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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 425

[Amdt. No. 2; Doc. No. 8118S]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Peanut Crop Insurance Regulations (7 CFR part 425), effective for the 1991 and succeeding crop years by extending the contract change date. The intended effect of this rule is to provide time for FCIC to review and revise the actuarial data with respect to the Peanut crop insurance program.

DATES: This rule is effective November 30, 1990. Written comments on this proposed rule must be submitted not later than February 1, 1991, to be sure of consideration.

ADDRESSES: Written comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989. These regulations are scheduled for review as to their need, currency, clarity, and effectiveness under Departmental Regulation 1512–1 and a new sunset review date will be established within 30 days.

David W. Gabriel, Acting Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith changes the date outlined in the Peanut Crop Insurance Regulations (7 CFR part 425), by which contract changes are available in the agent's office, in order to provide sufficient time to review the actuarial data associated with the peanut program. FCIC has determined that there may be a problem in the present actuarial material which requires changes in these regulations to bring about actuarial sufficiency and to correct the inequities. A notice of proposed rulemaking, with the appropriate public comment period, is under consideration for issuance shortly.

David W. Gabriel, Acting Manager, FCIC, has determined that an emergency situation exists requiring immediate steps be taken to prevent possible program abuse and protect the integrity of the peanut program. The Federal Crop Insurance Act, as amended, requires that the program be operated in an actuarially sound manner. The actuarial review to be undertaken is to assure that the statutory mandate is followed. Therefore, notwithstanding the provisions of 5 U.S.C. 553, with respect to public notice and comment, and in view of the reasons set forth herein, good cause is shown for making this rule effective upon publication in the **Federal Register.**

This rule will be scheduled for review so that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible. FCIC is soliciting written comments on this rule for 60 days following publication in the **Federal Register.** Written comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

Written comments received pursuant to this rule will be available for public inspection and copying in room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 425

Crop insurance, Peanuts.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Peanut Crop Insurance Regulations (7 CFR part 425), effective for the 1991 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR part 425 is revised to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 425.7(d)16 is revised to read as follows:

§ 425.7 The application and policy.

* * * * *

(d) * * *

16. *Contract Changes.*

We may change any of the terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with a April 15 cancellation date (March 1, 1991 for the 1991 crop year only) and by November 30 preceding the cancellation date for all other counties (March 1, 1991 for the 1991 crop year only for all other counties except those counties with a February 15 cancellation date which shall have a January 31 contract change date for the 1991 crop year only).

Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

Done in Washington, DC, on November 28, 1990.

David W. Gabriel,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 90-28323 Filed 11-30-90; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 715]

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 30 through December 6, 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 715 [7 CFR part 907] is effective for the period from November 30 through December 6, 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 compatibility.

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 27, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with eight members voting in favor, two opposing, and one abstaining, that 1,700,000 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 1,700,000 cartons is 200,000 cartons below that specified for all districts in the Committee's October 9 revised shipping schedule. Of the 1,700,000 cartons, 1,624,000 cartons are allotted for District 1 and 76,000 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 22, 1990, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,271,000 cartons compared with 1,264,000 cartons shipped during the week ending on November 23, 1989. Export shipments totaled 166,000 cartons compared with 221,000 cartons shipped during the week ending on November 23, 1989. Processing and other uses accounted for 286,000 cartons compared with 315,000 cartons shipped during the week ending on November 23, 1989.

Fresh domestic shipments to date this season total 3,909,000 cartons compared with 5,153,000 cartons shipped by this time last season. Export shipments total 364,000 cartons compared with 788,000 cartons shipped by this time last season. Processing and other use shipments total 785,000 cartons compared with 1,395,000 cartons shipped by this time last season.

Regulated shipments for the current week, the first week of general maturity allotment (November 23 through November 29, 1990), are estimated at 1,610,000 cartons on an adjusted allotment of 1,500,000 cartons. Thus, overshipments of 110,000 cartons could be carried forward into the week ending on December 6, 1990.

The average f.o.b. shipping point price for the week ending on November 22, 1990, was $9.83 per carton based on a reported sales volume of 818,000 cartons compared with last week's average of $10.20 per carton on a reported sales volume of 1,104,000 cartons. The season average f.o.b. shipping point price to date is $10.08 per carton. The average f.o.b. shipping point prices for the week ending on November 23, 1989, was $7.89 per carton; the season average f.o.b. shipping point price at this time last year was $8.47.

The Department's Market News Service reported that, as of November 27, demand for California-Arizona navel oranges was "fairly good" for choice fruit and moderate for all other grades and sizes. The market for all grades and sizes was reported as "steady."

At the meeting, Committee members reported that maturity of the navel orange crop remains quite variable throughout the producing districts. The Committee indicated that demand for navel oranges was good but that the retail market was slow. Some Committee members commented that, despite the continued problems with maturity, enough quality fruit could be found to warrant recommending the 1,900,000 cartons scheduled for shipment. However, the majority of Committee members were concerned that such a high allotment could potentially cause a market glut and depress prices during the pre-Christmas weeks, a critical period in the navel orange season. Committee members discussed the pros and cons of implementing volume regulation at this time. Two Committee members favored a higher allotment level while the majority of Committee members favored recommending an allotment level of 1,700,000 cartons.

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 30 through December 6, 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 become 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 27, 1990, and this action needs to be effective for the regulatory week which begins on November 30, 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: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1015 is added to read as follows:

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

§ 907.1015 Navel Orange Regulation 715.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 30 through December 6, 1990, is established as follows:

District 1 cartons/% (000)	District 2 cartons/% (000)	District 3 cartons/% (000)	District 4 cartons/% (000)	Total cartons (000)
1,624.0/95.5	.....	76.0/4.5	.....	1,700

Dated: November 28, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–28330 Filed 11–30–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 746]

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 December 2 through December 8, 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 DATE: Regulation 746 [7 CFR part 910] is effective for the period from December 2 through December 8, 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 27, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 300,000 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 41,000 cartons below the estimated projections in the Committee's current shipping schedule.

During the week ending on November 24, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 266,000 cartons compared with 250,000 cartons shipped during the week ending on November 25, 1989. Export shipments totaled 147,000 cartons compared with 157,000 cartons shipped during the week ending on November 25, 1989. Processing and other uses accounted for 282,000 cartons compared with 299,000 cartons shipped during the week ending on November 25, 1989.

Fresh domestic shipments to date for the 1990–91 season total 5,140,000 cartons compared with 4,934,000 cartons shipped by this time during the 1989–90 season. Export shipments total 2,538,000 cartons compared with 2,688,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 4,494,000 cartons compared with 3,127,000 cartons shipped by this time during 1989–90.

For the week ending on November 24, 1990, regulated shipments of lemons to the fresh domestic market were 266,000 cartons on an adjusted allotment of 266,000 cartons. Regulated shipments for the current week (November 25 through December 1, 1990) are estimated at 290,000 cartons on an adjusted allotment of 290,000 cartons.

The average f.o.b. shipping point price for the week ending on November 24, 1990, was $10.29 per carton based on a reported sales volume of 269,000 cartons compared with last week's average of $10.30 per carton on a reported sales volume of 284,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $12.53 per carton. The average f.o.b. shipping point price for the week ending on November 25, 1989, was $12.69 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.24 per carton.

The Department's Market News Service reported that, as of November 27, the demand for lemons is "moderate" and the market for lemons is "steady." At the meeting, a Committee member indicated that "business" has been good. However, that member also commented on the inventory buildup of second grade fruit in sizes 115, 165, and 200 and on first grade fruit ranging in size from 165 to 200. An observer stated that it is very important to sustain orderly marketing conditions and favored volume regulation. The Committee unanimously recommended volume regulation for the week ending December 8, 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 December 2 through December 8, 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 27, 1990, and this action needs to be effective for the regulatory week which begins on December 2, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

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

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

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

2. Section 910.1046 is added to read as follows:

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

§ 910.1046 Lemon Regulation 746.

The quantity of lemons grown in California and Arizona which may be handled during the period from December 2 through December 8, 1990, is established at 300,000 cartons.

Dated: November 28, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–28331 Filed 11–30–90; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R–0713]

Rules Regarding Availability of Information; Freedom of Information Reform Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") hereby amends its Rules Regarding Availability of Information to reflect changes in the direct costs to the Board to conduct searches, review documents, and copy documents in response to requests made under the Freedom of Information Act by adding an "appendix A" to § 261.10—Freedom of Information Fee Schedule. The new "appendix A" amends the Board's current fee schedule (52 FR 15299, April 28, 1987).

DATES: *Effective date:* January 2, 1991. Comments must be received on or before January 2, 1991.

ADDRESSES: Interested parties are invited to submit written comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or to deliver such comments to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.). Written comments should refer to Docket No. R–0713. Comments received may be inspected in room B–1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Attorney, Legal Division (202/452–2418); or Susanne K. Mitchell, Manager, Freedom of Information Office (202/452–3684); or for the hearing impaired *only*, Telecommunications Devise for the Deaf ("TDD"), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (Pub. L. No. 99–570) ("FOI Reform Act") requires each federal agency to "promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests * * *" under the Freedom of Information Act ("FOIA"). These regulations must conform to guidelines issued by the Office of Management and Budget ("OMB") (52 FR 10018, March 27, 1987). The FOI Reform Act requires that the fees charged provide only for the recovery of the direct costs of search, review, and duplication. (5 U.S.C. 552(a)(4)(A)(iv)).

The Board's current fee schedule was established in May 1987 following enactment of the FOI Reform Act. (52 FR 15299, April 28, 1987.) Since that time, the Board's direct costs for search, review, and duplication have increased. Therefore, the Board proposes to increase its fees for those services by adding an appendix A to its Rules Regarding Availability of Information. These fees reflect changes in the Board's direct costs, due primarily to changes in the salaries of the employees who perform services in connection with requests filed under FOIA. This amendment makes no change in the definition of services or direct and actual costs, or in the treatment of various categories of requesters.

A comparison of the current fee schedule and the fee schedule established by the interim rule is set forth below:

FOIA Service	Current	Interim Rule
Duplication:		
Photocopy, per standard page	$0.08	$0.10
Paper copies of microfiche, per frame	0.07	0.10
Duplicate microfiche, per microfiche	0.10	0.30
Search and review:		
Clerical/Technical, hourly rate	8.50	17.00
Professional/Supervisory hourly rate	12.80	32.00
Manager/Senior Professional [1], hourly rate	25.90	53.00
Computer Search and production:		
Operator search time, hourly rate	([2])	25.00
Cassette tapes	([2])	5.00
PC computer output, per minute	([2])	0.10

[1] Currently, the three categories of personnel are clerical; technical; and management/professional.
[2] Case by case.

The Board is issuing this rule as an interim rule, with provision for subsequent public comment and revision if appropriate, so that the revised fee schedules may take effect on January 2, 1991, which is at the beginning of the Board's fiscal year. Issuance of a proposed rather than an interim rule would make it impossible to implement the rule prior to January 1, 1992, in light of programming and other administrative requirements associated with implementation of the new fee schedule. Since the change is supported by a detailed cost analysis and leaves undisturbed substantive provisions of the Rules Regarding Availability of Information regarding the treatment of various classes of requesters, and since as more fully explained below, the Board has determined that the public interest is adequately served by allowing comment following publication of the interim rule, the Board has concluded that publication of a proposed rule for comment would be impractical, unnecessary, and contrary to the public interest. Therefore, the Board finds that under 5 U.S.C. 553(b)(B) it has good cause to dispense with the general requirement that notice of proposed rules be given. The Board also finds that it has good cause to dispense with the requirement of 5 U.S.C. 553(d) that after notice and comment, a final rule be published thirty days prior to its effective date. The Board notes, however, that the interim rule will be effective January 2, 1991, following the close of the comment period, rather than immediately.

Publication of a proposed rule, and deferral of the effective date of the final rule until 30 days following issuance of a

final rule following completion of the comment period, would make it difficult and costly for the Board to implement a change in fees prior to January 1, 1992. The Board must make any changes in FOIA fees effective on January 2 to avoid the considerable expense associated with extraordinary midyear programming and administrative changes outside the context of the Board's calendar year budget cycle. Postponing the effective date until January 1, 1992, would prevent the Board from recovering its direct costs during the interim. Such a postponement should not be necessary, in the Board's view, since the changes are based on a detailed recently completed staff study of direct costs, and seem clearly warranted under the standards of the FOI Reform Act, and since the Board believes it must proceed to recover costs that may lawfully be recovered in the interest of sound fiscal management.

The FOIA makes clear that fee schedules may be changed to reflect changes in direct costs and that, subject to standards and exceptions not modified by this interim rule, requesters must bear the actual costs of document search, review, and duplication. Thus, as the cost to the government of performing these functions increases, requesters would expect their fees to increase correspondingly. All information necessary to issue the interim rule is in the possession of the Board, and no outside factual input is required to assist the Board in determining its actual direct costs.

Consistent with the spirit of 5 U.S.C. 553(d), this interim rule will become effective on January 2, 1991. Public comments may be submitted until January 2, 1991. Those comments will be given due consideration, and changes in the interim rule will be made if appropriate based on those comments.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The amendment is a change in agency fees applicable to FOIA requests that would not have a substantial effect on particular small entities.

List of Subjects in 12 CFR Part 261

Confidential business information, Federal Reserve System, Freedom of Information.

For the reasons set forth in this document, and pursuant to the Board's authority under the Freedom of Information Reform Act of 1986, Public Law No. 99–570, (5 U.S.C. 552(a)(4)(A)(i)), to promulgate rules implementing the FOI Reform Act, the Board amends 12 CFR part 261 as follows:

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

1. The authority citation for part 261 continues to read as follows:

Authority: 5 U.S.C. 552, 12 U.S.C. 248(k), 321, and 1844.

2. Appendix A is added at the end of § 261.10 to read as follows:

§ 261.10 Fee schedules; waiver of fees.

* * * * *

Appendix A to § 261.10—Freedom of Information Fee Schedule

Duplication:	
Photocopy, per standard page	$0.10
Paper copies of microfiche, per frame	0.10
Duplicate microfiche, per microfiche	0.30
Search and Review:	
Clerical/Technical, hourly rate	17.00
Professional/Supervisory, hourly rate	32.00
Manager/Senior Professional, hourly rate	53.00
Computer search and production:	
Operator search time, hourly rate	25.00
Cassette tapes	5.00
PC computer output, per minute	0.10
Mainframe computer output	[1]

[1] Actual cost.

