the Employer Sponsor of a Covered Plan.

7. The recordkeeper of a Covered Plan will provide a wide range of services to the Plan, including directing the trustee to invest contributions and to make distributions monthly based on instructions received from the individual participants, and performing the recordkeeping and sub-accounting procedures necessary to track the interest in an Eligible Portfolio of each participating employee. Like the trustee, the recordkeeper of a Covered Plan will receive a pre-determined or stated fee to be paid by the Employer Sponsor.

8. Redemptions of Eligible Portfolio shares made by a Covered Plan during a period of ten years from the date of the Covered Plan's first purchase of shares of an Eligible Portfolio would be subject to a 3 percent CDSC, regardless of the

number of years that have elapsed since the Covered Plan purchased the shares being redeemed. No redemption of Eligible Portfolio shares by a Covered Plan after the end of this ten-year period would be subject to a CDSC. Redemptions by non-Covered Plans will continue to be subject to the CDSC described in the Prior Orders.

9. The Applicants proposed to waive the CDSC on the following redemptions of shares by a Covered Plan (the "Waiver"): (a) redemptions of shares of an Eligible Portfolio in connection with lump-sum or other distributions made by a Covered Plan as a result of (i) the retirement of an employee participating in the Covered Plan, (ii) the termination of employment of a participating employee, (iii) the death or disability of a participating employee, (iv) the attainment of age 59½ by a participating employee, and (v) the hardship of a participating employee to the extent permitted under section 401(k) of the Code; and (b) redemptions of shares of an Eligible Portfolio in connection with a loan made by a Covered Plan to a participating employee.

10. The Applicants observe that because a section 401(k) investor is typically a relatively large (in terms of number of shares held) and active investor that over time will redeem shares quite frequently, the Program will provide an important benefit. They state that, to the extent the Covered Plans follow a trend noted by SLB of effecting a greater number of redemptions of shares during the first two years as a shareholder than in later years, the benefits of the Program may be magnified, because in its absence Covered Plans would be subject to a higher CDSC during those years than in future years.

11. On the basis of past experience with section 401(k) Plans, SLB expects that substantially all Covered Plan transactions involving Eligible Portfolio shares will fall within the six CDSC waiver categories. The principal types of transactions with respect to which a CDSC would not be waived under the Applicants' proposal are redemptions of Eligible Portfolio shares to effectuate a Covered Plan's complete withdrawal from the Program or to change investment vehicles from the Portfolios to some other form of investment. The Applicants believe it is appropriate and logical to deny a Covered Plan an important benefit of the Program—waiver of the CDSC—when the Covered Plan seeks to withdraw from the Program or seeks to replace the Portfolios with another investment vehicle.

12. The Applicants represent that if they were to impose on a Covered Plan's redemption a graduated CDSC as described in the Prior Orders, the Applicants' transfer agent would be required to "track" not only the purchases and redemptions of the Covered Plan, but also the purchases and redemptions of the individual Plan participants. To avoid this administrative burden, the Applicants have determined instead to impose a flat rate CDSC on all Covered Plan redemptions not included in the Waiver and that occur over a period of ten years from the date of the Covered Plan's first purchase of shares of an Eligible Portfolio. The Applicants state that they have chosen 3 percent as the amount of the rate simply because that rate reflects the average, as well as the mean, of the rates applied under the Applicants' existing graduated CDSC. Regarding their choice of a ten-year term the Applicants assert that requiring a Covered Plan to remain in the Program for a period longer than the five year term fixed in the Prior Orders is particularly appropriate in light of SLB's observation that section 401(k) Plans tend to be longer-term investors than individual investors. Additionally, the Applicants submit that the proposed CDSC should not be viewed as having a term twice as long as that applicable to other investors purchasing Eligible Portfolio shares because, given the significant differences in the manner of application of the two charges, the CDSC described in the Prior Orders would, in many instances, effectively extend for a greater priod of time than would the CDSC applicable to Covered Plans under the Applicants' proposal.

Applicants' Legal Analysis

1. The Applicants seek an exemption covering the assessment of the proposed CDSC and the Waiver pursuant to section 6(c) of the Act. That section authorizes the Commission to exempt conditionally or unconditionally any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, if, and to the extent that, the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The Applicants submit that the CDSC they propose to impose on those limited number of categories of Covered Plan redemptions not included in the proposed waiver, which differs in term, rate, and manner of application from the CDSC described in the Prior Orders, is consistent with the provisions of proposed Rule 6c-10 under the Act.

3. The applicants submit that the Waiver is consistent with the policies underlying section 22(d) of the Act, which prohibits an investment company registered under the Act from selling its redeemable securities other than at the current public offering price described in the company's prospectus. The Applicants submit that the Waiver will not result in any of the abuses at which section 22(d) was directed, and will not harm Applicants or their respective shareholders or unfairly discriminate among shareholders or purchasers.

4. The Applicants assert that the Waiver is appropriate because the cost associated with selling shares of Eligible Portfolios to Covered Plans may not be as great as they would be if shares were sold to the individual employees participating in the Covered Plans; Shearson believes it may be able to achieve economies of scale in connection with the sale of shares of the Eligible Portfolios by marketing the Program to, and communicating directly with, various employer sponsors of Covered Plans rather than the individual employee participants in those Plans. The applicants also assert that the Waiver will be implemented in a manner that will protect the interests of the Applicants' shareholders, because the Applicants, in implementing the Waiver, will fulfill the requirements of Rule 22d-1 under the Act. Finally, the Applicants believe the Waiver is appropriate for public policy reasons. Applicants submit that waiving the charge on redemption of shares purchased through section 401(k) Plans, under the circumstances described in the application, is fully consistent with the Code's provisions granting favored tax treatment to contributions to, and accumulations under, such plans.

5. The Applicants specifically request that any exemption that Commission may grant here cover not only the Eligible Portfolios, but also any additional series or classes of shares that the Applicant may offer in the future on substantially the same basis as shares of the Eligible Portfolios are now offered.

Applicants' Conditions for Relief

The Applicants agree to the following express conditions to the requested order if it is granted:

1. Each Applicant will comply with the provisions of Rule 22d-1 under the Act in its present form and as it may be revised in the future; and

2. Each Applicant will comply with the provisions of Proposed Rule 6c-10

under the Act, as it is currently stated and as it may be reproposed, adopted or modified in the future.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland.

Deputy Secretary.

[FR Doc. 90-27730 Filed 11-26-90; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2464, Amdt. #2]

Georgia; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated October 29, 1990 to the President's major disaster declaration of October 19 to establish the incident period as begining October 11 and continuing through October 29, 1990.

All other information remains the same, i.e., the termination date for filing application for physical damage is December 19, 1990, and for economic injury until the close of business on July 19, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1990.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90-27760 Filed 11-26-90; 8:45 am]

BILLING CODE 80-25-01

[Declaration of Economic Injury Disaster Loan Area #7170]

North Carolina; Declaration of Disaster Loan Area

Dare and Hyde Counties and the contiguous counties of Beaufort, Tyrrell, and Washington in the State of North Carolina constitute an Economic Injury Disaster Loan Area due to the collapse of the Herbert C. Bonner Bridge which occurred on October 26, 1990. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on August 8, 1991 at the following address or other locally announced locations—Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th floor, Atlanta, GA 30308

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: November 8, 1990.

June M. Nichols,

Acting Administrator.

[FR Doc. 90-27761 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2467; Amdf. #1]

South Carolina; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated October 25 and October 28, 1990 to the President's major disaster declaration of October 22 to include the countries of Edgefield, Florence, and Orangeburg in the State of South Carolina as a disaster area as a result of damages caused by severe storms and flooding, and to establish the incident period as beginning on October 11 and continuing through October 28, 1990.

In addition, applications for economic injury loan from small businesses located in the contiguous counties of Bamberg, Berkeley, Colleton, Dillion, Dorchester, Georgetown, Greenwood, Marion, McCormick, and Williamsburg in the State of South Carolina may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is December 21, 1990, and for economic injury until the close of business on July 21, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1990.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90-27762 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Omaha, will hold a public meeting from 8:30 a.m. to 12:00 noon on Friday, November 30, 1990, at the U.S. Small Business Administration, 11145 Mill Valley Road, Omaha, Nebraska, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Glenn Davis, District Director, U.S. Small Business Administration, 11145 Mill Valley Road, Omaha, Nebraska 68154, telephone (402) 221-3620.

Dated: November 20, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-27757 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Las Vegas, will hold a public meeting from 3 p.m. to 4:30 p.m. on Friday, December 7, 1990, at the U.S. Small Business Administration, 301 E. Stewart Avenue, Downtown Station, Post Office Building, 3rd floor, Las Vegas, Nevada, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Elizabeth Sutton, Secretary to the District Advisory Council, U.S. Small Business Administration, 301 E. Stewart Avenue, P.O. Box 7527, Las Vegas, Nevada 89125, telephone (213) 894-2977 or FTS 598-6611.

Dated: November 16, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-27756 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Richmond, will hold a public meeting from 9 a.m. to 2 p.m. on Tuesday, December 18, 1990, at the Holiday Inn Downtown, 301 West Franklin Street, Richmond, Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Dratin Hill, Jr., District Director, U.S. Small Business Administration, PO Box 10126, Federal Building, Richmond, Virginia 23240, phone (804) 771-2741.

Dated: November 14, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-27758 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council; Public Meeting

The U.S. Small Business Administration National Advisory Council will hold a public meeting from 8:30 a.m. Thursday, December 6 to 11 a.m. Friday, December 7, 1990 at the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC, to discuss such matters as may be presented by members and the staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jean M. Nowak, Director, Office of Advisory Councils, U.S. Small Business Administration, 1441 L Street, NW., room 503E, Washington, DC 20416, telephone (202) 653-6748.

Dated: November 16, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-27759 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the SBA Regulations (13 CFR 107.601 (1990)) governing SBIC's for the transfer of control of UNCO Ventures, Inc., 909 Fannin Street, Houston, TX 77010 (UNCO), a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*).

Currently 909 Corporation, 1331 Lamar, # 675, Houston, TX 77010, is the sole stockholder of the licensee.

Under the Purchase and Sale Agreement, the stock of UNCO will be sold to Genesis Fund, Ltd., 520 Post Oak Blvd., Houston, TX 77027.

The purchaser is a limited partnership, organized under the laws of the State of Texas. It has two general partners: Stuart Schube and Ronnie Walter Cunningham, both of the same address as Genesis Fund. Together both General Partners control Genesis Fund. Genesis Fund operates as a private venture capital fund.

There are no current, nor have there been any prior, affiliations between the proposed new owners and UNCO or any of the port folio concerns of UNCO.

There are no other general partners of Genesis Fund. In regard to the limited partners of Genesis Fund, no limited partner, either individually or collectively, has any control over Genesis Fund.

The proposed new officers and directors are:

John Gatti, President and Director
Thomas F. Woodley, Vice President
Martha J. Stevenson, Asst. Secretary
Stuart Schube, Director
Ronnie Water Cunningham, Vice President, Director
Rita H. Shor, Secretary and Treasurer
Genesis Fund LP General Partner, 100% owner

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of UNCO under their management and control, including adequate profitability and financial soundness, in accordance with the Act and the SBA Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit to SBA, in writing, comments on the transfer of control. Any such communication should be addressed to the Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the Houston TX area.

(Catalog of Federal Domestic Assistance program No. 59.011, Small Business Investment Companies)

Dated: November 13, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90-27763 Filed 11-26-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft National Plan for Aviation Human Factors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of draft national plan.

SUMMARY: This notice announces the availability of a draft of the National Plan for Aviation Human Factors. The National Plan is a joint effort of the National Aeronautics and Space Administration (NASA) and FAA/DOT, with assistance from the Department of Defense (DoD). It is intended as a comprehensive long-range technical agenda that will guide agency research planning and inter-agency coordination.

DATES: Comments should be submitted on or before January 28, 1991.

ADDRESSES: Send all comments on the draft National Plan to: Federal Aviation Administration, Chief Scientific and Technical Advisor for Human Factors (AXR-3), 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: H. Clayton Foushee, Chief Scientific and Technical Advisor for Human Factors (AXR-3), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; commercial telephone (202) 267-7125 or FTS 267-7125.

SUPPLEMENTARY INFORMATION: The draft National Plan for Aviation Human Factors is comprised of Volume I, Executive Summary and Overview (40 pages), and Volume II, Technical Agenda (850 pages). Any person may order a draft of this publication from the National Technical Information Service (NTIS) by calling the NTIS Sales Desk at (703) 487-4650. To obtain a paper copy or microfiche copy of the National Plan, please select one of the following order options:.

(1) For Volumes I and II as a set, ask for PB91-100321 at $77.50;

(2) For Volume I only, ask for PB91-100339 at $17.00;

(3) For Volume II only, ask for PB91-100347 at $74.00. NTIS attaches a $3.00 handling fee per order for regular service and offers options for accelerated service, such as overnight and second-day delivery.

(4) To obtain Volumes I and II of the plan on high density diskettes (two diskettes of text in 5.0 WordPerfect and two diskettes of graphics in MacDraw 2), ask for PB91-505032 at $80.00.

Comments Invited

Interested parties are invited to submit comments on the draft National Plan. All comments should be submitted to the address above. Although comments are requested by the date specified above, they may be submitted at any time, since the National Plan is not a proposed regulatory action.

Background

Public concern over human error in aviation has been increasing steadily. As a result, FAA and NASA, working in conjunction with the aviation community, have decided to increase their efforts to address human performance issues in aviation. The National Plan for Aviation Human Factors is the first step toward a major program augmentation and is part of the DOT National Transportation Policy. Its purpose is four-fold: (1) To identify the technical efforts necessary to address the most operationally significant

human issues in aviation and acquire the necessary resources to respond to these issues; (2) To allocate resources efficiently by coordinating research programs at various Government laboratories; (3) To communicate research needs to academia and industry; and (4) To promote the means by which human factors knowledge is transferred to Government and the operational community. It is published in two volumes. Volume I presents an overview of the National Plan and a summary of the technical agenda, while Volume II contains detailed descriptions of the technical agenda. The National Plan has not been finalized and will be continually revised. It is being released, initially in draft form, so that the aviation and research communities can more effectively participate in the planning process.

Issued in Washington, DC, on November 21, 1990.

H. Clayton Foushee,

Chief Scientific and Technical Advisor for Human Factors.

[FR Doc. 90-27798 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

Air Transportation Personnel Training and Qualifications Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Transportation Personnel Training and Qualifications Advisory Committee will be held on Thursday, December 13, 1990, at 9 a.m.

DATES: The meeting will be held on December 13, 1990, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room (10th floor), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Office of Rulemaking (ARM-1), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-9683.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Transportation Personnel Training and Qualifications Advisory Committee to be held on December 13, 1990, from 9 a.m. to 5 p.m. at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The agenda for this meeting will include the following: (1) A discussion of the action plans for the working groups established at the October 17 meeting; and (2) reports by the Federal Aviation Administration on the status of recommendations made by the Joint Task Force on Flight Crew Performance.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contracting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on November 21, 1990.

John S. Kern,

Air Transportation Personnel Training and Qualifications Advisory Committee.

[FR Doc. 90-27805 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Approval of Applicant as Trustee; Bank One, Columbus, National Association

Notice is hereby given that Bank One, Columbus, National Association, with offices at 782 Brooksedge Plaza Drive, Columbus, Ohio, has been approved as Trustee pursuant to Public Law 100-710 and 46 CFR part 221.

Dated: November 21, 1990.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 90-27835 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. 90-IP-12; Notice 2]

Mazda Research & Development of North America, Inc; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mazda Research & Development of North America, Inc. (Mazda), of Ann Arbor, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.120, Federal Motor Vehicle Safety Standard No. 120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars". The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 28, 1990, and an opportunity afforded for comment (55 FR 26528).

Paragraph S5.1.2 of Standard No. 120 states that:

> Except in the case of a vehicle which has a speed attainable in 2 miles of 50 mph or less, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label required by 49 CFR part 567. If the certification label shows more than one GAWR for the axle system, the sum shall be not less than the GAWR corresponding to the size designation of the tires fitted to the axle. If the size designation of the tires fitted to the axle does not appear on the certification label, the sum shall be not less than the lowest GAWR appearing on the label. When a tire listed in appendix A of Standard No. 109 is installed on a multipurpose passenger vehicle, truck, bus, or trailer, the tire's load rating shall be reduced by dividing by 1.10 before calculating the sum.

Mazda manufactured 14,607 B2200 and B2600i (4×2) models which did not comply with Paragraph S5.1.2. These vehicles were produced between September 7, 1989 and May 25, 1990 and were equipped with tire placards bearing the incorrect English equivalent (as opposed to metric) cold inflation pressure information. The correct English equivalent cold inflation pressure is 35 psi; the inflation pressure listed on these placards is 34 psi. Therefore, the load rating on these tires is reduced. Based on Mazda's calculation, the load rating is reduced by dividing 1.096 before calculating the sum instead of being reduced by dividing by 1.10. Mazda reported that all other information listed on the tire placard is correct. Based on NHTSA's calculation, the load rating on these tires would be reduced by 1.090 rather than the 1.096 calculated by Mazda. The agency believes that its factor of 1.090 is the correct one, based on the recommended methodology provided by The Tire and Rim Association (TRA) Load Formula for "P" Type tires.

Mazda argued that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The noncompliance is a technical noncompliance of S5.1.2 of FMVSS No. 120 only, *i.e.*, the P205/75R14 tires fitted to the affected vehicles are capable of sustaining loads in excess of 1256 kg (2770 pounds) listed on the "tire

placard." (In actuality, on the vehicle's certification label).

2. When calculating the GAWR-R for the metrically designed P205/75R14 tires as a function of the listed metric inflation pressure (i.e., 2.4 kg cm raised to the power of negative two or 240 kpa) no noncompliance with S5.1.2 results.

3. The load capacity of the P205/75R14 tire, as listed in the TRA Handbook, is 695 kgs at 240 kpa (1532 pounds, 35 psi). Using TRA's (the source of the rim and tire information for these vehicles) empirically derived formula (non-linear) for the tire load, the tire load at an inflation pressure of 34 psi (235 kpa) is 688 kgs (1516 pounds). Thus, the GAWR-R of this tire at 34 psi is 1376 kgs (3033 pounds) before applying the 10 percent safety factor specified by S5.1.2. The GAWR-R required to be listed on the "tire placard" (actually, the certification label) is 1251 kgs (2757 pounds) in this instance after applying the 10 percent safety factor. Mazda has listed 1256 kgs or "2768" pounds (the correct value is 2770 pounds) which results in a safety factor of 9.6 percent. Mazda regards the 0.4 percent or 0.004 difference in safety factor to be insignificant and inconsequential with the respect to vehicle safety.

(Note: Based on its own calculation from the TRA Load Formula for "P" Type Tires, NHTSA has derived values that are somewhat different. The tire load at an inflation pressure of 34 psi (234.43 kpa) is 685 kg or 1510 pounds. Thus the GAWR-R of this tire at 34 psi is 1370 kgs or 3020 pounds before applying the 10 percent safety factor specified by S5.1.2. The GAWR-R required to be listed on the certification label would then be 1246 kgs or 2746 pounds after applying the 10 percent safety factor. Mazda's listing of 1256 kgs or 2770 pounds then results in a safety factor of 9.0 percent, rather than the 9.6 percent calculated by Mazda.)

4. The agency, by denying this petition, would be conferring a greater degree of significance to the 10 percent safety factor than was intended or justified. The preamble to the Final Rule (36 F.R. 19505, Docket Nos. 71-19-NO6 and 75-32-NO2) regarding this issue stated that the GAWR of an axle system should be reduced by approximately 10 percent. Mazda considers a safety factor of 9.6 percent to be approximately 10 percent.

5. Vehicle owners or operators are mostly likely to refer to the tire sidewall for proper cold inflation pressure and tire load capability information. The P205/74R14 tired fitted to the affected vehicles list the correct cold inflation pressure and tire load capacity in both metric and English units.

6. Common tire inflation gauges are graduated in both metric (Kpa) and English (psi) units, thus providing a means by which the vehicle owner or operator can verify the correct inflation pressure regardless of the source of this information (tire sidewall or tire placard).

No comments were received on the petition.

After reviewing the petition and Standard No. 120, NHTSA finds that Mazda effectively reduced the tires' load rating by dividing by 1.096 (properly 1.090 based on NHTSA's calculation) rather than the required 1.10. However, this difference of 0.004 (0.010 based on NHTSA's calculation) is small. The real-world effect is that the Mazda tires could experience an overload of 11 pounds (5.5 pounds per tire) according to Mazda's calculation, or 24 pounds (12 pounds per tire) based on NHTSA's. This is the difference between the GAWR-R of the vehicles (2770 pounds) provided as a result of the error, and the actual GAWR-R of 2757 pounds (2746 pounds based on NHTSA's calculation) given the stated tire inflation pressure of 34 psi. At either of these weights, the error is insignificant.

Accordingly, in consideration of the foregoing, petitioner has met its burden of persuasion and it is hereby found that the noncompliance herein described is inconsequential as it relates to motor vehicle safety. The petition by Mazda Research & Development of North America, Inc., is hereby granted. The agency wishes to make clear that this finding applies to the particulars of this petition only, and should not be interpreted as condoning or excusing noncompliances from the performance aspects of this or any other standard.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on November 21, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-27825 Filed 11-26-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Docket No. 101-05]

Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury

Date: November 16, 1990.

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by 31 U.S.C. 321(b), it is ordered that:

1. The Deputy Secretary shall report directly to the Secretary.

2. The Assistant Secretary (Policy Management) and Counselor to the Secretary shall report directly to the Secretary, except that with respect to supervision of the Executive Secretariat the Assistant Secretary (Policy Management) and Counselor to the Secretary shall report through the Deputy Secretary to the Secretary.

3. The following officials shall report through the Deputy Secretary to the Secretary and shall exercise supervision over those officers and organizational entities set forth on the attached organizational chart:

Under Secretary (International Affairs)
Under Secretary (Finance)
General Counsel
Assistant Secretary (Enforcement)
Assistant Secretary (Legislative Affairs)
Assistant Secretary (Management)
Assistant Secretary (Public Affairs and Public Liaison)
Assistant Secretary (Tax Policy)
Inspector General
Treasurer of the United States
Comptroller of the Currency
Commissioner of Internal Revenue
Director, Office of Thrift Supervision

4. The Tax Legislative Counsel, the International Tax Counsel and the Benefits Tax Counsel provide counsel directly to the Assistant Secretary (Tax Policy), but are supervised by the General Counsel as part of the Department's Legal Division.

5. The Deputy Secretary is authorized, in that official's own capacity and that official's own title, to perform any functions the Secretary is authorized to perform and shall be responsible for referring to the Secretary any matter on which action would appropriately be taken by the Secretary.

6. The Under Secretaries, the General Counsel, and the Assistant Secretaries are authorized to perform any functions the Secretary is authorized to perform. Each of these officials will ordinarily perform under this authority only functions which arise out of, related to, or concern the activities or functions of, or the laws administered by or relating to, the bureaus, offices, or other organizational units over which the incumbent has supervision. Each of these officials shall perform under this authority in their own capacity and their own title and shall be responsible for referring to the Secretary any matter on which action would appropriately be taken by the Secretary. Any action heretofore taken by the Deputy Secretary or any of these officials in the incumbent's own title is hereby affirmed

and ratified as the action of the Secretary.

7. The following officials shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence or sickness of the Secretary and other officers succeeding the incumbent, until a successor is appointed, or until the absence of sickness shall cease:

a. Deputy Secretary;

b. Under Secretary (International Affairs);

c. Under Secretary (Finance);

d. Assistant Secretary (Policy Management) and Counselor to the Secretary;

e. General Counsel; and

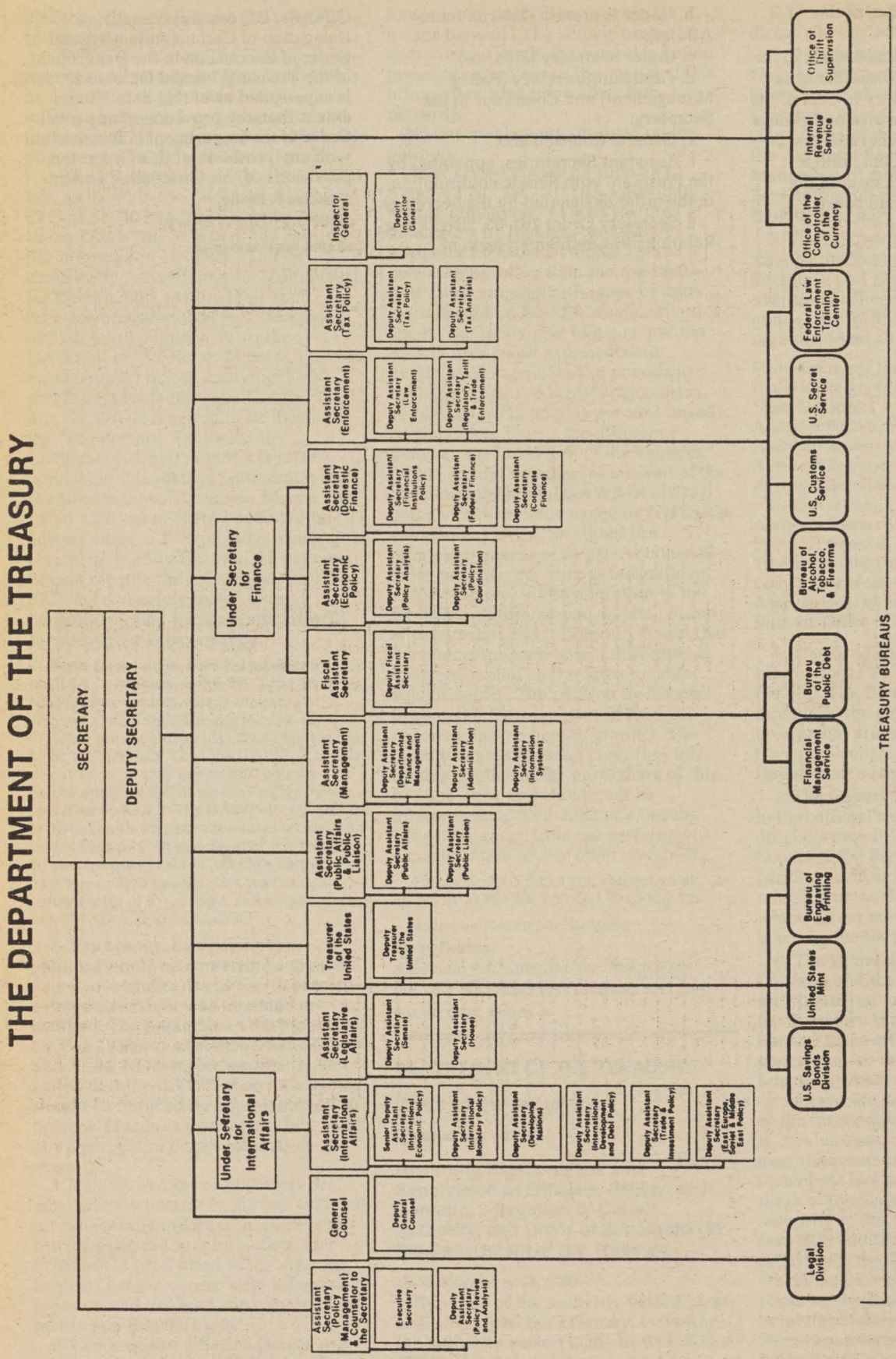
f. Assistant Secretaries, appointed by the President with Senate confirmation; in the order designated by the Secretary.