Special Services

The Secretary of the Board may agree to provide, and set fees to recover the costs of, special services not covered by the Freedom of Information Act, such as certifying records or information and sending records by special methods such as express mail. The Secretary may provide self-service photocopy machines and microfiche printers as a convenience to requesters.

Fee Waivers

For qualifying educational and noncommercial scientific institution requesters and representatives of the news media, the Board will not assess fees for review time, for the first 100 pages of reproduction, or, when the records sought are reasonably described, for search time. For other noncommercial use requests, no fees will be assessed for review time, for the first 100 pages of reproduction, or for the first two hours of search time. For requesters qualifying for 100 free pages of reproduction, the fees for duplicate microfiche will be prorated to eliminate the charge for 100 frames.

The Board will waive in full fees that total less than $5.

The Secretary of the Board or his or her designee will also waive or reduce fees, upon proper request, if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. A fee reduction is available to employees, and applicants for employment who request records for use in prosecuting a grievance or complaint against the Board.

By order of the Board of Governors of the Federal Reserve System, November 27, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–28262 Filed 11–30–90; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 900788–0276]

RIN 0691–AA16

Change in Reporting Requirements for the Annual Survey of U.S. Direct Investment Abroad (BE–11)

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules amend 15 CFR 806.14 to change the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The survey collects information on the financial structure and operations of nonbank U.S. parent companies and their nonbank foreign affiliates. It is conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act. The final rules:

(1) Raise the overall exemption level of the survey, and the exemption level for reporting individual nonbank foreign affiliates on Forms BE–11B and BE–11C, from $10 million to $15 million. This change will reduce the number of U.S. parent companies and foreign affiliates that must be reported, thus reducing the reporting burden on respondents.

(2) For fiscal year 1992 only require filing of Form BE–11C for nonbank foreign affiliates owned, directly and/or indirectly, at least 10 percent by one U.S. Reporter (*i.e.*, U.S. parent company), but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which total assets, sales, or net income exceeds $100 million. In other years, reporting on Form BE–11C is required only if the affiliate is owned 20 percent or more by all U.S. Reporters combined. For at least

1 year between benchmark surveys, reporting for the largest affiliates owned between 10 and 20 percent is needed in order to maintain reliable estimates of data for the universe of foreign affiliates (which is defined by law to include all foreign business enterprises owned 10 percent or more by a U.S. person).

EFFECTIVE DATE: These rules will be effective January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523–0659.

SUPPLEMENTARY INFORMATION: In the August 16, 1990 **Federal Register**, Volume 55, No. 159, 55 FR 33537, the Bureau of Economic Analysis published a notice of proposed rulemaking amending 15 CFR 806.14 to change the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rulemaking were received. Thus, these final rules are the same as the proposed rules.

The BE–11 is a mandatory survey, conducted pursuant to the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended by section 306 of Pub. L. 98–573). It collects data on the financial structure and operations of a sample of nonbank U.S. parent companies and their nonbank foreign affiliates, with emphasis on the affiliate data. The sample data are used to generate universe estimates of data for parents and affiliates for years in which benchmark surveys, or censuses, of U.S. direct investment abroad are not conducted. The data are needed to monitor current developments in U.S. direct investment abroad and to analyze the impact of such investment on the U.S. and foreign economies. They are also needed to support important U.S. policy initiatives on international investment and trade in services.

The BE–11 survey contains three forms—the BE–11A, which covers the U.S. Reporter (*i.e.*, U.S. parent company); the BE–11B, which covers majority-owned foreign affiliates; and the BE–11C, which covers minority-owned foreign affiliates.

A Form BE–11A must be filed by each nonbank U.S. person having a foreign affiliate reportable on Form BE–11B or BE–11C. Under these final rules, the exemption level for reporting individual foreign affiliates on Form BE–11B or BE–11C—and, thus, for determining whether a U.S. person has to file Form BE–11A—is raised from $10 million to $15 million. The exemption level is the level of a foreign affiliate's assets, sales, or net income (either positive or negative) below which a BE–11B or BE–11C report is not required. Raising the exemption level reduces the number of U.S. parent companies and foreign affiliates for which reports must be filed, thus reducing the reporting burden on respondents. The exemption level of $15 million is the same as was used in the related BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1989, to determine whether a long form or short form had to be filed for the affiliate.

In addition to raising the exemption level, these final rules require filing, for fiscal year 1992 only, a Form BE–11C for each nonbank foreign affiliate owned, directly and/or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which assets, sales, or net income exceed $100 million. In all other years, reporting on Form BE–11C is required only if the affiliate is owned 20 percent or more by all U.S. Reporters combined; primarily to reduce the reporting burden of the survey, affiliates owned less than 20 percent do not have to be reported. However, U.S. direct investment abroad is defined by law to include all foreign business enterprises owned 10 (not 20) percent or more, directly or indirectly, by a U.S. person. BEA's periodic benchmark surveys of U.S. direct investment abroad cover all foreign affiliates owned 10 percent or more. The most recent benchmark survey covers the year 1989; the next survey will cover 1994. In order to maintain reliable estimates of data for the universe of all foreign affiliates in nonbenchmark years, reporting for the largest affiliates owned between 10 and 20 percent is needed for at least 1 year between benchmark surveys. Under these final rules, reporting of the largest affiliates is required for fiscal year 1992.

These rules will be implemented with the survey covering fiscal year 1990. The 1990 forms will be mailed out in March 1991 and will be due May 31, 1991. The last BE–11 survey covered the year 1988. (It should be noted that a BE–11 survey is not conducted in a year, such as 1989, when a BE–10 benchmark survey is conducted).

The public reporting burden for this collection of information is estimated to vary from 4 to 3,000 hours per response, with an average of 71 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. Comments regarding the burden estimate, including suggestions for reducing this burden, may be sent to Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 0608–0053.

Executive Order 12291

BEA has determined that these final rules are not "major" as defined in E.O. 12291 because they are not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) 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.

Executive Order 12612

These final rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Paperwork Reduction Act

The collection of information requirement in these final rules has been approved by the Office of Management and Budget (OMB No. 0608–0053).

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these final rules will not have a significant economic impact on a substantial number of small entities because few, if any, small businesses are subject to the reporting requirements of the BE–11 survey. The exemption level of $15 million is set in terms of the size of a U.S. company's foreign affiliates. Only if the affiliate's assets, sales, or net income exceeds $15 million must it be reported. Usually, the parent company (the one required to file the report) is many times larger.

In addition, by raising the exemption level from $10 million to $15 million, U.S. parent companies will no longer have to report for affiliates between $10 and $15 million. This change should reduce the reporting burden on smaller U.S. businesses that own these affiliates. Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 806

Economic statistics, U.S. investments abroad, Reporting and recordkeeping requirements.

Dated: November 26, 1990.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR part 806 is amended as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

2. Section 806.14(f)(3)(ii) is amended by removing "$10,000,000" and inserting in its place "$15,000,000."

3. Sections 806.14(f)(3)(iii) and 806.14(f)(3)(iv) (A), (B) and (C) are revised as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) * * *

(iii) A Form BE–11C (Report for Minority-owned Foreign Affiliate) must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, but not more than 50 percent, directly or indirectly, by all U.S. Reporters of the affiliate combined, and for which any one of the exemption level items exceeds $15 million. In addition, for the report covering fiscal year 1992 only, a Form BE–11C must be filed for each minority-owned nonbank foreign affiliate that is owned, directly or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which any one of the exemption level items exceeds $100 million.

(iv) * * *

(A) None of its exemption level items is above $15 million.

(B) For fiscal year 1992 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and none of its exemption level items exceeds $100 million.

(C) For fiscal years other than 1992, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined.

* * * * *

[FR Doc. 90–28284 Filed 11–30–90; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 111, 113, 142, 143, and 159

[T.D. 90–92]

RIN 1515–AA79

Electronic Entry Filing

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that immediate delivery/entry and entry summary data on imported merchandise may be filed electronically with Customs through the Automated Broker Interface (ABI) module of the Customs Automated Commercial System (ACS). It also provides general eligibility criteria for participation in the ABI system. This action reflects Customs' significant advances in the automation of the entry filing process and its continuing commitment to increase the scope of electronic processing of imported merchandise and to reduce reliance on paper documentation, thereby resulting in lowered costs, increased efficiency and the expedited release of cargo.

EFFECTIVE DATE: January 2, 1991.

FOR FURTHER INFORMATION CONTACT: William Nolle, Office of Automated Commercial Systems, (202) 566–7907 (ACS aspects). Byron Kissane, Office of Trade Operations, (202)–535–4408 (operational aspects).

SUPPLEMENTARY INFORMATION:

Background

For over five years, Customs has been developing the Automated Commercial System (ACS), the objective of which is to automate all phases of the commercial processing of imported merchandise and create a single automated system.

Customs has also developed, as an integral module of the ACS, an Automated Broker Interface (ABI), fully operational nationwide since 1984, which allows the electronic interchange of import data between Customs and the trade community. ABI allows filers to transmit entry data electronically, directly to ACS. The required information is thus immediately available to Customs without the need for keying the data. This results in faster processing of cargo, with the reduction or total elimination of paperwork. Until now, however, all such electronic transmissions have been followed by submissions of paper documentation.

With the growth of international trade, it has been determined that the Customs Service and the international trade community must take steps to increase the scope of electronic processing and reduce reliance on paper documentation. Since ABI transmissions currently account for over 80 percent of all entry summary transactions, it is for the mutual benefit of both Customs and the trade community to begin to rely totally on electronic transmissions and abandon the dependence on paper, thereby resulting in reduced costs, increased efficiency, and the expedited release of cargo.

Accordingly, Customs published a notice in the **Federal Register** (55 FR 2528) on January 25, 1990, soliciting public comment on proposed amendments to the Customs Regulations which, in principal part, would set forth the specific requirements and procedures for processing the entry of imported merchandise electronically through the Automated Broker Interface (ABI) module of the Automated Commercial System (ACS), together with the eligibility criteria governing participation in electronic entry processing.

As an additional matter, to correct a problem on the Northern Border, it was proposed to add a requirement to the Customs Regulations clarifying that entry documents must include the identity of the party in the U.S., or if this is unknown at the time of entry or release, the premises in the U.S., to which the imported merchandise would be delivered. The latter would apply whether the entry data are filed electronically or manually. By notice published in the **Federal Register** on March 29, 1990 (55 FR 11611), a typographical error in the original notice was corrected, and the public comment period was extended to April 25, 1990.

Twenty-one comments were received in response to the notice of proposed rulemaking. An analysis of these comments is set forth below. Also, on June 12, 1990, the Commissioner of Customs held an ex parte meeting with the National Customs Brokers & Forwarders Association of America, Inc. (NCBFAA), in which various aspects of the proposed rulemaking were discussed (see NCBFAA Bulletin No. 90–6, dated June 25, 1990).

Analysis of Comments

ABI Participation

Comment: One commenter suggested that language be added to proposed

§ 143.1(b) to require that participants in ABI be residents of the United States and thus subject to Government jurisdiction.

Response: Customs disagrees. Under Customs Regulations, a nonresident may qualify as an importer of record provided certain conditions are met. It is believed that adoption of this proposal would unnecessarily prohibit participation by nonresidents who otherwise qualify as importers of record.

Comment: Three commenters suggested that the definition of "service bureau" in proposed § 143.1(c) be revised to more clearly indicate that a service bureau performs a clerical function and cannot act as a Customs broker.

Response: Customs agrees with this suggestion. In the final rule, § 143.1(c) states expressly that service bureaus will not engage in the conduct of Customs business as defined in § 111.1(c), Customs Regulations.

Comment: Two commenters objected to the requirement contained in Customs Publication 540, ABI Interface Requirements, for reporting the ultimate consignee, the FIRMS (Facilities Information Resources Management System) code, as well as the MID (Manufacturer's Identification), stating that these are required for no specified purpose.

Response: Customs disagrees. These data elements are critical in order to conduct adequate risk analysis and develop historical records. Also, the subject Customs Publication which is referenced in § 143.5 has been renumbered and renamed as Customs Publication 552, Customs and Trade Automated Interface Requirements (CATAIR), and § 143.5 is amended to this effect.

Comment: Three commenters objected to the vagueness of the phrase "maintain a high level of quality" which is used in the introductory text of proposed § 143.6 as well as in paragraph (a) thereof, establishing criteria for initiating disciplinary action against an ABI participant.

Response: In order to clarify this phrase, it is modified by including after it in the introductory text the additional language, "as defined in Customs Publication 552 (CATAIR) and Customs directives and policy statements", and by including the language "as described above" following this phrase in paragraph (a).

Comment: Many commenters were concerned about the proposals contained in §§ 143.6–143.8 with respect to putting ABI participants on probation, or suspending or revoking their participation altogether, due to failure to comply with the performance requirements or operational standards for the system.

Specifically, eight commenters stated that suspension or revocation of ABI status renders the broker noncompetitive, and that it is tantamount to suspension or revocation of his license or permit. Three commenters questioned the accuracy of the ACS reports which are used to evaluate a broker's performance and to determine that a participant will be placed on probation, and suggested that a limit on the probationary period be specified. It was generally proposed that procedural safeguards similar to those in subpart D, part 111, Customs Regulations (19 CFR part 111, subpart D), be included to satisfy due process requirements. To this end, one commenter asserted that procedural due process would be flouted by proposed § 143.8, which states that revocation will take effect notwithstanding that the participant may appeal to the Assistant Commissioner. In addition, one commenter advocated as an alternative to suspension or revocation of ABI status that the monetary penalty authority in 19 U.S.C. 1641 be employed to discourage substandard performance by ABI brokers.

Response: Although Customs agrees that the suspension or revocation of a broker's ABI status may affect the broker's competitiveness, it is clearly not the same as suspending or revoking his license or permit, because the broker could continue to conduct Customs business after the loss of ABI status, albeit in a manual mode. These provisions were intended to protect the integrity and functioning of the system and contemplated that Customs would work with those in probationary status to correct deficiencies as quickly as possible.