8. Secretary Order 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury," dated October 27, 1989, is superseded as of this date. To the extent that any provision of any other Order of the Department is inconsistent with any provision of this Order, the provisions of this Order shall govern.

Nicholas F. Brady,

Secretary of the Treasury.

BILLING CODE 4810-31-M



Approved: November 16, 1990.

[FR Doc. 90-27785 Filed 11-26-90; 8:45 am]

BILLING CODE 4810-31-C

Public Information Collection Requirements Submitted to OMB for Review

November 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1037.

Form Number: None.

Type of Review: Extension.

Title: Limitation on Passive Activity Losses and Credits—Definition of Activity.

Description: The IRS needs this information to ascertain that taxpayers have made a proper timely election to treat an undertaking as a separate activity.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 15,000.

Estimated Burden Hours Per Response: 6 minutes.

Frequency of Response: First taxable year ending after August 1989 (or amended return for that year) or first taxable year that taxpayers owns activity.

Estimated Total Reporting Burden: 1,500 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–27720 Filed 11–26–90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

November 20, 1990.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0087.

Form Number: 1040–ES, 1040–ES (NR), 1040–ES (Espanol).

Type of Review: Resubmission.

Title: Estimated Tax for Individuals (3 forms): (1) U.S. Citizens and Residents; (2) For Nonresident Aliens; and (3) For Use in Puerto Rico (in Spanish).

Description: Form 1040–ES is used by individuals (including self-employed to make estimated tax payments if their estimated tax due is $500 or more. IRS uses the data to credit taxpayers' accounts and to determine if the estimated tax has been properly computed and timely paid.

Respondents: Individuals or households.

Estimated Number of Respondents: 14,563,250.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping—1 hour, 25 minutes
Learning about the law or the form—20 minutes
Preparing the form—1 hour, 16 minutes
Copying, assembling, and sending the form to IRS—10 minutes

Frequency of Response: Quarterly.

Estimated Total Recordkeeping/Reporting Burden: 107,666,570.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90–27721 Filed 11–26–90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

November 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0135.

Form Number: None.

Type of Review: Extension.

Title: Required Records for Smelting and Refining Warehouses.

Description: Each manufacturer engaged in smelting or refining must file an annual statement with the Regional Director, Regulatory Audit, showing any material change in the character of the metal-bearing materials smelted or refined, or changes in the method of smelting or refining. Also, the records must show the receipt and disposition of each shipment.

Estimated Number of Respondents: 14.

Estimated Burden Hours Per Response/Recordkeeping: 48 hrs., 39 mins.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 680 hours.

Clearance Officer: Kathryn Kormos (202) 566–4019, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90–27783 Filed 11–26–90; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

November 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to

OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: New.
Form Number: ATF F 5300.27, ATF REC 5300/27.
Type of Review: New collection.
Title: Federal Firearms and Ammunition Tax Deposit.
Description: The tax deposit is completed by those owing Federal excise tax on the manufacture or importation of firearms and/or ammunition. The deposit is required by statute. ATF uses the form to correctly identify the taxpayer and to correctly credit the taxpayer's liability.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,012.
Estimated Burden Hours Per Response/Recordkeeping: 3 minutes.
Frequency of Response: Semi-monthly or monthly.
Estimated Total Recordkeeping/Reporting Burden: 1,215 hours.
OMB Number: New.
Form Number: ATF F 5300.28, ATF REC 5300/28.
Type of Review: New collection.
Title: Application for Registration for Tax Free Transactions Under 26 USC 4221 (Firearms and Ammunition).
Description: 26 USC 4222 establishes the requirement for registration for those who wish to sell or buy firearms or ammunition tax-free. This form (ATF F 5300.28) implements this requirement.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 2,024.
Estimated Burden Hours Per Response/Recordkeeping: 45 minutes.
Frequency of Response: One time only.
Estimated Total Recordkeeping/Reporting Burden: 1,519 hours.
Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 90–27784 Filed 11–26–90; 8:45 am]
BILLING CODE 4810–31–M

Fiscal Service

[Dept. Circ. 570, 1990 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds; Underwriters Indemnity Company

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under title 31, sections 9304 to 9308, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1990 Revision, on page 27366 to reflect this addition:

Company name: Underwriters Indemnity Company.
Business address: 8 Greenway Plaza, Suite 400, Houston, Texas 77046.
Underwriting limitation c/: $189,000.
Surety licenses c/: TX, NM, MS, WY.
Incorporated in: Texas.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (FTS/202) 287–3921.

Dated: November 19, 1990.

Mitchell A. Levine,
Assistant Commissioner, Comptroller, Financial Management Service.
[FR Doc. 90–27788 Filed 11–26–90; 8:45 am]
BILLING CODE 4810–35–M

Office of Thrift Supervision

[No. 90–2022]

Regulatory Review Procedures

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: On April 21, 1988, the Federal Home Loan Bank Board (the "Board"), predecessor to the Office of Thrift Supervision (the "Office"), adopted procedures for withdrawing proposed regulations when the rulemaking had not been completed within a certain period of time. 53 FR 13156 (April 21, 1988). The Office has determined that these procedures are no longer necessary and, by this action, is removing them.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, Paralegal Specialist, (202) 906–7135, Regulations & Legislation Division, Chief Counsel'f Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: In 1988, the Board adopted procedures requiring that any proposed rule be automatically withdrawn if the comment period had been closed for six months and the Board had taken no action regarding it during that same six month period. The six month period could be extended, provided that notice of any such extension was published in the **Federal Register**. A confirming notice in the **Federal Register** would identify any proposed regulations automatically withdrawn through this process.

At the time the procedures were put in place, the Board had many proposals before it, a number of which had been pending for a significant period of time. The Board established a process for withdrawing outstanding proposed regulations in order to address the uncertainty in the thrift industry created by outstanding proposals that had not been finalized and to eliminate the inefficient practice of allowing proposals to remain pending for unlimited periods of time when no immediate action toward finalizing them was contemplated.

Pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Public Law No. 101–73, 103 Stat. 183, all rules, regulations, resolutions, agreements, contracts, orders, directives, decisions, enforcement proceedings, legal actions, formal examinations and investigations, and other determinations of the Board and the Federal Savings and Loan Insurance Corporation not transferred to the Federal Deposit Insurance Corporation or the Federal Housing Finance Board, which were in force and effect on the day prior to the enactment of FIRREA, remain in effect and enforceable by the Office until such time as modified, canceled or repealed by the Office. FIRREA, tit. IV, section 401,(h),

103 Stat. 357. The Office has determined that the regulatory procedures adopted in April, 1988 by the Board are among those items transferred by FIRREA and that it is necessary to inform the public of the removal of such procedures by publishing notice in the **Federal Register**.

Today, fewer regulatory projects are underway, and the Office carefully tracks the development of final rules after the close of comment periods. The Office's recent experience suggests that the imposition of an artificial deadline should not substitute for the agency's management of each rulemaking. Preparation of a final rule may take much less than six months in some cases, but the increased complexity of some of the regulatory projects underway may mean that those projects require significantly longer timetables for completion. Accordingly, the review process is hereby removed.

Finally, today's action represents a policy governing agency procedures and is therefore exempt from the Administrative Procedure Act.

Authority: 5 U.S.C. 553(b)(A).

Dated: November 20, 1990.

By the Office of Thrift Supervision.

Timonthy Ryan,

Director.

[FR Doc. 90-27750 Filed 11-26-90; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 228
Tuesday, November 27, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 27, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report:

The staff will brief the Commission on various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call: 301-492-5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: November 21, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-27944 Filed 11-23-90; 1:05 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 29, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Voluntary Standards Report.

The staff will brief the Commission on CPSC voluntary activities from April 1, 1990 through September 30, 1990.

For a Recorded Message Containing the Latest Agenda Information, Call: 301-492-5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: November 21, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-27945 Filed 11-23-90; 1:05 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:30 a.m., Friday, November 30, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: FY 1991 Operating Plan.

The staff will brief the Commission on issues related to the Opening Plan for Fiscal Year 1991.

For a Recorded Message Containing the Latest Agenda Information, Call: 301-492-5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-27946 Filed 11-23-90; 1:05 pm]

BILLING CODE 6355-01-M

FEDERAL ENERGY REGULATORY COMMISSION

November 21, 1990.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), U.S.C. 552B:

DATE AND TIME: November 28, 1990, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydor

927th Meeting—November 28, 1990, Regular Meeting (10:00 a.m.)

CAH-1.
Project No. 2832-016, Boise-Kuna Irrigation District, Nampa & Meridian Irrigation District, New York Irrigation District, Wilder Irrigation District and Big Bend Irrigation District

CAH-2.
Project No. 10838-022, City of Fredericksburg, Virginia
Project No. 7490-014, Commonwealth Hydroelectric, Inc.

CAH-3.
Project No. 10645-002, City of Richmond, Virginia

CAH-4.
Project No. 4656-004, Boise-Kuna Irrigation District, New York Irrigation District, Nampa & Meridian Irrigation District, Wilder Irrigation District and Big Bend Irrigation District

CAH-5.
Project No. 5251-016, City of Forth Smith, Arkansas

CAH-6.
Docket Nos. UL87-16-004 and UL87-17-004, Niagara Mohawk Power Corporation

CAH-7.
Docket No. UL87-30-002, Sheffield Car Company

CAH-8.
Docket No. UL89-32-001, Swans Falls Corporation

Consent Agenda—Electric

CAE-1.
Docket No. RM87-26-001, Final Rule, Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act

CAE-2.
Docket Nos. ER90-525-002 and ER90-526-002, New England Power Company

CAE-3.
Docket No. ER90-349-001, Northern States Power Company (Minnesota)
Docket No. ER90-406-001, Northern States Power Company (Wisconsin)

CAE-4.
Docket No. EL89-11-001, Vermont Yankee Nuclear Power Corporation
Docket No. ER89-312-001, Vermont Yankee Nuclear Power Corporation

CAE-5.
Docket No. EL89-55-001, New England Power Company

CAE-6.
Docket Nos. EF85-2011-005 and EF85-2021-005, United States Department of Energy—Bonneville Power Administration

CAE-7.
Docket Nos. ER89-265-000 and EL89-26-000, Arizona Public Service Company

CAE-8.
Docket Nos. EL89-34-000, ER86-107-005, ER87-327-002, ER88-397-001 and ER90-355-000, Pacific Gas and Electric Company

CAE-9.
Docket No. ER90-283-000, Cambridge Electric Light Company

CAE-10.
Docket Nos. EC90-18-000 and ES90-46-000, Ocean State Power and Ocean State Power II

CAE-11.

Docket No. QF85-292-004, Archbald Power Corporation
CAE-12.
Docket No. RM90-9-000, Modification of Regulations on Form No. EIA-714, Annual Electric Power System Report