Nevertheless, Customs is generally sympathetic to the concerns raised, and has determined to make a number of changes to §§ 143.6–143.8. The probationary period may, in the discretion of the Director, ACS, be extended up to a maximum of ninety days, if the participant's performance remains below standard, but, with the exception of immediate revocation as prescribed in § 143.7, a participant will not be removed from operational status until the probationary period has lasted a minimum of thirty days. It is noted that the original notice did not specify the length of the probationary period. During this period, the participant's performance will be closely monitored, which, as already stated, will include working with the participant and providing any necessary guidance to assist the participant in bringing his performance up to standard.

Customs also acknowledges that there are certain types of entries which cannot be processed through ABI and, as a result, can cause a participant, through no fault of his own, to fail to meet the 90 percent standard for entries filed through ABI. Therefore, a participant will be given advance notice of intent to place him on probation and be afforded 15 days from the date of such notice to show cause why he should not be placed on probation. No such procedure was contained in the original proposal. If the participant fails to respond within the allotted time, or fails to show to the satisfaction of the Director, ACS, that the probationary period should not take effect, the Director will notify the participant of the effective date of the probationary period. Section 143.6(a) incorporates these provisions, as well as the length of the period.

Customs also agrees that a review process akin to that called for in license or permit suspension/revocation actions is advisable here as well. To this end, § 143.6(b) is amended to include the right to appeal a notice of suspension to the Assistant Commissioner, Commercial Operations, within ten days of the date of the written notice of suspension, as provided in § 143.8 which has also been revised accordingly. In addition, § 143.6(c) concerning the reinstatement of a participant's operational status following suspension has been rephrased for the sake of clarity.

Furthermore, § 143.7 is amended to provide that a decision on immediate revocation be made by the Director, Trade Operations, instead of the Director, ACS, when participation was obtained through fraud or the misstatement of a material fact. However, the Director, ACS, will exercise authority for immediate revocation when continued participation would pose a risk of significant harm to the integrity and functioning of the system. In any event, the participant will be notified, both electronically and in writing, of any action to revoke participation. Also, § 143.7 is further revised to include the right to appeal the revocation of participation to the Assistant Commissioner, Commercial Operations, within ten days of the date of the notice of revocation.

Consequently, as already indicated, § 143.8 concerning the right to appeal a suspension or revocation is amended to provide that such an appeal may be made to the Assistant Commissioner, Commercial Operations, within ten days

following the date of the written notice of suspension or revocation, rather than ten days following the receipt of the electronic or written notice, as initially proposed. Furthermore, § 143.8 is amended to include a provision stating that action to suspend or revoke participation will not take effect until the appeal is decided, except in those cases where the Director, Trade Operations, finds that participation was obtained through fraud or misstatement of material fact, or the Director, ACS, finds that continued participation would pose a risk of significant harm to the integrity and functioning of the system. Section 143.8 is further amended to allow for an extension of the period within which to decide the appeal, with due notice being given to the participant. Customs anticipates that immediate revocation should be occasioned only rarely.

Electronic Entry Filing

Comment: One commenter questioned whether Customs has the legislative authority to accept electronic entries.

Response: Customs believes that electronic entry filing and related procedures, as adopted herein, are within the scope of existing law, broadly interpreted. Legislation which would more clearly provide for the electronic processing of entries, however, is under consideration in Congress.

Comment: One commenter remarked that the statement in proposed § 143.31 that Customs does not contemplate that non-electronic filings will be delayed should be strengthened.

Response: This language is sufficient to indicate Customs commitment to process non-electronic entries of imported merchandise as expenditiously as possible, although an editorial change is made for clarity.

Comment: One commenter believed that the term "data" in proposed § 143.32(f) should be defined in a manner which prevents local data requirements from being imposed.

Response: Since the inception of ABI, Customs has taken the position that local Customs offices could not impose additional data requirements on filers. Section 143.32(f) is amended to reflect this.

Comment: Some commenters pointed out with respect to proposed § 143.32(j) that a CF 3461 alt can also function as an "entry".

Response: Section 143.32(j) provides for this, as well as the use of CF 7501.

Comment: One commenter was concerned that the definition of "filer" in proposed § 143.32(l) could include importers, rather than importers of record. It was also recommended that language be added to acknowledge that an electronic filer, whether a broker or an importer, is still subject to the same requirements for electronic entry filing.

Response: The last sentence of § 143.32(l) is changed to reflect that a filer may be a broker or an importer of record filing his own entries through ABI without the use of a broker.

Comment: A number of commenters questioned the need for those participants in electronic entry filing to also be operational on ABI statement processing, as set forth in proposed § 143.33.

Response: Customs believes it is essential to keep this requirement for those filing entry summaries electronically, without a follow-up paper summary. The ABI Statement will be the only mechanism for Customs to determine which entry summaries are being paid under this procedure, as well as furnishing Customs with necessary audit trails and internal controls. Without statement processing, there is no method for Customs to collect on the entry summaries due for payment, and no method to accept duty-free entry summaries. Accordingly, while filers who choose not to become operational on ABI Statement Processing (see § 24.25, Customs Regulations) may nevertheless submit entry summaries electronically through ABI, they will have to continue to follow the electronic submission with the submission of an entry summary in paper form, as has heretofore been the case. Section 143.33 is revised to reflect this requirement.

Comment: Several commenters expressed confusion over the phrase "* * * and the entry summary will be scheduled for liquidation upon payment of the statement", appearing in proposed § 143.35.

Response: The entry summaries will not be liquidated at the time the filer receives the preliminary statement. Rather, the ACS will place them in a status in which they can be liquidated through system action on the scheduled date of liquidation, with accompanying printing of the bulletin notice of liquidation and any required electronic notifications once any payment due is received. A cross reference to § 24.25, Customs Regulations, concerning statement processing, is added to § 143.35 for the sake of clarity in this connection.

Comment: One commenter requested that the terms "equivalent" and "satisfactory" as used in proposed § 143.36(a) be clarified.

Response: The term "equivalent" in respect to invoice data that would be acceptable for Customs purposes meant the paper invoice, AII, EDIFACT or an invoice description submitted through ABI in select cases determined by Customs. In order to clarify this, a cross reference to paragraph (c) relating to invoice requirements has been included in § 143.36(a) in place of "equivalent". The term "satisfactory" means that there are no negative criteria on file in the selectivity systems (entry or summary) that would remove the transaction from electronic processing as indicated in §§ 143.34 and 143.35, and, to this end, § 143.36(a) is amended by adding the language "under §§ 143.34 and 143.35" after the term "satisfactory".

Comment: Many commenters opposed the standard of accountability for the accuracy of data transmitted, as contained in proposed § 143.36(b).

Response: The filer should make every effort to ensure that the documentation and information provided by the importer is accurate. However, Customs recognizes that an electronic filer can only certify to the accuracy of the information contained on the invoice as it is presented to him. For example, a Customs broker, acting as filer on behalf of an importer, will not always be aware of all details to the transaction. Section 143.36(b) is amended by adding "to the best of his knowledge" in the first sentence after "electronic filer". Also, § 143.36 (a) and (b) is further clarified in this regard by including a cross reference to § 111.32, Customs Regulations.

Comment: Several commenters expressed concern over what they considered the vague language concerning invoice requirements in proposed § 143.36(c) and indicated that they were unclear on whether an invoice was required to be presented with the entry summary.

Response: Customs agrees that this matter requires clarification. Accordingly, § 143.36(c) is being revised by:

1. Removing proposed § 143.36(c)(3) which allowed for the presentation of an "invoice description submitted through ABI in select cases determined by Customs"; and

2. Adding a new paragraph (c)(3) to allow the requirement for presentation of an invoice to be satisfied in appropriate cases where a party has obtained a preclassification/binding ruling number covering the merchandise being entered, or is a participant in a pre-approval program, and information is electronically transmitted which is adequate for the examination of the merchandise and the determination of duties, and for verifying the information required for statistical purposes by § 141.61(e), Customs Regulations.

With the removal of "invoice description through ABI in select cases determined by Customs" from this provision, as noted above, there is thus no need for the definition of "invoice description", and § 143.32 is amended by removing this provision, with the subsequent provisions thereof being redesignated accordingly. The purpose of § 143.36(c) is to establish flexibility while still meeting the general requirement for presentation of invoice data with the entry summary.

Comment: Many commenters addressed issues relating to the retention, maintenance and production of required records, involving proposed § 113.62(j), §§ 111.22 and 111.23 and particularly proposed §§ 143.37 and 143.38. Virtually all those commenters addressing the matter responded favorably to the proposal to extend centralized recordkeeping to ABI brokers for all records, both accounting or financial as well as those pertaining to import transactions. One commenter suggested that centralized recordkeeping should be available to all brokers, not just those on ABI. Several commenters advocated a reduction of the record retention period from five years to either two or three years, and opposed the requirement that records be maintained in the condition as originally received. A number of commenters urged that provision be made for the storage of data that is itself received electronically by the filer.

Some commenters advocated elimination of the special ledger set forth in § 111.22(d) for electronic transmissions. Two commenters suggested that the language of proposed § 113.62(j)(2) be revised similar to that in proposed § 143.38, to allow for the retention of true copies or graphic reproductions with a letter of explanation, in the event the original documentation is lost, damaged or destroyed. One commenter suggested that proposed § 113.62(j)(2) also be revised to remove the word "or" from the "and/or" phrase, inasmuch as the documents would always be available in either paper or electronic form.

Response: Customs believes that centralized storage for all records, both accounting and those relating to import transactions filed electronically, should be available to ABI brokers in any district where they have a currently valid permit, following applicable notification to Customs. For centralized accounting records, notification would be given to the appropriate regional commissioner pursuant to § 111.23(e), Customs Regulations. For records of import transactions, notification would be given to the Assistant Commissioner, Commercial Operations, pursuant to § 143.37(c), Customs Regulations.

Conducting business electronically consists of computer mainframes in communication with one another. For multiple port brokers, these computers are not in the same locations as the release sites. Customs agrees that it would be unnecessary to require that these brokers transfer such records to the district where the import transaction occurred. As noted, these retention rules apply to electronic filings and to documentation in support thereof. Customs will continue to study the possibility of further extending centralized recordkeeping.

Customs has concluded, however, that the current five-year record retention period referenced in § 143.37(a) must be maintained, for enforcement purposes. This period, authorized by 19 U.S.C. 1508, coincides with the statute of limitations in 19 U.S.C. 1621, within which actions must be commenced to recover penalties for violations of the Customs laws: generally, five years from the date the alleged offense was discovered, or, most importantly, in the case of actions for negligence or gross negligence under 19 U.S.C. 1592, five years from the date of commission.

Furthermore, the retention of information in the condition as originally received is critical to preserve evidence, especially in cases of material omissions or false information, where Customs would need to document who provided the false information. In this regard, §§ 143.37(d) and 143.38 are changed to permit data that is itself received electronically to be maintained in its condition as originally received and stored. Customs, as noted in § 143.37(d), may grant permission, where prudent, to store such documentation by other means.

Customs also agrees that a separate ledger (prescribed format) need not be maintained for electronic transmissions, as long as brokers are able to provide Customs with the information shown on the prescribed format. Section 111.22(d) is changed accordingly.

Section 113.62(j)(2) is also amended to allow for the maintenance of true copies or graphic reproductions of the relevant records with a letter of explanation, where the original records are lost, damaged or destroyed, inasmuch as this recognizes legitimate business exigencies. However, documents for a single transaction could exist in more than one medium, that is, both paper and electronic records could exist to cover the different aspects of a single importation, so the "and/or" appearing in this regard in § 113.62(j) is retained.

Comment: One commenter noted that the reference in proposed § 143.39 to § 113.62(i) should be instead to § 113.62(k) (as redesignated from current § 113.62(j)).

Response: This commenter is correct and the reference has been changed.

Comment: Several commenters were concerned with eliminating the bulletin notice of liquidation provided in § 159.9(c), Customs Regulations (19 CFR 159.9(c)), as it is the mechanism used to advise the importer, who may not be an electronic filer, of the liquidation date.

Response: Customs has determined that it is necessary to retain the bulletin notice of liquidation for electronic entries, a decision justified by case law, see *Tropicana Products, Inc.* v. *United States,* Appeal No. 89–1605 (Fed. Cir. July 20, 1990), 24 Cust. Bull. and Dec. No. 32, 3 (August 8, 1990).

The bulletin notice of liquidation will continue to act as the official notification of the liquidation of the entry summaries. The inability of an importer who is not an electronic filer or of another party-in-interest, such as a consignee or surety, to determine the date of liquidation through public posting would prejudice such party's ability to request post-liquidation relief. The date of liquidation will thus be the date of posting of the bulletin notice. Electronic notification and courtesy notices will continue to be provided, although they will not be considered legal notification.

In this connection, however, in recognition of the prevailing electronic environment, it has been decided to eliminate the physical stamping of entries as "Liquidated," with the date of liquidation provided for in § 159.9(c)(1). The bulletin posting will constitute the sole legal evidence of liquidation. Eliminating physical stamping frees Customs from an administrative burden, while imposing no corresponding hardship or inconvenience on the trade. On the contrary, it precludes the confusion which can arise when the posting and the stamping mistakenly set forth different dates (*see Tropicana, supra,* at 5–6). Moreover, the exclusive legal notification of liquidation is the posted bulletin notice, with the date of posting appearing thereon being the correct and lawful date of liquidation. Any date represented on the entry as being the date of liquidation has, by itself, no force or effect whatever (*ibid.*).

Ultimate Consignee

Comment: Many commenters expressed concern over the definition of

the term "ultimate consignee" as set forth in proposed § 142.3(a)(6), as well as over the seven examples included in the background of the notice of proposed rulemaking. In particular, several commenters opposed the requirement for name, street address, and appropriate identification number of the premises where merchandise will be delivered in the U.S., in the absence of a known buyer.

Response: Customs capability to identify fully all parties to an electronic transaction is essential to support investigative efficiency. The information concerning the premises in the U.S. to which merchandise is destined, in the absence of a known buyer, is necessary in order to complete the ultimate consignee field on the entry documents (CF 3461, 3461 ALT,), so that the entry can be properly processed through the ACS Selectivity Module. It should be emphasized that the definition of ultimate consignee was written to allow for more alternatives than would be permitted on a CF 7501, so Customs could accommodate the needs of the trade for the rapid release of cargo.

Customs agrees that the examples given caused confusion. Examples meeting the needs of both Customs and the trade will be developed and issued separately.

Comment: Several commenters have expressed concern that during certain times of the day, especially outside the normal business hours, they will be unable to obtain the appropriate identification number. Under these circumstances they will not be able to meet the requirement to provide this number. These commenters have requested that they be provided with a capability to query the ACS system with ultimate consignee name and address, and that the system return the identification number of the importer if the name and address is on file. However, owing to the Privacy Act, Customs is not permitted to release IRS numbers or Social Security numbers, which Customs uses as identification numbers.

Response: Customs will postpone enforcement of this requirement until such time as ACS has developed a method for electronic filers to query ACS with name and address. If the information is on file the ACS response to the query will be on encrypted identification number. The encrypted number will be referenced against the actual importer number during ACS processing.

Conclusion

After careful consideration of all the comments received and further review of the matter, it has been determined that the amendments with the modifications discussed above should be adopted. In addition, a number of editorial changes have been made including: changing "obtains permission" in the introductory text of § 113.62(j)(2) to "is qualified"; in § 143.1 noting that one of the purposes of ABI is to enhance enforcement of Customs and related laws; changing "Assistant Commissioner, Commercial Operations" to "Assistant Commissioner, Information Management" in §§ 143.2 and 143.3 dealing with action on applications to participate in ABI; rephrasing § 143.4 to make clear that service bureaus must maintain the confidentiality of the data they transmit in the same manner as provided for brokers (§ 111.24, Customs Regulations); in § 143.5 recognizing that the publication containing the ABI performance requirements and standards has been renumbered and renamed (Publication 552, Customs and Trade Automated Interface Requirements (CATAIR)); revising the definitions of "selectivity critieria" and "statement processing" in § 143.32 (o) and (p) for clarity; in § 143.35 adding the words "and review of data" after "selectivity criteria" in the third sentence so as to parallel § 143.34, and removing the last sentence to make clear that it is the "importer of record" who remains liable for the payment of duties; changing "Filers" to "Brokers" in § 143.37(a) and adding a cross reference to § 143.4. Furthermore, "ACS Operations" is changed to "ACS", this being the current designation of that office.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The collection of information contained in this final regulation is in §§ 143.2 and 143.33–143.37. The collection of information contained in this regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1515–0174. The estimated average burden associated with this collection of information is 6.25 hours per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Washington, DC 20229, or the Office of Management and Budget, Paperwork Reduction Project (1515–0174), Washington, DC 20503.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports.

19 CFR Part 113

Customs bonds.

19 CFR Part 142

Customs duties and inspection, Imports.

19 CFR Part 143

Automated broker interface, Customs duties and inspection, Electronic entry filing, Imports.

19 CFR Part 159

Liquidation of entries for merchandise, Suspension of liquidation pending disposition of American manufacturer's cause of action.

Amendments to the Regulations

For the reasons set forth in the preamble, parts 111, 113, 142, 143 and 159, Customs Regulations (19 CFR parts 111, 113, 142, 143 and 159) are amended as set forth below.

PART 111—CUSTOMS BROKERS

1. The authority citation for part 111 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 1641; unless otherwise noted.

2. Section 111.22 is amended by adding two sentences to the end of paragraph (d), and by revising paragraph (e) to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

(d) *Prescribed format.* * * * For those transactions filed electronically, brokers must be able to provide Customs with the information shown on the prescribed format. However, a separate ledger need not be maintained for these transactions.

(e) *Authorization.* The regional commissioner for the region where a broker has given notification to maintain records of financial transactions on a centralized system basis, as set forth in § 111.23(e), is responsible for providing an exemption or withdrawal of exemption under paragraphs (b) and (c) of this section.

3. Section 111.23 is amended by revising paragraphs (a)(1) and (e), removing current paragraph (f), and by redesignating paragraph (g) as (f), and revising it, to read as follows:

§ 111.23 Retention of records.

(a) *Place and period of retention*—(1) *Place.* The records, as defined in § 111.1(f), and required by §§ 111.21 and 111.22 to be kept by the broker, shall be retained within the Customs district to which they relate, unless notification of centralized accounting records is given under paragraph (e) of this section, or notification is provided by electronic entry filers under part 143, subpart D, of this chapter.

* * * * *

(e) *Notification*—(1) *Applicability.* The procedure to maintain financial records on a centralized system basis is generally available to brokers who have been granted permits to do business in more than one district.

(2) *Form and content.* If centralized storage is desired by the broker, he must submit a written notice addressed to the regional commissioner responsible for the region in which the centralized records are to be maintained. The written notice shall include:

(i) The address at which the broker intends to maintain the centralized accounting records. This location must be within a district where the broker has been granted a permit;

(ii) A detailed statement describing all the records of financial transactions to be maintained at the centralized location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations; and

(iii) An agreement that there will be no change in the records, the manner of recordkeeping, or the location at which they will be maintained, unless Customs is first notified.

(3) *Action.* If the notification involves records from districts not within the jurisdiction of the regional commissioner of the region where the notification was filed, the regional commissioner shall inform the other affected regional commissioners of the centralized storage.

(f) *Reproduction of centralized accounting records.* The regional commissioner for the region in which a broker has given notification pursuant to paragraph (e) of this section, is responsible for approving requests for the reproduction of centralized financial records provided under paragraphs (b) and (d) of this section.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. Section 113.62 is amended by redesignating paragraph (j) as (k), and by adding a new paragraph (j), to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(j) *Agreement to comply with electronic entry filing requirements.* If the principal is qualified to utilize electronic entry filing as provided for in part 143, subpart D, of this chapter, the principal agrees to:

(1) Comply with all conditions set forth therein;

(2) Retain all supporting documents, supporting data and/or any electronic transmissions, as required, or, in the event that such documentation is lost, damaged or destroyed, to retain true copies or graphic reproductions thereof;

(3) Produce them on demand, with a letter of explanation if they are true copies or graphic reproductions under paragraph (j)(2) of this section; and

(4) Send and accept electronic transmissions without the necessity of paper copies.

PART 142—ENTRY PROCESS

1. The authority citation for Part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. Section 142.3 is amended to add a new paragraph (a)(6) thereto, to read as follows:

§ 142.3 Entry documentation.

(a) * * *

(6) *Identification.* When merchandise is imported having been sold, or consigned, to a person in the United States, the name, street address, and appropriate identification number of that person, as provided in § 24.5 of this chapter, shall be shown on the entry documents (CF 3461, 3461 ALT, 7501). When, at the time of immediate delivery, entry or release, there is no known buyer, the name, street address, and appropriate identification number (as above) of the premises in the United States to which the merchandise is to be delivered must be shown on the entry or release documents.

* * * * *

PART 143—SPECIAL ENTRY PROCEDURES

1. The title of part 143 is revised to read as set forth above.

2. The authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

3. Section 143.0 is amended by revising the first sentence to read as follows:

§ 143.0 Scope.

This part sets forth the requirements and procedures for participation in the Automated Broker Interface (ABI) and for the clearance of imported merchandise under appraisement and informal entries as well as under electronic entry filing, which are in addition to the general requirements and procedures for all entries set forth in part 141 of this chapter. * * *

4. Part 143 is amended by revising the heading of subpart A and adding §§ 143.1 through 143.8 to read as follows:

Subpart A—Automated Broker Interface

Sec.
143.1 Eligibility.
143.2 Application.
143.3 Action on application.
143.4 Confidentiality of data.
143.5 System performance requirements.
143.6 Failure to maintain performance standards.
143.7 Revocation of ABI participation.
143.8 Appeal of suspension or revocation.

Subpart A—Automated Broker Interface

§ 143.1 Eligibility.

The Automated Broker Interface (ABI) is a module of the Customs Automated Commercial System (ACS) which allows participants to transmit data electronically to Customs through ABI and to receive transmissions through ACS. Its purposes are to improve administrative efficiency, enhance enforcement of Customs and related laws, lower costs and expedite the release of cargo. Participants in ABI may be:

(a) Customs brokers as defined in § 111.1(b) of this chapter;

(b) Importers as defined in § 101.1(1) of this chapter; and

(c) ABI service bureaus, that is, an individual, partnership, association or corporation which provides communications facilities and data processing services for brokers and importers, but which does not engage in the conduct of customs business as defined in § 111.1(c) of this chapter.

§ 143.2 Application.

A prospective participant in ABI shall submit a letter of intent to the district director closest to his principal office, with a copy to the Assistant Commissioner, Information Management, or designee. The letter of intent shall set forth a commitment to develop, maintain and adhere to the performance requirements and operational standards of the ABI system in order to ensure the validity, integrity and confidentiality of the data transmitted. The letter of intent must also contain the following, as applicable:

(a) A description of the computer hardware, communications and entry processing systems to be used and the estimated completion date of the programming;

(b) If the participant has offices in more than one location, the location of each office and the estimated start-up date for each office listed;

(c) The name(s) of the participant's principal management and contact person(s) regarding the system;

(d) If the system is being developed or supported by a data processing company, the data processing company's name and the contact person;

(e) The software vendor's name and the contact person; and

(f) The participant's entry filer cost and average monthly volume.

§ 143.3 Action on application.

(a) *Approval.* Permission to use ABI will be granted by the Assistant Commissioner, Information Management, or his designee, only to those applicants who are not delinquent or otherwise remiss in their transactions with Customs and are in compliance with the ABI system performance procedures and standards as described in § 143.5 of this subpart. If there is any cause to question the qualifications or fitness of the applicant to participate in ABI, the application may be referred for investigation and report. The investigation may include, but need not be limited to:

(1) The accuracy of the information provided in the letter of intent;

(2) The business integrity of the applicant;

(3) The character and reputation of an individual applicant or a member of a partnership or an officer of an association or corporation; and

(4) The character and reputation of the software vendor.

(b) *Denial.* If permission to use ABI is denied to an applicant by the Assistant Commissioner, Information Management, or his designee, written notice, including the grounds for the denial, will be given to him and to the district director. The applicant may appeal the denial in the manner prescribed in § 143.8 of this subpart and those procedures for handling an appeal shall apply.

§ 143.4 Confidentiality of data.

The electronic data received and exchanged by a service bureau shall be considered confidential, and the service bureau shall maintain the accuracy of data received in the process of formatting and transmitting such data on behalf of a filer, and shall not disclose this data or any information connected therewith to any persons other than the filer or Customs (see § 111.24 of this chapter).

§ 143.5 System performance requirements.

The performance requirements and operational standards for electronic data filing are detailed in Customs Publication 552, Customs And Trade Automated Interface Requirements (CATAIR), which is updated periodically. The Office of Automated Commercial Systems, Customs Headquarters, upon request, shall provide each prospective participant with a copy of this publication. Each prospective participant must demonstrate that his system can interface directly with the Customs computer and ensure accurate submission of required data. Such demonstration will include intensive testing of the participant's system and monitoring of its performance in accordance with Publication 552.

§ 143.6 Failure to maintain performance standards.

ABI participants must adhere to the performance requirements and operational standards of the ABI system and maintain a high level of quality in the transmission of data, as defined in Customs Publication 552 (CATAIR) and Customs directives and policy statements, in order to participate in ABI.

(a) *Probational status.* A participant who does not adhere to the requirements and standards of the ABI system or maintain a high level of quality as described above may be placed on probational status. The participant will be notified, electronically and in writing, by the Director, ACS, of any action to place the participant on probation. The notice will specifically set forth the grounds for the proposed probation, and advise the participant that he will have 15 days from the date of the notice to show cause why the probationary period should not take effect. If the participant fails to respond within the allotted time, or fails to show to the satisfaction of the Director, ACS, that the probationary period should not take effect, the Director will notify the participant of the effective date of the probationary period. The length of the probationary period may, in the discretion of the Director, ACS, be extended up to a maximum of 90 days, if the participant's performance remains below standard, but, except for immediate revocation under § 143.7, participation will not be suspended or revoked until the probationary period has lasted a minimum of 30 days. The participant's performance will be closely monitored during this time, which will include working with the participant and providing any necessary guidance to assist the participant in bringing his performance back to standard.

(b) *Suspension following probationary period.* If deficiencies are not corrected within the probationary period, the participant will be suspended from operational status. The participant will be notified, electronically and in writing, by the Director, ACS, of any action to suspend participation. The notice will specifically set forth the grounds and effective date for the suspension, and the right to appeal the suspension to the Assistant Commissioner, Commercial Operations, within 10 days following the date of the written notice of suspension (see § 143.8).

(c) *Reinstatement following suspension.* To obtain reinstatement to operational status, a suspended participant must submit a letter to the Director, ACS, stating that the deficiencies for which the suspension was invoked have been corrected. If, after the participant has demonstrated compliance with the system performance requirements and operational standards specified in § 143.5 of this part, if required, the Director is satisfied that the deficiencies have been corrected, the participant will be reinstated.

§ 143.7 Revocation of ABI participation.

(a) *Fraud or misstatement of material fact.* If it is determined at any time that participation in the system was obtained through fraud or the misstatement of a material fact, the Director, Trade Operations, will immediately revoke ABI participation.

(b) *Risk of significant harm to system.* If the participant's continued use of ABI would pose a potential risk of significant harm to the integrity and functioning of the system, the Director, ACS, will immediately revoke ABI participation.

(c) *Notification to participant.* The participant will be notified, electronically and in writing, by the applicable Director, of the revocation. The notice will specifically set forth the grounds and effective date of revocation, and the right to appeal the revocation to the Assistant Commissioner, Commercial Operations, within 10 days following the date of the written notice of revocation.

§ 143.8 Appeal of suspension or revocation.

If the participant files a written appeal with the Assistant Commissioner, Commercial Operations, within 10 days following the date of the written notice of action to suspend or revoke participation as provided in §§ 143.6 and 143.7, the suspension or revocation of participation shall not take effect until the appeal is decided, except in those cases where the Director, Trade Operations, or the Director, ACS, respectively, determines that participation was obtained through fraud or the misstatement of a material fact, or that continued participation would pose a potential risk of significant harm to the integrity and functioning of the system. The Customs officer who receives the appeal shall stamp the date of receipt of the appeal and the stamped date is the date of receipt for purposes of the appeal. The Assistant Commissioner shall inform the participant of the date of receipt and the date that a response is due under this paragraph. The Assistant Commissioner shall render his decision to the participant, in writing, stating his reasons therefor, by letter mailed within 30 working days following receipt of the appeal, unless this period is extended with due notification to the participant.