Consent Agenda—Oil and Gas

CAG-1.
Docket No. RP91-15-000, Transwestern Pipeline Company
CAG-2.
Docket No. RP91-71-000, Questar Pipeline Company
CAG-3.
Docket No. RP91-13-000, Equitrans, Inc.
CAG-4.
Docket No. RP90-119-004, Texas Eastern Transmission Corporation
CAG-5.
Docket No. RP90-108-005, Columbia Gas Transmission Corporation
Docket No. RP90-107-007, Columbia Gulf Transmission Company
CAG-6
Docket No. TM91-3-26-000, Natural Gas Pipeline Company of America
CAG-7.
Docket No. TM91-2-26-000, Natural Gas Pipeline Company of America
CAG-8.
Docket No. TM91-5-28-000, Panhandle Eastern Pipe Line Company
CAG-9.
Docket No. TM91-4-28-000, Panhandle Eastern Pipe Line Company
CAG-10.
Docket No. TM91-3-30-000, Trunkline Gas Company
CAG-11.
Docket Nos. TQ91-1-56-000, and TM91-2-56-000, Valero Interstate Transmission Company
CAG-12.
Docket Nos. TQ91-2-25-000 and TM91-2-25-000, Mississippi River Transmission Corporation
CAG-13.
Docket Nos. TA91-1-53-000, and 001, K N Energy, Inc.
CAG-14.
Docket No. TM91-2-42-000, Transwestern Pipeline Company
CAG-15.
Docket No. TQ91-1-41-000, Paiute Pipeline Company
CAG-16.
Docket No. TQ91-1-25-000, Mississippi River Transmission Corporation
CAG-17.
Docket No. TO91-1-15-000, Mid Louisiana Gas Company
CAG-18.
Docket No. TQ91-1-28-000, Panhandle Eastern Pipe Line Company
CAG-19.
Docket No. TQ91-1-22-000, CNG Transmission Corporation
CAG-20.
Docket No. RP90-152-000, CNG Transmission Corporation
CAG-21.
Docket Nos. TA91-1-32-000, RP90-166-001 and TM91-1-32-002, Colorado Interstate Gas Company
CAG-22.
Docket No. TA91-1-35-000, West Texas Gas, Inc.
CAG-23.
Docket Nos. TQ91-1-8-001, 002, TM91-1-8-001, 002, TF91-1-8-001 and 002, South Georgia Natural Gas Company
CAG-24.
Docket Nos. TQ91-1-7-002, TM91-1-7-001 and TF91-1-7-001, Southern Natural Gas Company
CAG-25.
Docket No. RP89-185-004, Panhandle Eastern Pipe Line Company
CAG-26.
Docket No. PR90-10-000, Llano, Inc.
CAG-27.
Docket Nos. PR90-1-002 and 001, Nycotex Gas Transport
CAG-28.
Docket No. RP90-120-001, Gas Research Institute
CAG-29.
Docket No. TM91-2-28-003, Panhandle Eastern Pipe Line Company
CAG-30.
Docket No. TM91-3-28-003, Panhandle Eastern Pipe Line Company
CAG-31.
Docket No. TM91-2-33-002, El Paso Natural Gas Company
CAG-32.
Docket Nos. RP88-259-037, RP89-136-020 and CP89-1227-006, Northern Natural Gas Company, Division of Enron Corp.
CAG-33.
Docket Nos. RP85-194-009 and RP86-49-002, Panhandle Eastern Pipe Line Company
CAG-34.
Docket Nos. RP90-119-002 and RP88-67-037, Texas Eastern Transmission Corporation
CAG-35.
Docket Nos. CP88-651-000, 001, 002, 003 and 004, Northwest Pipeline Corporation
CAG-36.
Docket Nos. RP87-7-000, *et al.* and CP88-391-000, *et al.*, Transcontinental Gas Pipe Line Corporation
CAG-37.
Docket Nos. RP88-262-007 and CP89-917-004, Panhandle Eastern Pipe Line Company
CAG-38.
Docket No. CP89-1740-000, Northwest Pipeline Corporation
CAG-39.
Docket No. CP90-9-000, TPC Transmission, Inc.
CAG-40.
Docket Nos. ST83-627-000, 001 and ST87-2586-000, TEX/CON Gas Pipeline Company
CAG-41.
Docket No. GP88-26-001, Northern Pump Company, Danner No. A-1 Well
CAG-42.
Docket No. GP89-47-000, Sandstone Resources, Inc. v. Columbia Gas Transmission Corporation
CAG-43.
Docket No. CP89-817-004, Panhandle Eastern Pipe Line Company
CAG-44.
Docket No. CP90-187-001, Oklahoma-Arkansas Pipeline Company
CAG-45.
Docket No. CP89-1851-003, Altamont Gas Transmission Company
CAG-46.
Docket No. CP87-358-002, Tennessee Gas Pipeline Company
Docket No. CP87-428-002, CNG Transmission Corporation
CAG-47.
Docket No. CP87-75-002, Tennessee Gas Pipeline Company
CAG-48.
Omitted
CAG-49.
Docket Nos. CP86-725-001 and 002, United Gas Pipeline Company and Trunkline Gas Company
CAG-50.
Docket No. CP84-252-000, et al., Trans-Appalachian Pipeline, Inc.
CAG-51.
Docket No. CP90-691-001, Great Lakes Gas Transmission Company
CAG-52.
Docket Nos. CP66-111-002, CP90-1162-000 and CP90-1163-000, Great Lakes Gas Transmission Limited Partnership and Great Lakes Gas Transmission Company
CAG-53.
Docket No. CP89-1680-001, Columbia Gas Transmission Corporation and Texas Gas Transmission Corporation
CAG-54.
Docket No. CP91-38-000, Algonquin Gas Transmission Company
CAG-55.
Docket Nos. CP90-1593-000 and CP90-2097-000, Northern Natural Gas Company
CAG-56.
Docket No. CP88-180-010, Texas Eastern Transmission Corporation
Docket No. CP88-185-004, Algonquin Gas Transmission Company
CAG-57.
Docket No. CP90-664-000, Columbia Gas Transmission Corporation and Commonwealth Gas Pipeline Corporation
CAG-58.
Docket Nos. CP89-362-000, 001, CP89-363-000 and 001, North Country Pipeline Corporation
CAG-59.
Docket No. CP91-132-000, Colorado Interstate Gas Company
CAG-60.
Docket No. CP91-161-000, Texas Eastern Transmission Corporation
CAG-61.
Docket No. CP91-265-000, Colorado Interstate Gas Company
CAG-62.
Docket Nos. TQ-91-3-4-000 and TM91-1-4-001, Granite State Gas Transmission, Inc.
CAG-63.
Docket Nos. CP91-393-000 and CP91-394-000, Colorado Interstate Gas Company
CAG-64.
Docket No. IS90-11-001, Amerada Hess Pipeline Company
Docket No. IS90-12-001, ARCO Pipe Line Company

Docket No. IS90-13-001, BP Pipeline (Alaska) Inc.
Docket No. IS90-14-001, Exxon Pipeline Company
Docket No. IS90-15-001, Mobil Alaska Pipline Company
Docket No. IS90-16-001, Phillips Alaska Pipeline Corporation
Docket No. IS90-17-001, Unocal Pipeline Company

Hydro Agenda

H-1.
Project No. 3189-014, Rock Creek Limited Partnership. Order on initial decision concerning minimum flows.

Electric Agenda

E-1.
Docket No. EF90-2061-000, United States Department of Energy—Bonneville Power Administration. Order on rate filing.

Miscellaneous Agenda

M-1.
Docket No. RM90-11-000, Streamlining Commission Procedures for Review of Staff Action. Final Rule.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Docket No. PL89-2-005, Interstate Natural Gas Pipeline Rate Design. Notice of public conference on generic interstate natural gas pipeline rate design issues.

II. Producer Matters

PF-1.
Reserved

III. Pipeline Certificate Matters

PC-1.
Docket No. CP89-2067-001, Southern Natural Gas Company. Order on requests for rehearing and stay concerning service to Air Products.

PC-2.
Docket No. CP90-1391-000, *Arcadian Corporation* v. *Southern Natural Gas Company*. Order on complaint.

PC-3.
Docket No. CP90-1478-000, Northern Border Pipeline Company. Order on petition for declaratory order.

Lois D. Cashell,
Secretary.

[FR Doc. 90-27900 Filed 11-23-90; 1:02 pm]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Thursday, November 29, 1990, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Final amendments to Part 348 of the Corporation's rules and regulations, entitled "Management Official Interlocks," which final rule would conform Part 348 to changes made in the Depository Institution Management Interlocks Act as those changes pertain to the scope of the regulation and as it relates to advisory directors, certain types of savings associations and savings and loan holding companies, emergency acquisitions of savings associations, interlocks involving diversified savings and loan holding companies, and the extension of the grandfather period under the statute.

Memorandum and resolution re: Proposed amendments to Part 333 of the Corporation's rules and regulations, entitled "Extension of Corporate Powers," which interim rule provides that a savings association that has converted to a state savings bank charter and retains membership in the Savings Association Insurance Fund will continue to be subject to the same activity and investment restrictions and loan to one borrower limits that were applicable to a savings association prior to its conversion.

Memorandum and resolution re: Proposed amendment to the Corporation's rules and regulations in the form of a new Part 334, entitled "Contracts Adverse to Safety and Soundness of Insured Depository Institutions," which would implement section 225 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by prescribing regulations to prevent any depository institution insured by the Corporation from contracting for goods, products or services in a way that would adversely affect the safety and soundness of that institution.

Memorandum and resolution re: Final amendments to part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which amendments would ensure that limits are placed on the amount of purchased mortgage servicing rights that State nonmember banks and savings associations can recognize for regulatory capital purposes.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: November 21, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 90-27875 Filed 11-23-90; 9:12 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Thursday, November 29, 1990, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Memorandum re: Renewal of Contract Support for 1991 (Case No. FA-90-0043)

Reports of the Office of Inspector General:

Audit Report re:
Denver Consolidated Office, Cost Center-603 (Memo dated September 24, 1990)

Audit Report re:
Bank Termination Audit, Knoxville Consolidated Office (Memo dated October 15, 1990)

Audit Report re:
Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois (Memo dated October 11, 1990)

Audit Report re:
First Federal Savings & Loan Association of Lake Charles, Lake Charles, Louisiana,

Assistance Agreement, Case Number C-311c (Memo dated September 28, 1990)

Audit Report re:

Audit of Division of FSLIC Operations' Assistance Monitoring Activities Related to the Citizens Federal Savings and Loan Association, Miami, Florida, Assistance Agreement, Case Number C-279c (Memo dated October 4, 1990)

Audit Report re:

Raritan Valley Savings and Loan Association, East Brunswick, New Jersey, Assistance Agreement, Case Number C-329c (Memo dated October 10, 1990)

Audit Report re:

Audit of the F Street Petty Cash Fund (Memo dated October 19, 1990)

Audit Report re:

Audit of Virginia Square Rental Income (Memo dated October 19, 1990)

Audit Report re:

Audit of Procurement and Management of Appraisals—Knoxville Consolidated Office (Memo dated October 16, 1990)

Application for Federal deposit insurance: Main Street Savings Bank, F.S.B., a proposed new federal savings bank to be located at 940 Main Street, Conyers, Georgia.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: November 21, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-27876 Filed 11-23-90; 8:45 am]

BILLING CODE 6714-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Monday, December 3, 1990.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Capsizing and Sinking of the Self-Elevating Lifeboat M/V TITAN, Gulf of Mexico, June 26, 1989.

NEWS MEDIA CONTACT: Ted Lapatkiewicz, 382-6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: November 21, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90-27874 Filed 11-21-90; 4:13 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 26, December 3, 10, and 17, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 26

There are no meetings scheduled for the Week of November 26

Week of December 3—Tentative

Friday, December 7

10:00 a.m.

Briefing on Level of Design Detail for Part 52 (Public Meeting)

11:30 a.m.

Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of December 10—Tentative

Thursday, December 13

9:00 a.m.

Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)

10:30 a.m.

Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of December 17—Tentative

Monday, December 17

8:30 a.m.

Collegial Discussion of Items of Commissioner Interest (Public Meeting)

10:00 a.m.

Briefing on EEO Program (Public Meeting)

Tuesday, December 18

10:00 a.m.

Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

Wednesday, December 19

11:30 a.m.

Affirmative/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting (Recording)—(301) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: November 21, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90-27909 Filed 11-23-90; 1:03 pm]

BILLING CODE 7590-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1435]

TIME AND DATE: 10 a.m. (EST), November 28, 1990.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on October 23, 1990.

ACTION ITEMS:

New Business

A—Budget and Financing

A1. Financial Statements for Fiscal Year 1990.

B—Purchase Awards

B1. Negotiated Contract with Ecolochem, Inc., for Lease of Boiler Makeup Water Treatment System for Widows Creek Power Plant (Negotiation GZ-89155B).

B2. Indefinite Quantity Term Agreements to Provide Labor and Equipment for Repair, Modification, and New or Maintenance Construction Work for National Fertilizer and Environmental Research Center.

B3. Indefinite Quantity Term Agreement for Offsite Laundry Decontamination Services for Browns Ferry, Sequoyah, and Watts Bar Nuclear Plants and Power Service Shops (Proposal MA-45356B).

C—Power

C1. Renewal Power Contract with Lenoir City, Tennessee.

C2. Revision of Growth Credit Program.

C3. Delegation of Authority to Modify Industrial Power Contract Term Provisions.

E—Real Property Transactions

E1. Sale of Noncommercial, Nonexclusive Permanent Easement Affecting 0.10 Acre of Tellico Reservoir Shoreline in Monroe County, Tennessee.

E2. Abandonment of Easement Affecting 23.9 Acres of Wilson Reservoir Land in Colbert and Lawrence Counties, Alabama.

E3. Land Exchange Affecting 0.75 Acre of Former TVA Land, Apalachia Reservoir, in Polk County, Tennessee.

F—Unclassified

F1. Filing of Condemnation Cases.

F2. Delegation of Authority to Execute Personal Services Contract No. TV-82944V with Access, Incorporated.

F3. Delegation of Authority to Execute Personal Services Contract No. TV-82913V with Coopers & Lybrand.

F4. Revision to TVA Code II Expression of Staff Views.

F5. Delegation of Authority to Execute Supplement to Personal Services Contract No. TV-65787A with Merz and McLellan Consulting Engineers.

F6. Delegation of Authority to Execute Supplement to Personal Services Contract No. TV-79561T with The Hartford Steam Boiler Inspection and Insurance Company.

F7. Delegation of Authority to Execute Personal Services Contract with BCP Technical Services, Inc.

F8.

(1) Delegation of Authority to Execute Supplement to Personal Services Contract No. TV-72163A with Bechtel Corporation.

(2) Delegation of Authority to Execute Personal Services Contract with Bechtel Corporation.

F9.

(1) Delegation of Authority to Execute Personal Services Contract with United Engineers & Constructors Inc.

(2) Delegation of Authority to Execute Personal Services Contract with Fluor Daniel, Inc.

F10.

(1) Delegation of Authority to Execute Supplement to Personal Services Contract No. TV-75528A with Digital Engineering, Inc.

(2) Delegation of Authority to Execute Personal Services Contract with Digital Engineering, Inc.

Information Items

1. Appointment of Mary Sharpe Hayes to the Board of Directors of the TVA Retirement System.

2. Supplement to Personal Services Contract No. TV-72983A with Equifax Services, Inc.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: November 21, 1990.

William L. Osteen, Jr.,

Associate General Counsel and Assistant Secretary.

[FR Doc. 90-27912 Filed 11-23-90; 1:04 pm]

BILLING CODE 8120-02-M

Corrections

Federal Register
Vol. 55, No. 228
Tuesday, November 27, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 90N-0200]

RIN 0905-AA06

Warning Statements Required for Over-the-Counter Drugs Containing Water-Soluble Gums as Active Ingredients

Correction

In proposed rule document 90-25482 beginning on page 45782 in the issue of Tuesday, October 30, 1990, make the following corrections:

1. In the following places, "carrageenan" was misspelled:

a. On page 45782, in the second column, in the second complete paragraph, in the eighth line;

b. On page 45783, in the first column, in the fourth full paragraph, in the seventh line; and

c. On the same page in the same column, in the footnote, in the last line.

2. On page 45784, in the first column, in the sixth entry under **References**, in the second line, "Fiberholdig" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-197-AD]

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes

Correction

In proposed rule document 90-26014 beginning on page 46219 in the issue of Friday, November 2, 1990, make the following correction:

§ 39.13 [Corrected]

In § 39.13 on page 46220, in the first column, in the seventh line, "E1337" should read "E3137".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-198-AD]

Airworthiness Directives; British Aerospace Model BAe/DH/HS/BH/125 Series Airplanes Equipped With Aircraft Products Company (APC) Warming Oven, Part Numbers 255B-LH-28/115, 255B-RH-28/115, and 255-362

Correction

In proposed rule document 90-26015 beginning on page 46220 in the issue of Friday, November 2, 1990, make the following corrections:

1. On page 46221, in the second column, in the fourth line the section heading should read as set forth below.

§ 39.13 [Corrected]

2. On the same page, in the same column, in paragraph A1 of § 39.13, in the third line, "25-54-9768A&B," should read "25-54-9758A&B,".

BILLING CODE 1505-01-D

federal register

Tuesday
November 27, 1990

Part II

Department of Agriculture

Cooperative State Research Service

Competitive Research Grants Program (National Research Initiative Competitive Grants Program) for FY 1991; Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program (National Research Initiative Competitive Grants Program) for Fiscal Year 1991; Solicitation of Applications

Applications are invited for competitive grant awards under the Competitive Research Grants Program (hereinafter referred to as the National Research Initiative Competitive Grants Program (NRICGP)) administered by the Office of Grants and Program Systems, Cooperative State Research Service, for fiscal year 1991.

The authority for this program is contained in section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). Under this program, subject to the availability of funds, the Secretary may award competitive research grants, for periods not to exceed five years, for the support of research projects to further the programs of the Department of Agriculture. Proposals may be submitted by any State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation, or individual. Proposals from scientists at non-United States organizations will not be considered for support.

Section 639 of Public Law No. 101-506, an Act Making Appropriations for Rural Development, Agriculture and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes, prohibits Cooperative State Research Service (CSRS) from using the funds available for the NRICGP for fiscal year 1991 to pay indirect costs on research grants awarded competitively that exceed 14 per centum of the total direct costs under each award.

Applicable Regulations

Regulations applicable to this program include the following: (a) The regulations governing the Competitive Research Grants Program, 7 CFR part 3200 which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects; and (b) the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015.

Specific Research Areas to be Supported in Fiscal Year 1991

CSRS is soliciting research proposals in the following areas related to agriculture, forestry and human nutrition:

Natural Resources and Environment ($13.272M)

Nutrition, Food Quality and Health ($3.792M)

Animal Systems ($18.960M)

Plant Systems ($33.960M)

The need and opportunities for research in the above areas have been underscored as a means of providing the scientific and technological advances urgently needed for meeting major challenges now facing agriculture in the United States. Many agricultural and scientific communities, among them the Board on Agriculture of the National Research Council, the State Experiment Station Committee on Organization and Policy, users communities, USDA agencies, and professional and scientific groups have called for an increased investment in competitively awarded research as a means of providing the new knowledge necessary for improving our national agricultural competitiveness and economic performance, human health and environmental stewardship.

Research is needed which will form a broad base of knowledge for addressing cost-effective prevention and solution of problems associated with agricultural production; for developing means to protect natural resources and wildlife; for optimizing economic factors, crop quality and productivity of land use; for protecting health and safety; and for adding value to all stages of agricultural products. Increased understanding of how plants, animals, pests and pathogens of agricultural significance reproduce, grow, develop and interact with their environment will be necessary for devising alternative methods for dealing with weeds and pests, for improving water quality, and for coping with projected changes in climate and environment. Additionally, understanding factors affecting food quality and safety and human nutrition will lead to improved human health.

Natural resources and the environment. The need has been recognized for obtaining the knowledge necessary for devising innovative techniques for prudently managing and utilizing our nation's natural resources and for addressing environmental concerns such as increased UVB radiation and possible global climate changes. Accordingly, the area of National Resources and the Environment has been developed as an important component of the NRI. Contained in this research area are two new program areas, Water Quality and Forest/Rangeland/Crop Ecosystems, as well as Plant Responses to the Environment, a CRGO program area begun in FY90. Research opportunities in Forest Biology will be provided in the above three program areas, as well as in all program areas found in the Plant Systems research area. The program area, Improved Utilization of Wood and Fiber, will also be included in Natural Resources and the Environment for FY91.

Nutrition, food quality and health. In response to the increased awareness of the dependency of optimal health on optimum nutrition and food quality, research emphasis on nutritional requirements for optimal health will be continued. A research program area will be initiated in food safety, specifically focussed on research questions involving bacteria responsible for food-borne illness.

Animal systems. Research across a broad range of animal science areas is needed for the enhancement of animal production efficiency, as well as for addressing such areas as modification of animal products. Accordingly, two new program areas are provided: (1) Animal Molecular Genetics and (2) Cellular and Molecular Basis of Disease. These new program areas expand the program previously found in the FY90 solicitation as Animal Molecular Biology. Program areas in reproductive biology and growth and development of animals of agricultural importance will continue.

Plant systems. The National Research Initiative has developed new thrust and scope for the Plant Systems Area. The Plant Gnome program area will be a new research opportunity in mission-oriented research targeted to understanding the structure, control and technology for studying agriculturally important genes. This program area is part of the USDA Plant Genome Project. A new research area, Energy and Metabolism, will contain and expand the two former CRGO programs, Photosynthesis and Nitrogen Fixation/Metabolism. Other former CRGO programs in the FY1990 Plant Sciences (Plant Pathology/Weed Science; Plant Genetic Mechanisms and Plant Molecular Biology; Plant Growth and Development; and Plant Pest Science) will be subsumed and expanded in Plant Systems.

While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to describe areas where new information is vitally needed, the guidelines are not meant to establish boundaries or to discourage the creativity of potential applicants. The USDA encourages submission of innovative projects that are "high-risk",

as well as innovative proposals with potential for more immediate application. In all instances, innovative research will be given high priority.

Organisms of agricultural significance should be used to accomplish the research objectives. Use of other organisms as experimental model systems must be justified in terms of research goals, the program area and the long-term objectives of the USDA.

Types of Proposals

Research projects: Research will be supported which is fundamental or mission-linked performed by individual investigators or multidisciplinary teams from any State agricultural experiment station, college, University, other research institution or organization, Federal agency, private organization, or corporation. As part of the NRI effort to strengthen the national agricultural research base, proposals are specifically encouraged from individuals at small and mid-sized institutions previously unsuccessful in obtaining competitively-awarded research grants.

Postdoctoral research awards to individuals: USDA encourages individuals who (1) have earned a doctoral degree after January 1, 1988 or will have earned a degree no later than June 15, 1991; (2) are citizens of the United States; (3) obtained commitments from an established investigator to provide all necessary facilities and space necessary for conduct of the research and (4) have interests in research that falls within this solicitation to apply for a grant. The proposal should initiate the individual's independent program, rather than supplement or augment research programs in the laboratory of the established investigator. While submission of individual postdoctoral proposals is encouraged, it must be noted that no preference is given to such individuals in determining awards.

Workshops, symposia or conferences that bring together scientists to identify research needs, update information, or advance an area of research are recognized as integral parts of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this solicitation will be considered for partial or, if modest, total support. These proposals should be submitted to appropriate program areas listed below. Applicants considering submission under this category are strongly advised to consult the appropriate NRICGP staff before preparation and submission of the proposal.

Individuals and eligible entities, whether or not they meet the above criteria, are welcome to submit proposals and their proposals will be evaluated objectively under the applicable award criteria. Interested potential applicants should contact the appropriate program staff for further information.

The following specific program areas and guidelines are provided as a base from which proposals may be developed:

Natural Resources and the Environment

Research in the area of natural resources and the environment is needed to address contemporary issues of importance not only for agriculture but for society as a whole. Biological systems are markedly influenced by the environment. Further, the impact of possible environmental changes on sustainability and economic viability of agriculture and forestry, and the need to enhance the stewardship of natural resources minimize negative environmental consequences require expanded knowledge in diverse scientific disciplines. To garner such knowledge, research will be supported in the following topic and program areas:

21.0 Water Quality

It has become clear that non-point runoff of water contaminants and pollutants, including pesticides and other organics, inorganic nutrients, animal wastes, excess salts and metals has become a major landscape problem. The goal of this new program area is to support research on basic mechanisms which affect water quality. Results from such research will be used as a basis for enhancing the quality of water in agricultural and forest ecosystems, as well as for improving run-off or groundwater leaving these ecosystems. Studies are needed in the disciplines of soil chemistry and biophysics; uptake, transport, and degradation of water contaminants; and ecology of landscape elements affecting water quality. Studies are specifically encouraged which examine the interactions of wetland, riparian or buffer ecosystems with those of agricultural or forest systems resulting in modification of factors affecting water quality. It is recognized that questions in these areas will require collaboration of several investigators and/or a multidisciplinary approach.

Specific justification relating the proposed research to water quality problems will be required in each proposal. Studies on Soils and Microorganisms and Plant/Water Contaminant Interactions (described below) will be applicable to wetland, forest, or agricultural ecosystems. The following specific research areas and guidelines are provided as a base from which proposals may be developed:

Soils and microorganisms. This area will support research on mechanisms of soil and microbial interactions as affecting accumulation, persistence, degradation, disappearance and transport of water contaminants and pollutants, including pesticides and other organics, inorganic nutrients (including nitrogen and phosphorus), excess salts and metals. Proposals should emphasize studies that will enhance basic knowledge of the biological and physico-chemical mechanisms affecting these phenomena specifically relating to water quality. The problem areas include, but are not necessarily limited to:

(a) Physical properties and processes of soils (including litter or surface sediments) under both aerobic and anaerobic conditions, and including surface chemistry of soil components, adsorption, diffusion and mass flow of contaminants and their accessibility to microorganisms and plant roots;

(b) Basic biochemical, genetic and molecular mechanisms of microbial uptake, transformation, sequestration and detoxification of pesticides and other organics, nutrients and metals; and

(c) Ecology of microbes involved in the above processes.

Plant/water contaminant interaction. This area will support research on:

(a) Basic biochemical, genetic and molecular mechanisms of whole plant uptake, transport, transformation, sequestration and detoxification of water contaminants;

(b) Cellular, morphological and developmental adaptation of plants as related to water contaminants (i.e., anatomy, physiology, biochemistry, root morphology and rhizosphere interactions); and

(c) Basic studies involving tolerant species that accumulate contaminants as a means for improvement of water quality.

Wetland, riparian and forest ecosystems. This area will support research on mechanistic studies of biogeochemical or physiological/ecological processes in wetland, riparian, or buffer ecosystems (natural or constructed) as related to disposal, treatment, storage and/or reduction of contaminated water from agricultural, forest or urban ecosystems with respect to non-point source runoff (i.e., the use of these ecosystems to treat municipal waste-water is not included in this solicitation). These studies should include, where appropriate, input/output

budgets and estimates of contaminants retention or treatment capacity.

Support will not be provided for research addressing screening and survey projects; technology development; genetic engineering of organisms for water quality enhancement; municipal waste-water treatment; and animal and human health issues.

Scientists should be aware that a complementary Water Quality Program exists within CSRS Special Grants. For more information, contact the Proposal Services Branch at the address listed elsewhere in this solicitation. Applicants should submit proposals to the most appropriate program; submission of duplicate or overlapping proposals to both programs is discouraged.

22.0 Atmosphere and global climate change

A strong scientific basis is needed for understanding the impact of potential atmospheric and global climate change. As a part of the USDA commitment to the US Global Change Research Program, research in two program areas will provide: An understanding of plant responses to environment and the implications associated with global change; and development of research capacity to collect critical information relevant to stratospheric ozone depletion for evaluation of its biological implications for global change.

22.1 Plant responses to the environment. Environmental stress is a major deterrent to agricultural and forest productivity. It is also clear that, in the area of atmospheric and global climate change, there is a lack of basic understanding of how plants perceive and respond to both normal and altered environmental signals. The goal of this program area is to understand the fundamental mechanisms of plant (including forest species) responses to natural and anthropogenic perturbations (long or short term). Perturbations may include: Water, temperature, light (including UV–B), nutrient, and atmospheric chemical composition (including carbon dioxide, ozone, sulfur dioxide and the greenhouse gases). Research is encouraged which examines interactions between multiple stresses. Studies should address mechanisms at the ecophysiological, cellular or molecular levels to explain organismal responses. Projects that link two or more levels of organization toward an understanding of plant responses to stress are encouraged. Examples of research to be supported include:

(a) the interactions of single or multiple environmental factors and how they affect the physiological status of plant processes;

(b) Expression and regulation of genes that are involved in plant responses to environmental perturbations; and

(c) Identification of biochemical, cellular, morphological, and phenological changes that take place in plants in response to changing environmental signals.

Ecosystem studies specifically directed toward understanding response to the environmental parameters listed above are also appropriate for this program area; other ecosystem studies should be submitted to the Forest/Rangeland/Crop Ecosystem program area (23.0).

22.2 Monitoring Systems for Ultraviolet. Description of the research to be supported and receipt date of proposals for this targeted program area will be published at a later date.

23.0 Forest/rangeland/crop ecosystems

The goal of this program area is to further the understanding of underlying biological and ecological processes in ecosystems that have potential to contribute to enhanced plant productivity and to the well-being of vegetation communities. Structure and function of ecosystems are related to many complex processes of interactions and interdependences among plant species, other organisms, and the physical factors operating within the system. Alterations and changes caused by human influence contribute to complex perturbations of these systems yet a lack of understanding of the innate intricacies of ecosystems may present barriers to optimizing agricultural and forest production. Therefore, discerning how major landscapes function on the ecophysiological, populational, community, and biogeochemical levels will provide critical knowledge for enhancement of agricultural and forest practices.

Within this context, studies that include the developmental, structural or functional attributes controlling component ecosystem processes as well as whole ecosystem responses are to be considered. Proposals that explore the implications of alternative management systems on ecosystem processes are also encouraged. It is recognized that simulation modelling may be useful for integration of research results. Studies are encouraged in but not limited to the following areas:

(a) Influence of abiotic and biotic factors on carbon, nutrient, water, and energy flow in ecosystems and on the mechanisms that control such fluxes;

(b) Soil physical and chemical properties and processes that affect water and nutrient availability;

(c) Responses of vegetation communities and soil food webs to management practices, disturbance and environmental change (includes successional and mycorrhizal studies); and

(d) Interspecific antagonisms and interactions among plants in relationship to management practices.