5. Part 143 is further amended by adding a new subpart D thereto, to read as follows:

Subpart D—Electronic Entry Filing

Sec.

Subpart D—Electronic Entry Filing

§ 143.31 Applicability.

This subpart sets forth general requirements for the entry of imported merchandise processed electronically through the Customs Automated Commercial System (ACS). Entries processed electronically are subject to the documentation, document retention and document retrievability requirements of this chapter as well as the general entry requirements of Parts 141 and 142. Use of this system is voluntary and optional on behalf of the filer. Customs does not contemplate that processing of non-electronic filings shall be delayed.

§ 143.32 Definitions.

The following are definitions for purposes of this subpart D:

(a) *ACS.* "ACS" means the Automated Commercial System and refers to Customs integrated comprehensive tracking system for the acquisition, processing and distribution of import data.

(b) *ABI.* "ABI" means the Automated Broker Interface and refers to a module of ACS that allows entry filers to transmit immediate delivery, entry and entry summary data electronically to Customs through ACS and to receive transmissions from ACS.

(c) *AII.* "AII" means Automated Invoice Interface and is a method of transmitting detailed invoice data through ABI.

(d) *Broker.* "Broker" means a Customs broker licensed under Part 111 of this chapter.

(e) *Certification.* "Certification" means the electronic equivalent of a signature for data transmitted through ABI. This electronic (facsimile) signature must be transmitted as part of the immediate delivery, entry or entry summary data. Such data is referred to as "certified".

(f) *Data.* "Data" when used in conjunction with immediate delivery, entry and/or entry summary means the information required to be submitted with the immediate delivery, entry and/or entry summary, respectively, in accordance with the CATAIR and/or Customs Headquarters directives. It does not mean the actual paper documents, but includes all of the information required to be in such documents.

(g) *Documentation.* "Documentation" when used in conjunction with immediate delivery, entry and/or entry summary means the documents set forth in § 142.3 of this chapter, required to be submitted as part of an application for immediate delivery, entry and/or entry summary, but does not include the Customs Forms 7501, 3461 (or alternative forms).

(h) *EDIFACT.* "EDIFACT" means the electronic Data Interchange for Administration, Commerce and Transport which provides an electronic capability to transmit detailed CF 3461, CF 7501 and invoice data.

(i) *Electronic immediate delivery.* "Electronic immediate delivery" means the electronic transmission of CF 3461 or CF 3461 alternate (CF 3461 ALT) data utilizing ACS in order to obtain the release of goods under immediate delivery.

(j) *Electronic entry.* "Electronic entry" means the electronic transmission of CF 3461, CF 3461 ALT, or CF 7501 data utilizing ACS in order to obtain the release of merchandise from Customs custody.

(k) *Electronic entry summary.* "Electronic entry summary" means the electronic transmission of CF 7501 data utilizing ACS for the purpose of duty assessment and the collection of statistical data.

(l) *Filer.* "Filer" means the party certifying the electronic filing of the application for immediate delivery, entry or entry summary. Filer may be a broker or an importer of record filing his own entries through ABI without the use of a broker.

(m) *Preclassification/binding ruling number.* "Preclassification/binding ruling number" means the system by which classifications are approved and assigned a unique identifying number. This number may be transmitted as part of the ABI data.

(n) *Records.* "Records" means the records as defined in § 162.1a(a) of this chapter, which are required to be maintained pursuant to this chapter.

(o) *Selectivity criteria.* "Selectivity criteria" means the categories of information which guide Customs judgment in evaluating and assessing the risk of an immediate delivery, entry or entry summary transaction. Based upon these criteria, immediate delivery or entry transactions will be subject to either general examination, general examination with document review, or intensive examination. Entry summary

transactions will be subject to either system review or summary document review. General examination (entry/immediate delivery) and system review (entry summary) procedures will constitute electronic processing provided all conditions necessary for electronic processing contained in this part are met.

(p) *Statement processing.* "Statement processing" means the method of collection and accounting within ACS which allows a filer to pay for more than one entry summary with one payment. ACS/ABI generates the statement, which is transmitted electronically to the filer, consisting of a list of entry summaries and the amount of duties, taxes or fees, if any, due for payment. Upon payment and collection of the statement, those entry summaries designated as electronic will be scheduled for liquidation (see § 24.25 of this chapter).

§ 143.33 Eligibility criteria for participation.

To be eligible for electronic immediate delivery, electronic entry and electronic entry summary, the filer must be qualified to use the ABI feature of ACS, as prescribed in § 143.5. To be eligible for electronic entry summary processing, filers must be authorized to use the ABI statement processing system. Filers not so authorized would have to follow the electronic entry summary with the submission of an entry summary in paper form along with any duties, taxes or fees accruing.

§ 143.34 Procedure for electronic immediate delivery or entry.

To file immediate delivery or entry electronically, the filer will submit certified immediate delivery or entry data electronically through ABI. Data will be validated and, if found error-free, will be accepted. If it is determined through selectivity criteria and review of data that documentation is not required to be physically submitted in paper form, merchandise will be released and Customs will electronically notify the filer.

§ 143.35 Procedure for electronic entry summary.

In order to obtain entry summary processing electronically, the filer will submit certified entry summary data electronically through ABI. Data will be validated and, if found error-free, will be accepted. If it is determined through selectivity criteria and review of data that documentation is not required to be physically filed in paper form, Customs will so notify the filer. The entry summary will be scheduled for liquidation once payment is made under statement processing (see § 24.25 of this chapter).

§ 143.36 Form of immediate delivery, entry and entry summary.

(a) *Electronic form of data.* If Customs determines that the immediate delivery, entry or entry summary data, in its electronic state including invoice data as provided in paragraph (c) of this section, is satisfactory under §§ 143.34 and 143.35, the electronic form of the immediate delivery, entry or entry summary through ABI shall be deemed to satisfy all filing requirements under this part. Further, the filer will not be required to produce or physically submit any official Customs forms of immediate delivery, entry or entry summary. The filer is responsible for the accuracy of the data submitted electronically to the same extent as if the documents were produced, signed and physically submitted by the filer (see § 111.32 of this chapter).

(b) *Accuracy of data.* Participation constitutes declaration by the electronic filer that, to the best of his knowledge, all transactions filed electronically fully disclose prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties, which are true and correct, and that all goods or services provided either free or at a reduced cost to the seller of the merchandise are fully disclosed (see § 111.32 of this chapter).

(c) *Submission of invoice.* In order to satisfy the statutory requirement for presentation of invoice, invoice data must be submitted in one of the following forms:

(1) Paper form;

(2) AII or EDIFACT format.

(3) In appropriate cases where a party has obtained a preclassification/binding ruling number covering the merchandise being entered, or is a participant in a pre-approval program, and information is electronically transmitted which is adequate for the examination of the merchandise and the determination of duties, and for verifying the information required for statistical purposes by § 141.61(e) of this chapter, such information will satisfy the invoice requirement of this part and part 141 of this chapter.

§ 143.37 Retention of records.

(a) *Period of retention*—(1) *Brokers.* Pursuant to § 111.23(a)(2) of this chapter, all records received or generated by the broker must be retained for a period of at least 5 years from the date of the entry or the date the merchandise was entered for consumption, unless maintenance of records is required for another time period (see § 143.4 of this part).

(2) *Importer.* Pursuant to 19 U.S.C. 1508(b), all records received by the importer must be retained for a period of at least 5 years from the date of the consumption entry or the date the merchandise was entered for consumption (see § 162.1c of this chapter).

(b) *Termination of broker's responsibility.* If the broker is discharged by the importer, he shall retain the documentation for those deliveries, entries or entry summaries filed by him prior to such discharge. Documentation in possession of a broker at the time of permanent termination of the brokerage business shall be accounted for pursuant to § 111.30(e) of this chapter.

(c) *Location of records.* Filers may store records and electronic data in centralized locations. If a centralized storage is desired by the filer, he must submit a written notice addressed to the Assistant Commissioner, Commercial Operations, U.S. Customs Service, Washington, DC, stating the location of the immediate delivery, entry or entry summary records.

(d) *Condition of records received.* Documentation supporting electronic immediate delivery, entry and entry summary must be retained in the condition as received by the filer or importer, unless the Assistant Commissioner, Commercial Operations, grants written permission to store such documentation by other means (including optical disk storage), in which case the originals need not be retained. If the supporting documentation is received electronically, unless the Assistant Commissioner, Commercial Operations, grants permission to store such documentation by other means, it must also be retained in the condition as received and stored, with the ability to generate paper reproductions of the documentation.

§ 143.38 Retrievability of records.

Pursuant to §§ 111.25 and 162.1a–162.1i of this chapter, Customs may request to see invoices or other documentation supporting electronic immediate delivery, entry or entry summary retained by the filer or importer. The filer or importer must produce these documents within a reasonable time and upon reasonable notice. The filer or importer may submit a certified copy of such supporting documentation, including those cases where the documentation is received and stored electronically. In the event the original supporting documentation is

lost, damaged or destroyed, the filer or importer may submit true copies or graphic reproductions thereof with a letter of explanation.

§ 143.39 Penalties.

(a) *Brokers.* Brokers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to § 111.91 of this chapter and 19 U.S.C. 1641.

(b) *Importers.* Importers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to § 113.62(k) of this chapter.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is revised to read as follows:

Authority: 19 U.S.C. 66, 1500, 1624. Subpart C also issued under 31 U.S.C. 5151. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

2. Section 159.9 is amended by removing the second sentence from paragraph (c)(1), by revising its third sentence, and by adding two new sentences to the end of this paragraph as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) *Date of liquidation*—(1) *Generally.* * * * This posting or lodging shall be deemed the legal evidence of liquidation. For electronic entry summaries, the date of liquidation will be the date of posting of the bulletin notice of liquidation. Customs will endeavor to provide the filer with electronic notification of this date as an informal, courtesy notice of liquidation.

Carol Hallett,

Commissioner of Customs.

Approved: November 28, 1990.

Peter K. Nunez,

Assistant Secretary for Enforcement.

[FR Doc. 90-28264 Filed 11-30-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Animal Drugs, Feeds, and Related Products; Milbemycin Oxime Tablets; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ciba-Geigy Corp. that appeared in the Federal Register of June 21, 1990 (55 FR 25300). The NADA provides for the use of milbemycin oxime tablets for prevention of heartworm disease and control of hookworm infections in dogs. This document removes a portion of the text in the "Limitations" section of the entry for milbemycin oxime tablets that was inadvertently codified.

EFFECTIVE DATE: June 21, 1990.

FOR FURTHER INFORMATION CONTACT: Robert C. Griffith, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1963.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 21, 1990 (55 FR 25300), FDA published a document amending the animal drug regulations to reflect approval of NADA 140-915 filed by Ciba-Geigy Animal Health, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300. The NADA provides for the use of Milbemycin oxime tablets for prevention of heartworm caused by *Dirofilaria immitis* and control of hookworm infestions caused by *Ancylostoma caninum* in dogs. As published, 21 CFR 520.1445(c)(3) provided that "prior to initiation of treatment, dogs over 6 months of age should be tested for existing heartworm infection. If positive, dogs should be converted to a negative status prior to use of (the) drug." The approved labeling for this drug contains similar information, but agency policy does not require codification of the information. The information was inadvertently codified, and is therefore removed from the regulation.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is corrected as follows:

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

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

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

520.1445 [Corrected]

2. Section 520.1445 *Milbemycin oxime tablets* is corrected in paragraph (c)(3) by removing the statement, "Prior to initiation of treatment, dogs over 6 months of age should be tested for existing heartworm infection. If positive, dogs should be converted to a negative status prior to use of drug."

Dated: November 26, 1990.

Robert Furrow,

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

[FR Doc. 90-28266 Filed 11-30-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 382

[DoD Directive 5134.1]

Under Secretary of Defense (Acquisition)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: As a part of the DoD effort to streamline and reduce the number of DoD-level acquisition related issuances, DoD Directive 5100.34, "Delegation of Authority with Respect to Contracts for Procurement of Public Utility Services" has been canceled and combined with DoD Directive 5134.1, "Under Secretary of Defense (Acquisition)" (32 CFR part 382). This document revises 32 CFR part 382.

EFFECTIVE DATE: August 8, 1989.

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 382

Organization and functions (Government agencies).

Accordingly, 32 CFR part 382 is revised as follows:

PART 382—UNDER SECRETARY OF DEFENSE (ACQUISITION)

Sec.

Sec.

Authority: 10 U.S.C. 133.

§ 382.1 Purpose.

This part, pursuant to 10 U.S.C., assigns responsibilities, functions, relationships, and authorities as prescribed herein, to the Under Secretary of Defense (Acquisition) (USD(A)). This part also strengthens the ability of the USD(A) to improve the efficiency and effectiveness of DoD acquisition.

§ 382.2 Definitions.

(a) *Department of Defense Acquisition System.* A single uniform system whereby all equipment, facilities, and services are planned, designed, developed, acquired, maintained, and disposed of within the Department of Defense. The system encompasses establishing and enforcing policies and practices that govern acquisitions, to include documenting mission needs and establishing performance goals and baselines; determining and prioritizing resource requirements for acquisition programs; planning and executing acquisition programs; directing and controlling the acquisition review process; developing and assessing logistics implications; contracting; monitoring the execution status of approved programs; and reporting to Congress.

(b) *DoD Components.* The Office of the Secretary of Defense (OSD); the Military Departments; the Joint Chiefs of Staff (JCS); the Joint Staff; the Unified and Specified Commands; the Office of the Inspector General, Department of Defense (OIG, DoD); the Defense Agencies, to include the Strategic Defense Initiative Organization (SDIO); and DoD Field Activities.

§ 382.3 Responsibilities.

The Under Secretary of Defense for Acquisition (USD(A)) is the principal staff assistant and advisor to the Secretary of Defense for all matters relating to the DoD Acquisition System; research and development; production; logistics; command, control, communications, and intelligence activities related to acquisition; military construction; and procurement.

(a) The USD(A) shall:

(1) Serve as the Defense Acquisition Executive (DAE) with full responsibility for supervising the performance of the DoD Acquisition System and enforcing the policies and practices contained in DoD Directive 5000.1,[1] DoD Instruction 5000.2,[2] OMB Circular No. A-109.[3]

(2) Chair the Defense Acquisition Board (DAB), supported by an integrated structure of acquisition-related committees, and, pursuant to § 382.5(c) of this part, serve as signatory authority on Acquisition Decision Memoranda documenting Milestone reviews by the DAB.

(3) Serve as the DoD Procurement Executive, with responsibilities as prescribed in E.O. 12352 of March 17, 1982 (3 CFR, 1982 Comp., p. 137) and 41 U.S.C. 401-424.

(4) Chair the DoD Ethics Council, with responsibilities as prescribed in DoD Directive 5120.47[4].

(5) Serve as the National Armaments Director and Secretary of Defense representative to the Four Power Conference.

(6) Establish and publish policies and procedures governing the operations of the DoD Acquisition System and the administrative oversight of defense contractors.

(7) Prescribe policies, in coordination with the IG, DoD, and the Comptroller of the Department of Defense (C, DoD), to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department. The exercise of this responsibility shall not affect the authority of the IG under the Inspector General Act of 1978.

(8) Coordinate research and development programs DoD-wide to eliminate duplication of effort and ensure that available resources are used to maximum advantage.

(9) Establish policies and programs that strengthen DoD Component technology development programs, encourage technical competition and technology-driven prototyping that promise increased military capabilities, and exploit the cost-reduction potential of innovative or commercially developed technologies.

(10) Develop acquisition plans, strategies, guidance, and assessments, including affordability assessments and investment area analyses, in support of the acquisition Milestone review and Planning, Programming, and Budgeting System (PPBS) processes.

(11) Administer the Defense Acquisition Executive Summary (DAES) and Cost/Schedule Control System Criteria (C/SCSC) systems.

(12) Designate major defense acquisition programs as either DAB or Component programs, sign congressional certifications and reports to include Milestone authorization breaches, administer the Selected Acquisition Report (SAR) and Unit Cost Report (UCS) systems, and exercise the other specific authorities provided for in the delegations of authority contains in Appendix to this part.

(13) Develop, in coordination with the Under Secretary of Defense for Policy (USD(P)), memoranda of agreements and memoranda of understandings with friendly and Allied Nations relating to acquisition matters.

(14) Establish policies for maintenance of the defense industrial base.

(15) Supervise the management and performance of the Strategic and Critical Defense Materials Program pursuant to E.O. 12626 of February 25, 1988 (3 CFR, 1988 Comp., p. 552).

(16) Establish policies, in coordination with the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), for the training and career development of acquisition personnel.

(17) Advise the Secretary of Defense and the Deputy Secretary of Defense on technical and programmatic issues arising in Defense Planning and Resources Boards matters.

(b) For each assigned area identified in § 382.4, the USD(A) shall:

(1) Direct planning and analyses activities to assess the technical, economic, and military worth of specific acquisition programs and investment areas.

(2) Establish policies, systems, and standards that promote more effective and efficient administration and management of acquisition resources, and monitor the execution of approved programs to ensure available resources are being applied in accordance with established policies and standards.

(3) Review and evaluate DoD Component plans, programs, and budget submissions to ensure adherence to established priorities, policies and procedures, standards, and resource guidance; and, as appropriate, develop recommended alternatives for Secretary and Deputy Secretary of Defense consideration during all phases of the PPBS process.

(4) Promote coordination, cooperation, and mutual understanding of all matters related to assigned activities, both inside and outside the Department of Defense.

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

[2] See footnote 1 to § 382.3(a)(1).

[3] Copies may be obtained by written request to: EOP Publications, 725 Seventeenth Street NW., Washington, DC 20503.

[4] See footnote 1 to § 382.3(a)(1).

(5) Serve as primary focal point and principal spokesman for the Department of Defense; serve on boards, committees, and other groups pertaining to assigned functional areas; and represent the Secretary of Defense and the Deputy Secretary of Defense on USD(A) matters outside the Department of Defense.

(6) Establish and maintain management information and reporting systems.

(7) Perform such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

§ 382.4 Functions.

The USD(A) shall carry out the responsibilities described in § 382.3, for the following functional areas:

(a) Acquisition management.

(b) Basic and applied research and the defense technology base.

(c) Design and engineering, and the development of weapon systems.

(d) Command, control, communications, and intelligence programs, systems, and activities related to acquisition.

(e) Logistics acquisition and management, to include supply systems, spares program management, weapons systems logistics elements, items standardization, transportation, energy, warehousing, distribution, and related activities.

(f) Procurement activities.

(g) Scientific and technical information.

(h) Production and manufacturing.

(i) Industrial base resources and productivity.

(j) Force modernization and sustainability and the availability of fielded major weapons systems.

(k) Developmental test and evaluation, as defined in DoD Directive 5000.3,[5] and, to the extent permitted by law, review and approval of the Test and Evaluation Master Plan.

(l) Environmental policy, services, and related actions.

(m) Assignment and reassignment of research and engineering and acquisition responsibility for programs, systems, and activities.

(n) Codevelopment, coproduction, coprocurement, logistics support, wartime host-nation support, and research interchange with friendly and Allied Nations, in coordination with the USD(P).

(o) Installation management and base closures.

(p) Construction, including construction funded by host-nations under the North Atlantic Treaty Organization (NATO) Infrastructure program and similar programs with other Allied countries.

(q) Strategic and critical defense materials, to include the acquisition, retention, and disposal of stocks and the conservation and development of sources of materials.

(r) Unique acquisition matters in support of special operations and low-intensity conflict programs, systems, and activities related to acquisition, in coordination with the Under Secretary of Defense for Policy.

§ 382.5 Authorities and relationships.

(a) The USD(A) shall take precedence in the Department of Defense on acquisition matters after the Secretary and Deputy Secretary of Defense. On all other matters, the USD(A) shall take precedence after the Secretary and Deputy Secretary of Defense and the Secretaries of the Military Departments.

(b) The USD(A) is hereby granted the authority to direct the Secretaries of the Military Departments and Heads of all other DoD Components with respect to matters for which the USD(A) has responsibility. In this regard, the USD(A) shall strictly enforce the minimum established requirements in DoD Directive 5000.1 and the documentation requirements and procedures in DoD Instruction 5000.2. The authority of the USD(A) to direct the Secretaries of the Military Departments may not be delegated by the USD(A).

(c) The USD(A) shall decide upon the appropriate implementing actions to be taken as a result of DAB reviews, to include the establishment of specific exit criteria that must be satisfactorily demonstrated before an effect or program can progress to the next Milestone decision point. The USD(A)'s decisions shall be reflected in an Acquisition Decision Memorandum (ADM) issued by the USD(A) for implementation by the Heads of DoD Components. The authority of the USD(A) under this paragraph may not be delegated by the USD(A).

(d) The USD(A) may direct the C, DoD to withhold the release of funds to a program at the time of a DAB Milestone review of the program, when the USD(A) determines that such direction is necessary to ensure that the program meets the criteria established by DoD Directives for existing the Milestone and all additional exist criteria for the program established by the Secretary, Deputy Secretary or Under Secretary for Acquisition. USD(A) may not delegate the authority granted by this paragraph to anyone other than the Deputy USD(A).

(e) In the performance of assigned functions, the USD(A) shall:

(1) Exercise direction, authority, and control over the following activities and organizations that constitute the USD(A) organization (The reporting relationships of these activities and organizations with regard to the USD(A), e.g., direct or indirect, shall be at the discretion of the USD(A)):

(i) The Director of Defense Research and Engineering.

(ii) The Assistant Secretary of Defense (Production and Logistics).

(iii) Acquisition-related activities of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(iv) The Assistant to the Secretary of Defense (Atomic Energy).

(v) The Deputy Under Secretary (Industrial and International Programs).

(vi) The Director of Small and Disadvantaged Business Utilization.

(vii) The Director, Program Integration.

(viii) The Defense Advanced Research Projects Agency, the Defense Communications Agency, the Defense Logistics Agency, the Defense Mapping Agency, the Defense Nuclear Agency, the Defense Contract Management Agency, the Defense Systems Management College, and the On-Site Inspection Agency.

(2) Provide technical guidance for utilization of the Electromagnetic Compatibility Analysis Center.

(3) Provide policy guidance, goal setting, and management supervision for assigned Management Support Activities, and utilization of Federally Funded Research and Development Centers (FFRDCs).

(4) Use existing facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate balance among modernization, readiness, sustainability, efficiency, and economy.

(f) The USD(A) shall also:

(1) Issue DoD Instructions, DoD publications, and one-time directive-type memoranda, consistent with DoD 5025.1M,[6] that implement acquisition policies and procedures for the functions assigned to the USD(A). Instructions to Unified and Specified Commands shall be issued through the Chairman of the Joint Chiefs of Staff (CJCS).

(2) Obtain reports, information, advice, and assistance, consistent with DoD Directive 7750.5,[7] as necessary in carrying out assigned functions.

[5] See footnote 1 to § 382.3(a)(1).

[6] See footnote 1 to § 382.3(a)(1).

[7] See footnote 1 to § 382.3(a)(1).

(3) Communicate directly with the Heads of DoD Components. Communications to Commanders of the Unified and Specified Commands shall be through the CJCS.

(4) Establish arrangements for DoD participation in non-defense governmental programs for which the USD(A) is assigned primary DoD cognizance.

(5) Communicate with other Government Agencies, representatives of legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(6) Coordinate with and exchange information with other OSD and DoD officials exercising collateral or related responsibilities.

(7) Exercise the delegations of authority contained in appendix to this part.

(8) Work directly with the Service Acquisition Executives.

(g) Other OSD officials and Heads of Components shall coordinate with the USD(A) on all matters related to authorities, responsibilities, and functions assigned in this part.

(h) In the absence or disability of the USD(A), the Acting USD(A) may exercise all authorities of the USD(A).

(i) Nothing in this part or the Delegations of Authority to the USD(A) limits or otherwise affects delegations of authority by the Secretary of Defense to the Deputy Secretary of Defense.

Appendix to Part 382—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, Directives, and Instructions, the USD(A) is hereby delegated authority to exercise, within his assigned responsibilities and functional areas, all authority of the Secretary of Defense derived from statute, Executive order, authority of the Secretary of Defense derived from statute, Executive order, and interagency agreement, except where specifically limited by statute or Executive order to the Secretary of Defense, to include but not limited to:

1. Exercise all authorities delegated to the Secretary of Defense by the Department of Commerce DPAS Del. No. 1, as amended (DoD Directive 4405.6 [1]).

2. Act for the Secretary of Defense in the exercise of extraordinary contractual action authority under Public Law 85–804—an Act to authorize the making, amendment, and modification of contracts to facilitate the national defense, August 28, 1958, in accordance with E.O. 10789, November 14, 1958, as amended, and Part 50 of the Federal Acquisition Regulation.

3. Make Secretarial determinations, justifications, and approvals on behalf of the Defense Advanced Research Projects Agency (DARPA), Defense Communications Agency (DCA), Defense Contract Management Agency (DCMA), Defense Logistics Agency (DLA), Defense Mapping Agency (DMA), and the Defense Nuclear Agency (DNA) under Title 10, United States Code, with authority to redelegate to the Directors of those Agencies, as appropriate.

4. Act for the Secretary of Defense in the establishment and granting of waivers under the Buy American Act (41 U.S.C. 10a–10b).

5. Act for the Secretary of Defense on delegations of authority to him by the U.S. Trade Representative to waiver the prohibition against procurement from certain countries, pursuant to title 3, Public Law 96–39, Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.), and E.O. 12260, July 26, 1979.

6. Act for the Secretary of Defense in exercise of authority delegated by the Administrator of General Services to dispose of surplus personal property and to waive prescribed demilitarization requirements under DoD Directive 4160.21.[2]

7. Make determinations with respect to the donation of surplus personal property to educational activities of special interest to the Armed Forces of the United States as prescribed in DoD Directive 4160.25.[3]

8. Act for, and exercise the powers of, the Secretary of Defense concerning requests for waiver of the navigation and vessel inspection laws of the United States under Public Law 891, 81st Congress, 2nd Session, December 27, 1950 (64 Stat. 1120), except on those matters that have been delegated by the Secretary of Defense to the Secretary of the Army.

9. Make recommendations to the Department of Energy in connection with facilities for transmission of electric energy and natural gas across borders of the United States, pursuant to the authority given the Secretary of Defense in E.O. 10485, September 3, 1953, as amended by E.O. 12038, February 3, 1978.

10. Act for the Secretary of Defense in the field of transportation and traffic management under section 201(a), title 11, of the Federal Property and Administrative Services Act of 1949, as amended (50 U.S.C. 481(a)) (DoD Directive 5126.9 [4]).

11. Act for the Secretary of Defense as the DoD claimant to other designated Executive Departments and Agencies for petroleum requirements and allocations in an emergency (DoD Directive 4140.25 [5]).

12. Exercise all responsibilities and authorities of the Secretary of Defense under title 10, United States Code, section 2404, with respect to the acquisition of petroleum.

13. Act for the Secretary of Defense in the implementation of OMB Circular No. A.109, "Major System Acquisitions," April 5, 1976.

14. Make the determination required by title 50, United States Code, section 1512(1), concerning transportation or testing of any lethal chemical or any biological warfare agent.

15. Act for the Secretary of Defense for ensuring compliance with Public Law 92–463, the Federal Advisory Committee Act (5 U.S.C. appendix), and make written determinations for conduct of all closed meetings of Federal Advisory Committees under his cognizance as prescribed by section 10(d) of the Act (5 U.S.C. appendix, 10(d)).

16. Act for the Secretary of Defense as the primary OSD interface with the Defense Policy Advisory Committee on Trade.

17. Act for the Secretary to make appropriate supporting determinations and execute leases under title 10, United States Code, section 2667.

18. Act for the Secretary of Defense in the implementation of OMB Circular A–76,[6] "Performance of Commercial Activities," as revised, August 4, 1983.