Because of limited funding, large whole ecosystem manipulations are not expected to receive support. Applicants who propose studies of wetland or riparian ecosystems, or those interested in the ecosystem as it relates to water or soil contamination or water quality, should direct proposals to the Water Quality program area (21.0). Studies that focus only on the mechanisms of plant response to abiotic or biotic factors should be directed to the Plant Responses to the Environment program area (22.1) or the Plant Pest Interactions topic area (51.0).

24.0 Improved utilization of wood and wood fiber

Improved wood utilization practices depend upon a continually advancing scientific foundation of basic research in wood properties and fundamental concepts of wood science. This program area encourages basic research that addresses critical barriers to improved wood utilization, providing the scientific base from which new research and development can proceed. The program area will place emphasis on the following:

Wood Chemistry and Biochemistry represents an important area where new basic information is vitally needed and which has important potential for expanding wood utilization. Basic questions that need to be addressed include principles governing the biological, physical or chemical reactions in wood and woodbase materials. Examples of research subjects of interest include conversion to products; deterioration mechanisms; new wood treatment chemistry; lignocellulosic polymer modification; surface chemistry; and fundamental studies in adhesives.

Physical/Mechanical Properties of Wood and Basic Wood Processing Technology constitutes an area of investigation in which an improved base of scientific knowledge can ensure future development of new materials, products and processes. Research is encouraged that furthers an understanding of basic mechanisms associated with the structure, physical

properties, and basic processing characteristics of wood and wood-base materials. Examples of such research include, but are not limited to, anatomy and ultrastructure; wood formation; viscoelasticity; heat and mass transfer phenomena; lignocellulosic modification; particle/fiber consolidation; surface and defect evaluation methods; non-destructive property evaluation; and materials science principles.

Structure Wood Engineering relates to the structural performance of wood and wood-base materials as individual components and in systems. Significant improvements in the use of wood will depend on the development of an expanded scientific base of knowledge. The goal of research in this area is to stimulate innovate approaches in the structural use of wood. Examples of relevant research include: Reliability-based design; performance modeling and behavior of wood/non-wood composites; new approaches in fasteners and connectors; moisture and environmental effects; and basic failure mechanisms.

Forest Engineering Research that emphasizes impact of engineering practices upon the safety of forest operation and the ergonomics of forest system components will also be considered in this program area. Examples of such research include studies of engineering-system-related stand regeneration; engineering characteristics of trees, stand, and soils; and systems for controlling and monitoring equipment. Research on the development of equipment, instrumentation and control systems should contain a significant portion of work involving effects of equipment and instrumentation on wood quality or wood products.

Nutrition, food quality and health

The health of the U.S. citizen depends on the quality and quantity of the country's food supply and the nutrients consumed by individuals. Research will be supported which will contribute to the improvement of human nutritional status by increasing our understanding of requirements of nutrients. Data generated from these studies will form the scientific basis for dietary recommendations as well as for new developments by the food industry in response to the needs engendered by those recommendations. Safety of food products is of paramount importance to the producer, processor, distributor, and consumer. In response to this need, a new program area supporting research in food safety, particularly focusing on the pathogenesis, prevention and control of food-borne disease-causing microorganisms, will be initiated.

31.0 Human nutrient requirements for optimal health

The need to understand the interplay between optimal nutrition and optimal health serves as an impetus for research which will improve our understanding of nutrient requirements in the normal healthy human population. The primary objectives of this program area is to support research that will help to fill gaps in our knowledge of human nutrient requirements and factors influencing them.

Examples of research which will be emphasized include:

(a) Bioavailability of nutrients;

(b) The interrelationship of nutrients;

(c) Nutrient requirements of healthy individuals across all age groups;

(d) Mechanisms underlying the relationship between diet and health maintenance, such as the effect of nutrients on the immune system; and

(e) The cellular and molecular mechanisms underlying nutrient requirements, including the modulation of gene expression by nutrients.

Support will not be provided for research addressing nutrient requirements and disease states, demonstration or action projects, or for surveys of the nutritional status of population groups. In addition, the use of animals as model systems must be justified.

Proposals dealing with processing techniques in food technology should be clearly oriented toward determining human nutrient requirements. Proposals that concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements.

This program area has subsumed those projects previously considered for funding under the former CRGO program 7.0 Human Nutrition.

32.0 Food safety

The primary objective of this program area is to increase our understanding of the disease-causing bacteria which contaminate food with the goal of decreasing food-borne illnesses. Proposals will be solicited for research on the mechanisms of pathogenesis, prevention and control of food-borne disease causing bacteria, especially those growing at refrigeration temperatures.

Animal systems

Research across a broad range of animal science areas is urgently needed for the future enhancement of animal production efficiency as well as to address such areas as the modification of animal products. The critical need for a better understanding of the biology of animal production performance necessitates this broad approach. To accomplish this, research will be supported under the following categories:

(a) Animal reproductive biology;

(b) Cellular growth and developmental biology of animals;

(c) Animal molecular genetics; and

(d) Cellular and molecular basis of animal disease.

Emphasis should be given to innovative approaches to research questions related to animals primarily raised for food or fiber or that otherwise contribute significantly to the agricultural enterprise of the country. The use of experimental model systems should be justified relative to the objectives of the specific research program area.

41.0 Reproductive biology and animals

Suboptimal reproductive performance in animals of agricultural importance is a major factor limiting more efficient production of animal food products. New knowledge in this area is required to solve the problem of increased cost of animal production and to decrease the impact of consequent high costs of animal food products to the consumer. The primary objective of this program area is therefore to increase our knowledge of reproductive biology in animals of agricultural importance with the goal of increasing reproductive efficiency.

This program area will consider for support innovative research on:

(a) Mechanisms affecting embryo survival, endocrinological control of embryo development, mechanisms of embryo-maternal interactions, and embryo-implantation;

(b) Factors controlling ovarian function including follicular development, corpus luteum formation and function, and ovulation;

(c) Factors controlling male reproductive function;

(d) Gamete physiology, including cogenesis and spermatogenesis, gamete maturation, mechanisms regulating gamete survival in vivo or in vitro; and

(e) Parturition, postpartum interval to conception, and neonatal survival.

This program area also encourages research on the mechanisms controlling animal responses to physical and biological stresses that impinge upon reproductive efficiency. Research should contribute to an understanding of the causes, consequences and avoidance of stress, rather than merely describing the

physiological effects of stress on reproductive efficiency.

This program area will consider projects previously submitted to the former CRGO program, 8.0 Animal Sciences (Reproductive Physiology).

42.0 Cellular growth and developmental biology of animals

Suboptimal growth and development are limiting factors in animal productivity, yet basic information regarding developmental processes in animals of agricultural importance is largely lacking. The primary objective of this program area is to increase our understanding of the biological mechanisms underlying animal growth, development, and lactation. Increased knowledge in these areas would be useful in increasing protein and decreasing fat in food products of animal origin, improving production, improving control and manipulation of muscling, growth, metabolism, tissue partitioning, and mammary function.

The following categories of research should be emphasized:

(a) Cell proliferation and differentiation;

(b) Genetic mechanisms underlying growth and development;

(c) Metabolic regulators such as growth factors;

(d) Synthesis and degradation of protein and lipid at the cellular or tissue level;

(e) Metabolic and nutritional aspects of growth and development including rumen microfloral development;

(f) Developmental biology of the immune system; and

(g) Cellular and molecular aspects of the effect of environmental stress on growth and development.

This program area subsumes those projects previously considered for funding under the former CRGO program, 10.0 Molecular and Cellular Mechanisms of Animal Growth and Development. Proposals dealing essentially with aspects of reproduction should be submitted to Reproductive Biology of Animals (41.0). Proposals addressing research on infectious agents (bacteria, fungi, parasites, and viruses) should be submitted to the Molecular and Cellular Basis of Disease program area (44.0).

43.0 Animal molecular genetics

A lack of basic information about the genes and gene products of food and fiber animals currently exists. The primary objective of this program area is to increase our understanding of the structure, organization, function, regulation, and expression of genes in agriculturally important animals. Increased knowledge in this area would aid in improving animal productivity and efficiency, genetic localization of economically important production traits, marker assisted selection, and transgenics.

The following areas of research should be emphasized:

(a) Identification, isolation, characterization of genes, gene products, and their regulatory mechanisms;

(b) Identification of DNA segregation markers;

(c) Interactions between nuclear and organellar genes and the molecular basis of genetic replication; and

(d) Development and application of methods to modify the animal genome.

This program area subsumes those projects previously considered for funding under the former CRGO program, 9.0 Animal Molecular Biology subsections (a) through (f).

44.0 Molecular and cellular basis of animal disease

A major limiting factor in agriculture is the lack of basic information about both infectious and noninfectious causes of disease in food and fiber animals. In order to sustain animal health and well-being and to prevent animal disease, the primary objective of this program area is to increase our understanding of disease mechanisms, especially at the molecular and cellular level. Host-agent interactions and defense mechanisms of the host animal are also of interest. Increased knowledge in this area would result in decreased contamination of food products of animal origin, decreased use of antimicrobial agents and more effective immunizations and diagnostic methods to provide assistance with preventive herd health management schemes.

The following categories of reseach represent areas of emphasis of the program area: (a) Mechanisms that alter the normal physiologic state at the molecular and cellular level to produce disease resulting from both biotic and abiotic causes; (b) genetic and cellular mechanisms of disease resistance, *e.g.* molecular immunology and immunogenetics; (c) disease mechanisms, *e.g.* molecular pathogenesis; (d) both host and microbial factors influencing colonization of mucosal surfaces; and (e) host-environment interactions that lead to disease. Interdisciplinary research is encouraged on complex predisposing factors leading to disease.

This program area also solicits proposals addressing research on the molecular, cellular, and genetic mechanisms involved in the following components of *Brucella abortus* infection in cattle:

(a) The mechanisms by which *B. abortus* induces disease and persists as an infectious agent;

(b) The basis of the immune response to *B. abortus* resulting in protective immunity;

(c) Antigens to permit differentiation among non-infected, vaccinated and *B. abortus* infected cattle; and

(d) Agents to produce long-lived protective immunity.

While the major emphasis is directed to cellular and molecular aspects of disease pathogenesis, rigorous studies at the organismal level are also encouraged. Investigators should address questions of importance to the mechanisms by which disease occurs or may be prevented. Proposals which are directed to deficiencies of host defense systems and interactions of the environment and host to cause predisposition to disease are also invited.

Proposals involving reagent development *per se* will not be considered for support. In addition, proposals involving free-living insects that are not intermediate hosts and vectors of animal diseases will not be considered.

This program area has subsumed those projects previously considered for funding under the former CRGO program, 9.0 Animal Molecular Biology (g) genetic mechanisms of interaction of animals with deleterious microorganisms or infectious agents and the subsection on Brucellosis.

Plant systems

Additional knowledge in a broad range of plant sciences is critical for improvement of crop and forest quality, productivity and sustainability, and for addressing the environmental impact of agricultural practices. Research which will obtain innovative insights into plant systems will be supported in the following program areas:

(a) Plant pest interactions;

(b) Genomes, genetics and diversity;

(c) Plant growth and development;

(d) Energy and metabolism;

(e) Alocohol fuels;

(f) Ecosystems; and

(g) Soybean research.

51.0 Plant pest interactions

Damage resulting from plant pests is a major factor in reducing crop and forest productivity. In some situations, plant pests can be controlled by chemical pesticides, but chemical application may result in negative environmental consequences. It is widely

acknowledged that understanding plant pest interactions significantly improves our ability to develop successful and environmentally safe control strategies. But despite considerable successful research on plant responses to pests, there is still great opportunity and need to further our understanding of plant defenses, and the basic biology of stress-causing organisms and biotic agents which suppress pests.

The goal of this topic area is to support research on biotic stresses encountered by plants during interactions with other plants, including weeds; pathogens such as viruses, bacteria, and nematodes; and arthropods such as insects and mites. The research supported in this topic area will focus on the identification of novel strategies that are both effective and compatible with social and environmental concerns. Within this context, research which emphasizes the following is encouraged: (a) How plant-pest interactions are established; (b) mechanisms of plant response to biotic stresses; (c) mechanisms of pest response to host defenses and (d) genetics of these interactions. (Applications using molecular genetics as a tool to clarify plant-pest relations are appropriate to this program area. Proposals focused on mapping of plant resistance genes or traits should be directed to the Plant Genome program area, 52.1).

Additionally, the program recognizes that fundamental research in the area of biological control will provide the critical information necessary for development of alternatives to pesticides. Therefore, research which emphasizes how damage from pests can be reduced, including basic studies on biological control organisms, is encouraged.

Host plants, pests, or components of natural control may be studied separately or as an interactive unit. However, all proposals should indicate how the anticipated information will further our understanding of plant-pest interactions and the cause, consequence or mechanism of stress avoidance in crop plants and forest species.

Research at the molecular, cellular, organismal or population level will be considered for those program areas described below.

51.1 Pathogens. Emphasis will be placed on crop and forest stresses arising from interactions with biological agents such as fungi, bacteria, viruses, viroids, and microplasm-like organisms. Studies focussing on the three way interactions of a pathogen, its host, and other host-associated microorganisms are also appropriate.

51.2 Insects (includes mites). In addition to the aforementioned subject areas related directly to insect-plant relations, studies of the basic biology of insects in the following areas are encouraged:

(a) Behavioral physiology;
(b) Chemical ecology;
(c) Endocrinology;
(d) Population dynamics;
(e) Genetics;
(f) Behavioral ecology;
(g) Pathology;
(h) Predator/parasite-insect relationships; and
(i) Toxicology including basic pesticide resistance studies. Proposed studies in these areas must include a justification for how anticipated results will be relevant to a reduction in plant stress.

51.3 Nematodes. Emphasis will be placed on understanding the basic biology of plant parasitic and entomophagous nematodes and their interactions with host organisms. Applicants may propose to study the nematode away from the host if there is significant justification.

51.4 Weeds. Emphasis will be placed on crop and forest stresses arising from interactions with other plants. This program area will emphasis studies on how stressful interactions are established between plants, how plants react to stresses generated by such interactions, how such interactions are influenced by environmental and other factors inherent to the interacting organisms, and how the interactions reduce plant productivity and usefulness to man.

To provide adequate scientific evaluation of applications, proposals submitted under these program areas will be reviewed by the peer review panel whose collective expertise is most appropriate to the scientific content of each proposal.

This topic area will consider research projects previously submitted to the former CRGO programs 1.1 Plant Pathology/Weeds and 11.0 Plant Pest Science—Insects and Nematodes.

52.0 Genomes, genetics and diversity

Significant impact on agricultural productivity can be achieved by understanding the molecular and cellular processes of plants and their inheritance, and translating these processes into desirable plant performance. In the topic area of Genomes, Genetics and Diversity, research which will promote the genetic improvement of crop plants and forest species will be given high priority. Research on agriculturally important genes will be encouraged in two programs areas. The Plant Genome program area will support mission-oriented studies to produce low density maps, localized high-density maps, and development of methods with high potential applicability to crop improvement. The Genetic Mechanisms and Molecular Biology program area will focus on obtaining basic information about plant genes and genetic processes. Specific information about the two program areas follow:

52.1 Plant Genome. Grants will be awarded to support mission oriented research in the area of the plant genome. This grant program area is part of the USDA Plant Genome Research Project. The Plant Genome Research Project was established in order to develop new or improved crop plants and forest species and to maintain germplasm resources, thereby promoting stability and profitability of plant production and improvement of quality of food, fiber, and feed. To accomplish these goals, the Plant Genome program area will foster and coordinate research leading to identification, characterization, alteration, and rapid and precise manipulation of genes controlling traits of agricultural importance.

Following the discovery of scientific principles of heredity, application of genetic principles has enabled the rapid improvement of many useful crop varieties. In conventional plant breeding, sexual hybridization and selection techniques have offered the chief means of genetic improvement, leading to substantial increases in yield, acquisition of pest resistance, and exploitation of other genetic traits of economic importance. However, many traits are controlled by multiple genes, limiting the rate at which improved varieties can be bred. Linkage maps carrying molecular markers are needed to facilitate breeding of traits controlled by multiple loci. Furthermore, in some commodities the application of current plant breeding methods may be approaching the point of diminishing returns because the desired genes do not exist within plant populations that can be hybridized. Genes that encode traits of potential economic importance are present in the plant population as a whole, but efficient means need to be developed to identify and isolate the responsible genes and transfer them to agriculturally important crop plants. The objective of the USDA Plant Genome Research program area is to facilitate full exploitation of the available gene pool for crop improvement. This can be accomplished by supporting high quality research designed to develop information and research tools that will

equip the plant breeder and other plant scientists for present and future challenges.

Potential applicants are advised that the Plant Genome is a mission-oriented, targeted program area. As such, the program area is seeking proposals that are not only of high scientific quality but are of high potential applicability to crop improvement as well. The use of non-cultivated plants as experimental model systems must be justified with regard to applicability to agriculture and forestry. Consistent with the provisions of 7 CFR 3200.15(d), priority will be given to proposals that plan timely dissemination of information, mapping data, and materials to a clearly identified community of users, as well as to the scientific community as a whole. Proposals from single investigators as well as proposals which draw on the expertise of scientists with training in different relevant areas will be appropriate for submission to this program area. The specific areas of emphasis listed below offer exceptional opportunity for advancing agriculture and forestry.

(a) Construction of genetic and/or physical maps. It is recognized that the application of genomic strategies to problems in agriculture requires the development of tools. Accordingly, the objective of this section of the program area is to construct maps for crop and forest species to the point where they are useful to breeders for crop improvement and to other biologists to study fundamental plant science. There are no prescribed priorities for specific commodities or for any particular types of maps to be constructed. The applicant should determine the nature of the map to be constructed (e.g., genetic or physical, high density or low density) for the particular species of interest. An assessment of the present state of the species' genome map, available genetic materials, the rationale for choice of the mapping population, and the future applications of the map for plant breeding or other research should be described in the proposal. It is not anticipated that any complete plant nuclear genome sequencing project will be supported under this area.

Construction of low resolution maps (i.e., those with a goal of containing gaps no larger than 25 centimorgans) will suffice for many plant breeding and research applications. High resolution maps (i.e., with gaps no larger than 1–5 centimorgans) will likely be limited in the number that will be funded, depending on the relationship of physical and genetic distances in the particular species. Strong justification will be needed in terms of a high density map's immediate and future scientific impact. For construction of genome maps with molecular markers at low or high density, a time frame of three years will usually be appropriate, unless unusual aspects of the particular species' genome produce difficulties that justify a longer-term effort.

Proposals for mapping should describe communication or involvement with scientists (such as plant breeders, geneticists, physiologists, or biochemists) who will use the mapping tools which are to be created. Interaction of laboratories engaged in mapping with the users of the technology is essential to ensure early and efficient application of the tools developed.

(b) Detailed mapping and sequencing of specific regions of the genome. The identification and isolation of genes involved in specific genetic traits of economic significance is an important application of genome mapping. The goal is to provide support for investigators to use the available tools, such as existing physical and genetic maps, cytogenetic stocks, alien addition lines, near-isogenic lines, mutants, transposons, and molecular markers to locate, identify, and isolate specific genes that are important to agriculture and forestry. Economically important traits are complex and will likely require experimental approaches drawn from many disciplines.

No priorities for specific commodities or genetic traits to be addressed have been established. The applicants should identify genes that affect the economic value of a specific commodity or are relevant to yield and agricultural productivity. In order to justify the project duration, investigators should describe the genetic tools presently available and the biological properties of the particular species of interest with respect to their impact on the length of time required to identify, locate, and isolate an interesting gene.

(c) Development of new mapping and cloning strategies. Research to produce new methods and materials that can be applied to genome mapping, genome manipulation, gene isolation, or gene transfer is encouraged. The biology of the plant and its genome exhibits some fundamental differences from other eukaryotic systems and may require unique technical strategies. These differences include the polyploid nature of many plant genomes, the existence of the chloroplast genome and a large mitochondrial genome, the presence of the cell wall, the meristematic control of plant growth, and additional complex biosynthetic pathways. At the same time, plant systems offer unique advantages because of the ability to produce inbreds and interspecific sexual and somatic hybrids, the relative simplicity of introducing genes into many plant species, the possibility of regenerating plants from single cells, and the ease of cultivating large segregating populations. Studies leading to the development of mapping, gene cloning, gene introduction, and sequencing technologies that are designed to overcome technical obstacles due to the complexity of plant systems, or studies that are designed to take advantage of unique features of the plant systems will be supported. Proposals that present innovative approaches to technology development are encouraged.

52.2 *Plant genetic mechanisms and molecular biology.* The goal of this program area is to encourage new approaches for the development of genetically superior varieties of crop and forest species. One of the major limiting factors for the application of biotechnology to agriculture is the lack of basic information about genes. Studies addressing the basic cellular, molecular, and genetic processes which contribute new information required for the development of novel approaches to crop and forest improvement will be given high priority. This program area will emphasize, but is not limited to, research in the following categories:

(a) Identification, isolation, and characterization of genes and gene products;

(b) Relationships between gene structure and function;

(c) Regulatory mechanisms of gene expression;

(d) Interactions between nuclear and organellar genes, and between extrachromosomal and chromosomal genes;

(e) Mechanisms of recombination, transposition, and chromosomal replication;

(f) Molecular, biochemical, and cellular processes controlling regeneration of whole plants from single cells;

(g) Alteration and use of germplasm resources; and

(h) Development of molecular and cellular methods for identifying or altering plant characteristics or genes which are important targets for genetic manipulation.

This program area will consider research projects previously submitted to the former CRGO program 2.0 Plant Genetic Mechanisms and Plant Molecular Biology.

53.0 Plant growth and development

Optimal growth and development are essential for optimal productivity of agriculturally important crop plants and forest species. A basic understanding of developmental processes in these plants is largely lacking, but new experimental approaches are being developed through advances in molecular and cellular biology. The goal of this program area is to further the understanding of the fundamental mechanisms that underlie the regulation of the plant life cycle including seed germination, differentiation, organogenesis, flowering, fertilization, embryogenesis, fruit development, senescence, and dormancy. This program area will emphasize, but is not limited to, studies on: (a) Developmental regulation of gene expression; (b) photomorphogenesis; (c) cell biology including membrane biology, organelle development, and cell wall structure and properties; (d) biochemistry of primary and secondary metabolism related to plant growth and development; (e) hormonal regulation of growth and development; and (f) analysis and control of growth patterns. Proposals emphasizing the use of emerging experimental techniques for the investigation of these processes are encouraged.

54.0 Energy and metabolism

54.1 Photosynthesis. The process by which solar energy is transformed to chemical energy in photosynthesis is unique to plants and central to life. Not only do agricultural production concerns of crop and forest yield, efficiency, quality, and response to biological and physical stress hinge upon the complex processes of photosynthesis, but carbon dioxide, a raw material of photosynthesis and oxygen, which is released in the process, are gases which affect the atmosphere and climate. Investigations of the multiple mechanisms determining the control of photosynthetic genes and those by which plants absorb and assimilate carbon dioxide, capture and transform solar energy, synthesize, metabolize and partition carbohydrates will offer tools to be used in solving problems ranging from agricultural production to global climatic change.

Research is needed, but not limited to, the following areas:

(a) Analyses of nuclear and chloroplast genomes and regulatory steps controlling both expression of photosynthetic genes;

(b) Photosynthetic energy conversion, including mechanisms of early events in photon capture, charge separation;

(c) Formation, structure, and function of photosynthetic membranes;

(d) Photosynthetic carbon assimilation, including mechanisms of carbon dioxide transport, fixation, the biochemistry and molecular biology of photosynthetic and related biosynthetic pathways, including photorespiration;

(e) Control of photosynthate partitioning, translocation and utilization;

(f) Mechanisms controlling senescence of the photosynthetic apparatus; and

(g) Mechanisms controlling photosynthetic processes in leaves, plants and canopies.

54.2 Nitrogen fixation/metabolism. The high levels of nitrogen required by crops must be supplied to soils in the form of compounds usable to plants, such as ammonia and nitrate which are then assimilated by plants. These compounds are supplied, for the most part, either by application of fertilizers or by the action of microorganisms which "fix" atmospheric nitrogen. Fertilizer application can be costly in terms of energy costs and effects on the quality of surface and ground water. Only certain groups of crop and forest plants are capable of forming the bacterial-plant symbiosis capable of the more cost-effective, environmentally-sound biological nitrogen fixation. Development of alternative crop production methods for supplying nitrogen is desired. As a basis for developing such alternatives, a broad understanding is sought of the means by which nitrates and ammonia are degraded in the soil, as well as how nitrogen is fixed biologically. Furthermore, enhancement of crop yield, quality, nutritive value and development of novel plant products, will depend upon elucidation of mechanisms by which plants take up, transplant and metabolize nitrogen compounds.

Innovative research is solicited which uses disciplinary approaches of biochemistry, molecular biology, microbiology, genetics, physiology, cellular and developmental biology and ecology. Multidisciplinary approaches are encouraged. Problem areas include, but are not limited to:

(a) Nitrification and denitrification;

(b) Ecology and competitive interactions of nitrogen-fixing organisms;

(c) Factors controlling symbiont specificity;

(d) Mechanisms regulating infection and nodulation of the root by symbiotic nitrogen-fixing organisms;

(e) Mechanisms of nitrogen-fixation in free-living, associative and symbiotic organisms;

(f) Mechanisms of and influencing uptake and transport of nitrogen in the plant,

(g) Plant metabolism of nitrogenous compounds.

55.0 Alcohol fuels research

Proposals will be considered for research relating to the physiological, microbiological, biochemical, and genetic processes controlling the biological conversion of agriculturally important biomass material to alcohol fuels and industrial hydrocarbons. The scope of this program area includes studies on factors that limit efficiency of biological production of alcohol fuels and the means for overcoming these limitations.

Forest/rangeland/crop ecosystems. The goal of the programs area is to further the understanding of underlying biological and ecological processes in ecosystems that have potential to contribute to enhanced plant productivity and to the well-being of vegetation communities. Interested applicants are directed to the complete program area description under the Natural Resources and the Environment (23.0).

Soybean research. Proposals dealing with fundamental research on soybeans should emphasize research that fits the scientific disciplines of the appropriate program areas noted above. Proposals addressing soybean research will be reviewed and evaluated by the peer panel whose collective expertise is most appropriate to the scientific content of the proposal under consideration; a separate peer review panel will not be assembled for the purpose of reviewing these proposals.

How to Obtain Application Materials

Please note that potential applicants who are on the Competitive Research Grants mailing list, who sent applications in fiscal year 1990, or who recently requested placement on the list for fiscal year 1991, will automatically receive copies of this solicitation, and the Grant Application Kit. All others may request copies from: Proposal Services Branch, Cooperative State Research Service, U.S. Department of Agriculture, room 303, Aerospace Center, Washington, DC 20250–2200; telephone: (202) 401–5049.

How to Prepare a Proposal and What to Submit

Contained in the Grant Application Kit are instructions for proposal preparation.

An original and 14 copies of each proposal submitted are requested. This

number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made.

Renewal proposals should include a clearly identified progress report and any reprints or preprints of publications resulting from the funded research. Resubmissions of unsuccessful proposals should clearly indicate what changes have been made in the proposal.

Each copy of each proposal must include a Form CSRS–661, "Grant Application" which is included in the Grant Application Kit. Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. Each project description is expected to be complete in itself. It should be noted that reviewers are not required to read beyond 15 pages of the project description to evaluate the proposals. Proposals beyond this limit may not be reviewed or may be returned. Appendices should be limited to materials that are pertinent to the proposal and should not be used as a way to circumvent the page limit. The vitae of key project personnel should be limited to three (3) pages, including a list of publications for the last five (5) years.