19. With the exception of the determination of highly sensitive classified programs, which is retained by the Secretary of Defense, exercise the responsibilities and authorities of the Secretary of Defense to designate major defense acquisition programs, as defined in title 10, United States Code, section 2430.

20. Act for the Secretary of Defense in preparing and revising an acquisition strategy plan for a major program throughout the period from the beginning of Full-Scale Development through the end of production under section 2438, subsection (a) of title 10, United States Code, and in making the prescribed congressional submissions. This delegation of authority may not be redelegated.

21. Act for the Secretary of Defense in making determinations and waivers, and in submitting waivers of requirements for competitive alternate sources with respect to Full-Scale Development and with respect to production for major programs under section 2438, subsection (c) of title 10, United States Code. This delegation of authority may not be redelegated.

22. Act for the Secretary of Defense in providing to the Committees on Appropriations, before funds are expended for Full-Scale Development, a plan for the development of two or more sources in production or a certification that the system or subsystem being developed will be procured in quantities insufficient to justify two or more sources under section 8057 of Public Law 100–202, section 8047 of Public Law 100–463, and identical provisions in subsequent statutes making appropriations to the Department of Defense. This delegation of authority may not be redelegated.

23. Act for the Secretary of Defense in making certifications, providing reports, and approving waivers for major defense acquisition programs required by title 10, United States Code. This authority includes, but is not limited to, the following:

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[1] Copies may be obtained, at cost, 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] Copies may be obtained by written request to: EOP Publications, 725 Seventeenth Street NW., Washington, DC 20503.

a. Submission of notification and report that a competitive prototype strategy is not practicable (Section 2365).

b. Make waivers and notify Congress of each waiver for the acquisition of defense equipment under cooperative projects and report on the award of cooperative contracts (Section 2407). This authority may not be redelegated.

c. Submit Selected Acquisition Reports (Section 2432).

d. Make and submit certifications required for Unit Cost Reports (Section 2433).

e. Submit Manpower Estimate Reports (Section 2434).

f. Provide the notifications for program deviations for milestone-authorized programs (Section 2437).

24. Exercise all authorities delegated to the Secretary of Defense by E.O. 12580, January 23, 1987, concerning responses to releases of hazardous substances for Department of Defense facilities and vessels under Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, *et seq.*) as amended by the Superfund Amendments and Reauthorization Act (Pub. L. 99–499, October 17, 1986).

25. Exercise all responsibilities and authority of the Secretary of Defense under 10 U.S.C. 2701–2707 and 10 U.S.C. 2810 with respect to conduct of the Defense Environmental Restoration Program.

26. Exercise the authority of the Secretary of Defense under 10 U.S.C. 2354 for the DoD Components other than the Military Departments.

27. Serve on and attend meetings of the Federal Acquisition Regulatory Council, established by section 25 of the Office of Federal Procurement Policy Act, as amended. The Deputy Under Secretary of Defense for Acquisition shall serve in the absence of the USD(A). This authority may not be redelegated.

28. Perform the functions and responsibilities set out at section 25(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 421). The authority to review and approve or disapprove regulations relating to procurement under subsection 25(d)(1) may not be delegated to any person outside the office of the USD(A).

29. Exercise the authority of the Secretary of Defense under 10 U.S.C. 2407 with respect to NATO Cooperative Projects as defined in section 27 of the Arms Export Control Act (AECA). The authority to grant waivers as authorized in section 2407(c) may not be redelegated.

30. Exercise all responsibilities of the Secretary of Defense under Public Law 93–155, Defense Industrial Reserve Act of 1973 (50 U.S.C. 451–455) to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned plants and industrial plant equipment is maintained to meet the needs of the Armed Forces in time of a national emergency or in anticipation thereof.

31. Act for the Secretary of Defense to establish and administer an Industrial Preparedness Program in furtherance of E.O. 12656, section 501, paragraphs (2), (11), (13), and (14), February 25, 1988, and Defense Mobilization Order VII–7 (Revised), in accordance with DoD Directive 4005.1.[7]

32. Act for the Secretary of Defense in the exercise of authority under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) in accordance with E.O. 12626, February 25, 1988.

33. Act for the Secretary of Defense, under the authority of Federal Property Management Regulations, Temporary Regulation F–227, July 30, 1974, or under any other Delegation of Authority that may hereafter be made by the Administrator of General Services, to enter into contracts for public utility services for a period not to exceed 10 years.

a. This authority is hereby further delegated to the Secretaries of the Army, Navy, and Air Force with authority to redelegate, as appropriate. Exercise of this authority is subject to the direction, supervision and control of the USD(A).

b. This authority is also further delegated to the Director of the Defense Communications Agency in connection with the leasing of communications facilities, and to the Directors of the Defense Logistics Agency and Defense Nuclear Agency in connection with the leasing of local telecommunications facilities and services. This authority may be redelegated as appropriate. Exercise of this authority is subject to the direction, supervision and control of the USD(A).

The USD(A) may redelegate these authorities, as appropriate, except as otherwise specifically indicated above or prohibited by law, directive or regulation.

Dated: November 27, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–28292 Filed 11–30–90; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3864–6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a site-specific revision to the ozone portion of the Ohio State Implementation Plan (SIP) for Navistar International Transportation Corporation (Navistar) in Springfield, Ohio. The revision consists of variances for Navistar's individual miscellaneous metal parts and products coating lines. The variances exempt these lines from the requirements of Ohio Administrative Code (OAC) Rule 3745–21–09(U)—(a 3.5 pounds of volatile organic compounds per gallon of coating, excluding water, limitation) and allow the source to meet control requirements by using an alternative emission control program (bubble) at its facility. USEPA is approving this revision because the bubble reflects a decrease in emissions from the level allowed in the SIP, and meets USEPA's Emission Trading Policy Statement requirements.

EFFECTIVE DATE: This final rulemaking becomes effective January 2, 1991.

ADDRESSES: Copies of the SIP revision request, public comments, and USEPA's analysis are available at the following addresses for review. (It is recommended that you telephone Maggie Greene at (312) 886–6088 before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

A copy of today's revision to the Ohio State Implementation is available for inspection at:

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

FOR FURTHER INFORMATION CONTACT:

Maggie Greene, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On February 28, 1989, the Ohio Environmental Protection Agency (OEPA) submitted a revision to its ozone SIP for the Navistar International Transportation Corporation (Navistar). Navistar is located in Clark County, which is designated as a nonattainment area for ozone. The requested revision consists of variances which exempt individual miscellaneous metal parts and products surface coating lines from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U), and which allow the sources to meet control requirements using an alternative emissions control program (bubble). The Ohio variances become effective at the State level upon USEPA's approval and expire 3 years from that date. On March 30, 1990, OEPA modified this request slightly by deleting two lines from its original bubble request.

Summary of the Proposed Revision

Navistar has in operation nine miscellaneous metal parts and products

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

coating lines at its assembly plant and body plant in Springfield, Ohio. The lines are identified as P001 (Line 57), P002 (Line 58), K010 (Line 59), K011 (Line 61), K012 (Line 64), K013 (Line 77/78), K014 (Line 26), K016 (Chassis Line #1) and K017 (Chassis Line #2) at the assembly plant and K001 (cab primer line) at the body plant. These lines are subject to OAC Rule 3745-21-09(U)(1)(a)(iii) which limits the VOC content of coatings used to 3.5 lbs/gallon of coating, less water. In order to address four noncomplying lines, Ohio originally proposed to use credits generated by the shutdown of lines K001, P002, K010, K011, and K012, to offset excess emissions from lines K009, K013, K016, and K017.[1]

On February 2, 1990, (55 FR 3606), USEPA proposed to disapprove the requested SIP revision because the State of Ohio did not correctly determine the baseline VOC emissions for the coating lines included in the proposed bubble. Navistar used 3 years (1984 through 1986) of production and emissions data to calculate the average baseline emissions levels. This, however, is in violation of USEPA's Emission Trading Policy Statement (ETSP) (December 4, 1986, 51 FR 43813), which states that the average of production and emissions data over the 2 years prior to the source's application for a bubble must be used to calculate the baseline level. No documentation was provided by Navistar or the State to justify the use of a 3-year average rather than the required 2 years average. (See the proposed rulemaking for a more detailed discussion of USEPA's rationale for proposing to disapprove the revision request.)

Both OEPA and Navistar submitted comments on the February 2, 1990, proposed rulemaking. The response to those comments is reflected in this final rulemaking and its divergence from USEPA's proposed disapproval. First, Navistar eliminated USEPA's single objection to the bubble as originally proposed by basing the baseline emission estimates on 1985 and 1986 production levels, the 2 years prior to Navistar's initial application for a bubble.

Next, the State and Navistar noted that subsequent to Navistar's application for the bubble, Navistar had brought two more coating lines (K016 and K017) into compliance with OAC Rule 3745-21-09(U)(1)(a)(iii). The State noted that it had inspected these lines, and it certified compliance with the rule. Thus, the State withdrew lines K016 and K017 from its original bubble request. The modified bubble baseline and post-bubble actual and allowable VOC emissions are shown in the following table:

VOC BUBBLE AS REVISED VOC EMISSIONS

[In tons per year]

Coating Line	1985/1986 before bubble		After bubble actual/allowable
	Actual	Allowable	
K001	127.28	89.37	0
K009	81.89	59.84	73.87
K002	109.95	47.96	0
K010	15.62	6.73	0
K011	17.04	9.00	0
K012	47.16	24.87	0
K013	14.11	11.97	14.11
K021	0	0	25.40
K022	0	0	25.40
K026	0	0	46.90
K028	0	0	29.13
Total	413.05	249.74	214.81

Analysis of the Appropriate Criteria To Use for Reviewing the Bubble

Guidance contained in the ETPS states that bubbles for sources located in areas requiring new ozone demonstrations of attainment (including areas with current SIP-calls) must produce substantial net reduction in actual emissions (*i.e.*, a reduction of at least 20 percent in the emissions from the baseline level is required). The requirement for a 20 percent reduction from the baseline may be waived for proposed bubbles pending before the USEPA prior to the date of the publication of the ETPS (before December 4, 1986). In addition, guidance given in a May 25, 1988, policy summary, titled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations—Clarification to appendix D of November 24, 1987, **Federal Register**," states that the 20 percent reduction from the baseline may be waived for any bubble approved by a State prior to the date of a current SIP–call.

At the time the original Navistar bubble proposal was submitted to the USEPA, February 1989, the Springfield, Ohio area was not subject to an ozone SIP–call. An ozone SIP–call was issued by the USEPA for the Dayton area, which includes the Springfield, Ohio area, on November 8, 1989. Thus, the original bubble is clearly exempted from the 20 percent reduction from the emission baseline requirement.

The revision of the bubble to eliminate the two complying lines was submitted by Navistar to its local air agency, the Regional Air Pollution Control Agency, on December 22, 1989, and was forwarded to the OEPA on February 23, 1990. If this revision in the bubble is considered to transform the original bubble into a new bubble, the bubble would be subject to the requirement for a 20 percent emission reduction from the baseline.

USEPA considered whether or not the removal of complying lines K016 and K017 affects the balance of emission reduction credits applied through the bubble in judging whether or not the revised bubble should be treated as a new bubble. Because the coatings used in Lines K016 and K017 comply with Ohio's VOC content rule for miscellaneous metal coatings and because Navistar is not claiming excess emission control for these lines, the baseline emissions must equal the post-bubble emissions for these lines. Therefore, the inclusion or removal of these lines in or from the bubble cannot affect the balance of emission reduction credits in the bubble. Further, from an emission reduction standpoint, the revised bubble is equivalent to the original bubble. It is concluded on this basis that the revised bubble should not be treated as a new bubble and is not, therefore, subject to the 20 percent emission baseline reduction requirement. This means the proposed bubble meets USEPA's tests for acceptable bubbles.

Final Action

USEPA is today approving this Navistar bubble as a revision to the Ohio SIP, because the revision now meets USEPA's Emission Trading Policy Statement requirements, and the bubble reflects a decrease in emissions from the level allowed by the SIP.

Nothing in this action should be construed as permitting, 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 the context of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

On January 6, 1989, the Office of Management and Budget waived Tables Two and Three SIP revisions (54 FR

[1] On March 30, 1990, Ohio withdrew its revision request for lines K016 and K017 because Ohio stated that these two lines have come into compliance with the 3.5 pound of VOC per gallon of coating, excluding water, requirement of OAC rule 3745–21–09(U). It left in place its original request for revised emission limits for lines K009 and K013.

2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 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 February 1, 1991. This action may not be challenged later in proceedings to enforce its requirements. (*See* 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Hydrocarbons, Intergovernmental relations, Ozone.

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

Dated: November 9, 1990.

Robert Springer,

Acting Regional Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7642.

Ohio—Subpart KK

2. Section 52.1870 is amended by adding new paragraph (c)(89) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(89) On February 28, 1989, the Ohio Environmental Protection Agency (OEPA) submitted a revision request to Ohio's ozone SIP for the Navistar International Transportation Corporation in Springfield, Ohio. It modified this request on March 30, 1990. The revision is in the form of variances for miscellaneous metal parts and products coating lines and exempts them from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U). These variances expire on January 4, 1994.

(i) Incorporation by reference.

(A) Condition Number 8 (which references Special Terms and Conditions Number 1 through 11) within both of the "State of Ohio Environmental Protection Agency Variances to Operate An Air Contaminant Source", Application Numbers 0812760220K009 and 0812760220K013 for Navistar International Transportation Corporation. The Date of Issuance is February 28, 1989.

[FR Doc. 90–27998 Filed 11–30–90; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–1, 301–9, 301–10, 301–11, and 301–15

[FTR Amdt. 12]

Federal Travel Regulation; Travel and Transportation Expense Payment System; Automated-Teller-Machine (ATM) Services

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to provide for the use of automated-teller-machine (ATM) services by authorized Federal employees traveling on official business. An enhancement to the contractor-issued charge card program of the General Services Administration Travel and Transportation Expense Payment System allows cash withdrawals from ATM's by individual cardholders who are specifically authorized by their agencies to use ATM services. This rule implements the ATM services enhancement, thus offering agencies another method for providing travel advances to Federal employees on official business.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Louise Jernigan, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557–1261 or commercial (703) 557–1261.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 301–1, 301–9, 301–10, 301–11, and 301–15

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR parts 301–1, 301–9, 301–10, 301–11, and 301–15 are amended as set forth below.