All copies of a proposal must be mailed in one package. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. Also, please see that each copy of each proposal is stapled securely in the upper lefthand corner. DO NOT BIND. Information should be typed on one side of the page only. Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted. Prior to mailing, compare your proposal with the "Application Requirements" checklist contained in the Grants Application Kit.

Due to limited budget, the same investigator is not likely to receive more than one award from the NRICGP within the same fiscal year. Therefore, in order to minimize the time spent for preparation and review of proposals, submission of more than one proposal from the same principal investigator to the NRICGP in the same fiscal year is strongly discouraged. Applicants may not submit the same research proposal to more than one program area within the NRICGP in the same fiscal year. Duplicate proposals, essentially duplicate proposals, or predominantly overlapping proposals will be returned without review.

Where and When to Submit Grant Applications

Proposals submitted to the research program areas in this notice will be assigned by the staff of the NRICGP to the most appropriate peer review panel. If necessary, further information may be obtained from the responsible Program Director at the telephone numbers given below. Each research grant application must be submitted to: National Research Initiative Competitive Grants Program, c/o Proposal Services Branch, Cooperative State Research Service, U.S. Department of Agriculture, room 303 Aerospace Center, Washington, DC 20250–2200. Proposals which will be hand-carried or delivered by overnight express service, should be addressed to: National Research Initiative Competitive Grants Program, c/o Proposal Service Branch, Cooperative State Research Service, room 303 Aerospace Center, 901 D Street SW., Washington, DC, 20024. To be considered for funding during fiscal 1991 proposals must be postmarked by the following dates and received in time to permit adequate peer panel review:

Postmark dates	Program codes	Program areas	Contacts
Jan. 14, 1991	51.1	Pathogens	401–4310
	51.2	Insects	401–5114
	51.3	Nematodes	401–5114
	51.4	Weeds	401–4310
Jan. 22, 1991	31.0	Human Nutrient Requirements.	401–6234
Jan. 28, 1991	52.1	Plant Genome.	401–4871
	52.2	Plant Genetic Mech. & Molecular Biol.	401–5042
	54.1	Photosynthesis.	401–6030
Feb. 4, 1991	43.0	Animal Molecular Genetics.	401–4399
Feb. 11, 1991	55.0	Alcohol Fuels	401–4310
Feb. 19, 1991	24.0	Wood Utilization.	401–7002
Feb. 25, 1991	41.0	Reproductive Biology of Animals.	401–6234
	44.0	Mol. & Cell. Basis of Animal Disease.	401–4399
Mar. 4, 1991	23.0	Forest/Rangeland/Crop Ecosystems.	401–5114
Mar. 11, 1991	53.0	Plant Growth and Development.	401–5042
	22.1	Plant Responses to the Environment.	401–4871
Mar. 18, 1991	21.0	Water Quality	401–4871
	54.2	Nitrogen Fixation.	401–6030
Mar. 25, 1991	42.0	Cellular Growth & Dev. Biology of Animals.	401–6234
Apr. 8, 1991	32.0	Food Safety	401–4399

Special Instructions

The NRICGP should be indicated in Block 7 and the applicable program area and program code should be indicated in Block 8 of Form CSRS–661 provided in the Grant Application Kit. Select one program area only. A final determination of the program area will be made by the program staff and/or appropriate peer panel.

Supplementary Information

The Competitive Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the Final rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and Local officials. In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document Nos. 0524–0022.

The award of any grant under the NRICGP during FY 1991 is subject to the availability of funds. One copy of each proposal that is not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Done at Washington, DC this 21st day of November, 1990.

John Patrick Jordon,

Administrator, Cooperative State Research Service.

[FR Doc. 90–27806 Filed 11–26–90; 8:45 am]

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Vol. 55, No. 228

Tuesday, November 27, 1990

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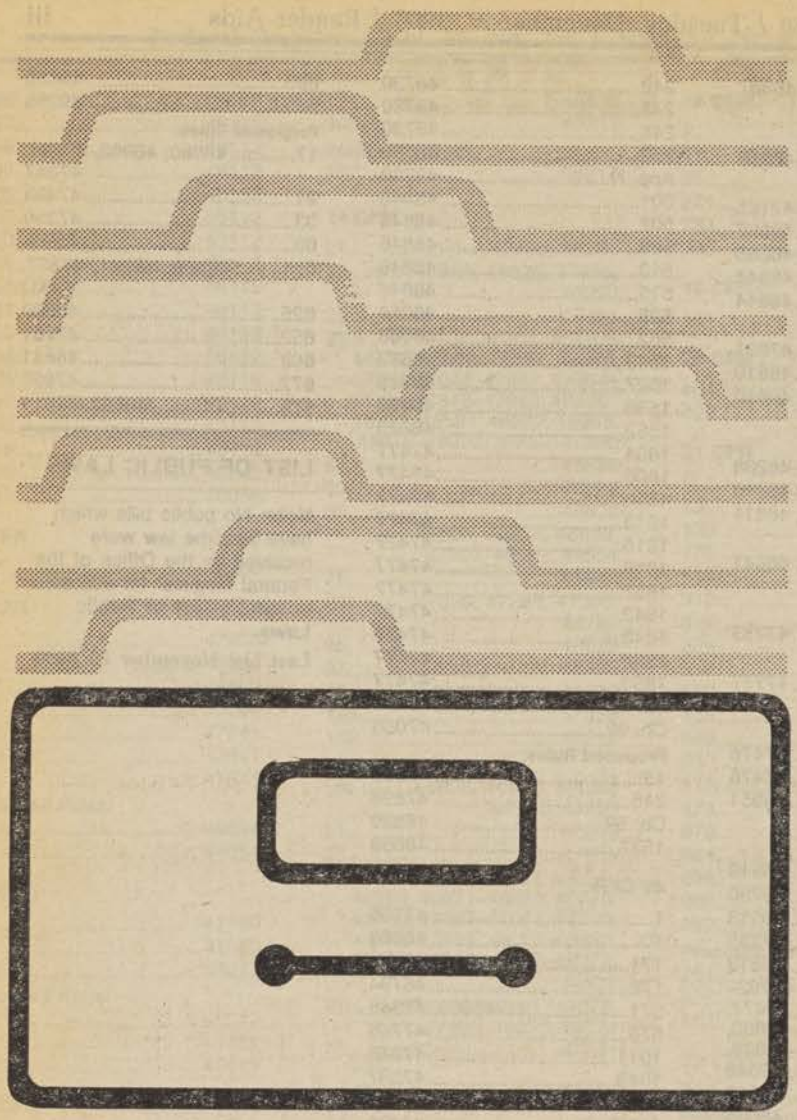

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in the Code of Federal Regulations (CFR)

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SUPPLEMENT: Revised January 1, 1990

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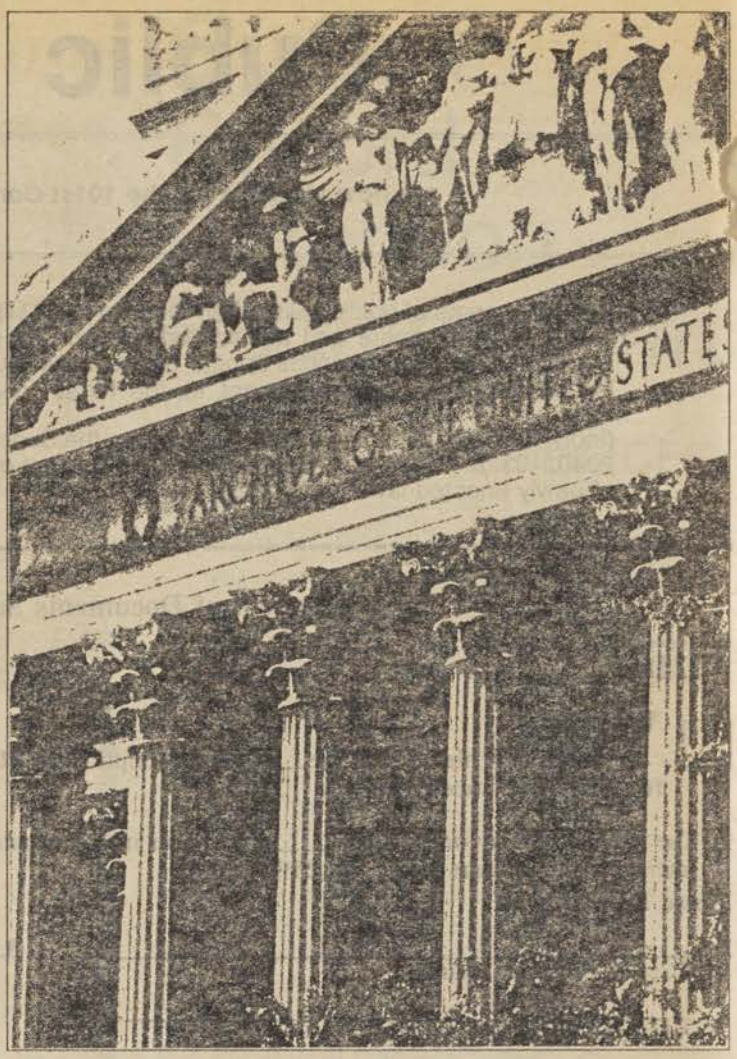

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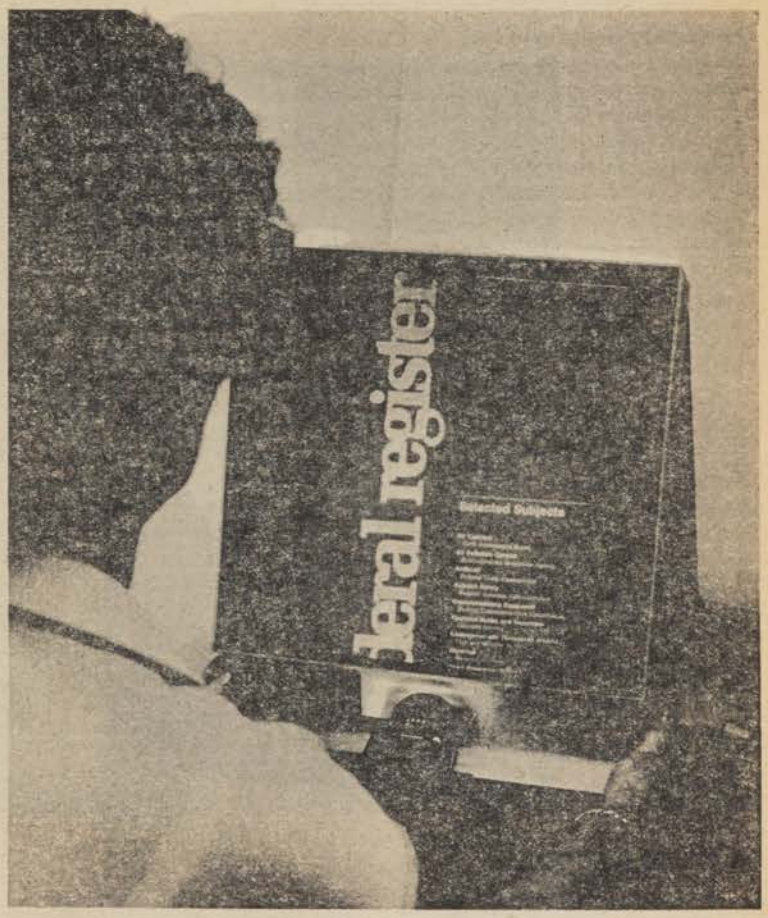

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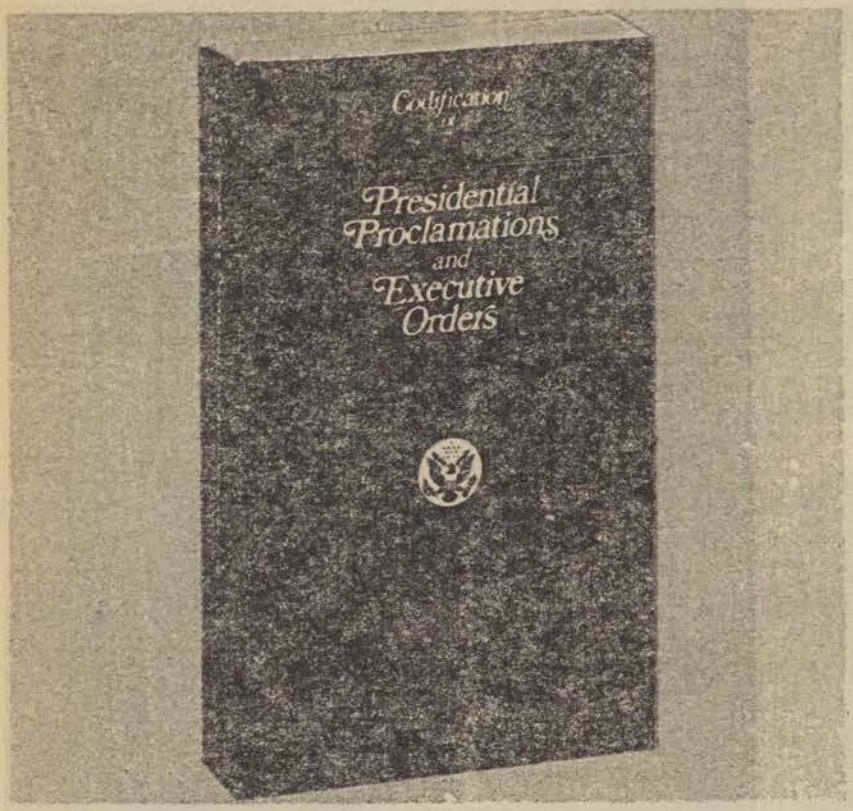

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