301–1—APPLICABILITY AND GENERAL RULES

1. The authority citation for part 301–1 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 301–1.1 is revised to read as follows:

§ 301–1.1 Authority.

This chapter is issued under the authority of 5 U.S.C. 5701–5709 and 40 U.S.C. 486(c).

PART 301–9—MISCELLANEOUS EXPENSES

3. The authority citation for part 301–9 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

4. Section 301–9.1 is amended by revising paragraph (c) to read as follows:

§ 301–9.1 Expenses allowable.

* * * * *

(c) *Travelers checks, money orders, certified checks, or automated-teller-machine (ATM) services.* Reimbursement for the cost of travelers checks, money orders, or certified checks purchased in connection with official travel, as well as transaction fees for authorized ATM withdrawals, may be allowed. The amount of the checks, money orders, or ATM cash withdrawals may not exceed the amount of funds authorized to be advanced in accordance with the provisions of § 301–10.3.

* * * * *

PART 301–10—SOURCES OF FUNDS

5. The authority citation for part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

6. Section 301–10.1 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 301–10.1 General policy.

(a) * * * However, Federal employees should not have to pay official travel

expenses entirely from personal funds unless the employee has elected not to use alternative resources made available by the Government; i.e., contractor-issued charge cards, travelers checks, or contractor-provided automated-teller-machine (ATM) services. * * *

* * * * *

§ 301–10.2 [Amended]

7. Section 301–10.2(b)(2)(ii) is amended by adding in the second sentence the word "card" immediately after the phrase "other credit".

8. Section 301–10.3 is amended by revising the last sentence of paragraph (a) and paragraph (c)(4), by removing paragraph (d), by redesignating paragraph (e) as paragraph (d), and by revising the introductory text of paragraph (d) to read as follows:

§ 301–10.3 Advance of funds.

(a) * * * Agencies shall issue advances in the form of travelers checks or authorized ATM cash withdrawals when those methods are determined to be in the best interest of the Government.

* * * * *

(c) * * *

(4) *Exception precluded.* This exception authority may not be exercised in situations where the employee has elected not to use alternative funding resources made available by the Government; i.e., Government contractor-issued charge cards, travelers checks, or contractor-provided ATM services. This exception authority may not be exercised for travelers whose Government charge cards have been suspended or revoked because of delinquent payments.

(d) *Control and recovery of advances.* Agencies shall establish internal financial controls for assuring that travelers with outstanding travel advances are notified of any delinquencies in filing vouchers and repaying outstanding advance balances, and that travelers are promptly paid amounts owed to them by the agency. These controls should include procedures for reviewing outstanding travel advances prior to an employee's separation, and for settling all outstanding amounts.

* * * * *

PART 301–11—CLAIMS FOR REIMBURSEMENT

9. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

10. Section 301–11.6 is amended by revising paragraph (b)(21) to read as follows:

§ 301–11.6 Administrative approvals.

* * * * *

(b) * * *

(21) Travelers checks, money orders, certified checks, or contractor-provided automated-teller-machine (ATM) services. (See § 301–9.1(c).)

* * * * *

PART 301–15—TRAVEL MANAGEMENT PROGRAMS

11. The authority citation for part 301–15 continues to read as follows:

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

12. The table of contents of part 301–15, subpart C and the heading of subpart C are revised to read as follows:

Subpart C—Travel and Transportation Expense Payment System: Contractor-Issued Charge Cards, Centrally Billed Accounts, Travelers Checks, and Automated-Teller-Machine (ATM) Services

13. Section 301–15.40 is amended by revising the introductory text and paragraphs (b) and (c), and by adding a new paragraph (d), to read as follows:

§ 301–15.40 Scope of subpart.

This subpart prescribes policies and procedures governing the use of the General Services Administration (GSA) travel and transportation expense payment system. GSA has contracted for the issuance and maintenance of individual contractor-issued charge cards, the establishment of centrally billed accounts, the issuance of travelers checks, and the provision of automated-teller-machine (ATM) services. The GSA travel and transportation expense program includes provisions for the following:

* * * * *

(b) Centrally billed accounts used by designated agency offices primarily for the purchase of passenger transportation services (see § 301–15.45);

(c) Travelers checks (or cash) used for other expenses; i.e., laundry, parking, local transportation, or tips (see § 301–15.46); and

(d) ATM access at locations throughout the United States and worldwide (see § 301–15.47).

14. Section 301–15.41 is revised to read as follows:

§ 301–15.41 Applicability.

This subpart applies to Federal agencies and departments that participate in GSA's travel and transportation expense payment system providing for contractor-issued charge cards, centrally billed accounts, travelers checks, and ATM services.

15. Section 301–15.42 is revised to read as follows:

§ 301–15.42 Definitions.

For the purposes of this subpart the following definitions apply:

(a) *Automated-teller-machine (ATM) services* are contractor-provided ATM services which allow cash withdrawals from participating ATM's to be charged to a contractor-issued charge card (see paragraph (c) of this section).

(b) *Centrally billed* means a Government Travel System account established by the charge card contractor at the request of a participating agency.

(c) *Charge card* means a contractor-issued charge card to be used by travelers of a participating agency to pay for passenger transportation services, subsistence expenses, and other allowable travel and transportation expenses incurred in connection with official travel.

(d) *Federal Travel Directory (FTD)* means a monthly publication issued by GSA and the Department of Defense to provide up-to-date information on charge cards, contract fares, lodging rates, car rental, per diem rates, travel management centers, and other travel and transportation matters. Federal agencies and employees should order copies of the FTD through their appropriate headquarters administrative offices. The FTD also is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The publication stock number is 722–006–00000–3.

(e) *Participating agency* means an agency or department that participates in GSA's travel and transportation expense payment system.

(f) *Travel Management Center (TMC)* means a commercial travel firm under contract to GSA that provides reservations, ticketing, and related travel management services for official travelers.

(g) *Travelers checks* are contractor-issued travelers checks.

16. Section 301–15.43 is amended by revising paragraph (b) to read as follows:

§ 301–15.43 Agency participation.

* * * * *

(b) The agency headquarters office must approve participation in the program. Interested offices within the participating agency shall contact their local administrative or travel office to arrange initiation into this program.

(1) The charge card contractor will issue charge cards and establish centrally billed accounts only upon the request of authorized representatives of participating agencies.

(2) The charge card contractor will provide ATM services to cardholders who are specifically authorized by their agencies to use ATM services. To participate in the ATM program, agencies must perform a cost benefit analysis, determine whether the program will be advantageous, and develop program controls. Agencies must provide the GSA contracting officer a copy of the cost benefit analysis and a certification signed by the head of the agency or his/her designee stating that the ATM program is expected to be advantageous to the agency.

17. Section 301–15.44 is amended by revising paragraphs (a), (c), (e)(1), (e)(3), and (h) to read as follows:

§ 301–15.44 Individual employee charge cards.

(a) *Authority.* Under 41 CFR 101–41.203, Federal agencies historically used a U.S. Government Transportation Request (GTR), SF 1169, to purchase passenger transportation services directly from a common carrier or through a commercial travel agent under contract to GSA (see subpart A of this part). Authority to deviate from 41 CFR 101–41.203 was granted by the Administrator of General Services on August 4, 1983, thus allowing eligible individuals to participate in the charge card program.

* * * * *

(c) *Use of charge cards.* (1) The employee shall use the charge card issued under this program only to charge expenses incurred in conjunction with official travel or to obtain authorized ATM cash withdrawals (see § 301–15.47). The employee shall use the charge card to pay for official travel expenses to the maximum extent possible. There is no preset limit on the expenses which can be charged to the charge cards; however, ATM withdrawals are limited to the amounts stated in the ATM cardmember agreement and the employee's travel authorization. Although the employee is liable for payment of all charges incurred, including those for ATM withdrawals, the employee shall be reimbursed by his/her agency for all authorized and allowable travel and transportation expenses. However, employees are cautioned that charges in excess of authorized and allowable travel and transportation expenses (i.e., lodging and meal costs which exceed authorized amounts) are the financial responsibility of the employee and are not reimbursable. Use of the charge card (including use of the card to obtain an ATM cash withdrawal) does not relieve the employee of the responsibility to employ prudent travel practices and to observe rules and regulations governing official travel as set forth in this subtitle and implementing agency regulations.

(2) The charge card may be used to pay for passenger transportation services (including those services offered by carriers under contract to GSA) at the transportation carrier's ticket counter, TMC, or agency travel office, as appropriate, under the participating agency's policies and procedures. Agencies may elect to prohibit employees from using the charge card to purchase services directly from a carrier. The charge card shall not be used to procure travel and transportation services from commercial travel agencies that are not under contract to the Government to provide such services to the Government traveler.

* * * * *

(e) *Travel voucher claims*—(1) *Preparing and submitting travel vouchers.* Upon completing official travel, the employee must prepare and submit a travel voucher in the usual manner, together with any required receipts, to the appropriate finance or paying office. The employee is reimbursed for travel and transportation expenses authorized and allowable under this subtitle and agency policies and procedures. Participating agencies shall process travel vouchers within the time limits prescribed in § 301–10.1(b)(3).

* * * * *

(3) *Transportation charges and assignment of rights.* Use of charge cards for purchase of passenger transportation services is considered to be a cash purchase. Travel vouchers submitted for reimbursement of transportation purchased with charge cards must include a statement which assigns to the United States all rights which the traveler has in connection with recovery of overcharges from the carrier(s). This statement is preprinted on the SF 1012, and must be initialed by the employee when claiming reimbursement for transportation expenses. Employees using agency travel vouchers under approved exceptions to the SF 1012 must add this statement (see § 301–11.5(c)(3) for statement) if it is not preprinted on the voucher.

* * * * *

(h) *Financial obligations/liability.* Except for charges accrued against promptly reported lost or stolen cards, employees with charge cards are liable for all billed charges. (See paragraphs (c) and (g) of this section.) Government employees must pay their just financial debts under section 206 of Executive Order 11222 (May 8, 1965) and Office of Personnel Management Regulations, 5 CFR 735.207. At the request of the contractor, Federal agencies and departments, without Government liability, may assist in collecting delinquent employee accounts after 60 calendar days. The Government assumes no liability for charges incurred on employee charge cards (including charges relating to ATM withdrawals), nor is the Government liable for lost or stolen charge cards.

18. Section 301–15.45 is amended by revising paragraph (a) to read as follows:

§ 301–15.45 Centrally billed accounts.

(a) *Establishment.* Participating agencies may establish centrally billed accounts with the contractor for one or more designated offices within the agency primarily to purchase transportation services for groups or for infrequent travelers; i.e., employees not designated to receive individual cards. Agencies shall ensure that only authorized personnel use the accounts and that all tickets purchased are authorized. Charge cards are not issued for centrally billed accounts.

* * * * *

19. Section 301–15.47 is redesignated as § 301–15.48 and amended by revising paragraphs (a)(2) and (d), and a new § 301–15.47 is added, to read as follows:

§ 301–15.47 ATM services.

(a) *Enrollment in the ATM program.* Participating agencies shall determine which employees may enroll in the ATM program. Enrollment in the program is limited to employees whose charge card accounts are in a current status. The employees will be requested to complete an enrollment form for agency approval and submission to the contractor. Each employee will receive a personal

identification number (PIN) which will be valid approximately ten days after the mailing of the PIN by the contractor.

(b) *Use of ATM services.* When authorized, the charge card may be used to obtain cash travel advances at ATM's worldwide. The employee must be enrolled in the ATM program and have received a PIN in order to obtain an advance. The charge card contractor will bill the amount of the withdrawal and the applicable transaction charge to the employee. An employee may not withdraw any amount unless authorized to do so. Furthermore, withdrawals may not exceed any limitations on advances stated on the employee's travel authorization. The use of cash withdrawn from an ATM is subject to all applicable regulations of the participating agency with respect to travel advances.

(c) *Cancellation and suspension of ATM privileges.* An employee's ATM privileges may be canceled by the employee, the participating agency, or the charge card contractor. Cancellation by an employee or participating agency may be accomplished by telephone notification with subsequent written confirmation to the charge card contractor. The contractor may cancel an employee's privileges only upon notifying and obtaining the concurrence of the participating agency. The charge card contractor will automatically suspend an employee's ATM privileges when the contractor's statement has not been paid in full within 60 calendar days of the billing date on the billing statement. Additionally, the contractor may suspend or cancel an employee's card if (after contacting the participating agency) the contractor reasonably believes that the employee has made an unauthorized withdrawal or withdrawals. Finally, an employee's ATM privileges are automatically canceled upon the cancellation of his or her card.

§ 301-15.48 Additional agency guidance and information.

(a) * * *

(2) A portion of the charge card application form is to be used to record the standard Federal organization code(s) contained in the Department of Commerce/National Institute of Standards and Technology publication, Codes for the Identification of Federal and Federally Assisted Organizations (FIPS PUB 95). Specific details concerning this requirement will be communicated by the charge card contractor directly to each participating agency.

* * * * *

(d) *Employee training.* Participating agencies shall ensure that each of their eligible employees is adequately trained in the use of the contractor-issued charge card, centrally billed account, or ATM services before allowing them to use these services.

Dated: October 17, 1990

Richard G. Austin,

Administrator of General Services.

[FR Doc. 90-28176; Filed 11-30-90]

BILLING CODE 6820-24-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6821

[MT-930-4214-10; MTM 072057]

Partial Revocation of Public Land Order No. 4484; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 40 acres of National Forest System land withdrawn for the United States Army Corps of Engineers Libby Dam Project within the Kootenai National Forest. The land is no longer needed for this purpose. The revocation is needed to permit consummation of an exchange. This action will open the land to operation of the general land laws and mining. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: January 2, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4484, which withdrew National Forest System lands for protection of facilities of the Libby Dam Project, is hereby revoked insofar as it affects the following described land:

Principal Meridian, Montana

Kootenai National Forest

T. 36 N., R. 28 W.,
Sec. 12, SW¼SW¼.

The area described contains 40.00 acres of land in Lincoln County.

At 9 a.m. on January 2, 1991, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. Appropriation of land described in this order under the general mining laws, prior to the date and time of restoration, is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights, since Congress has provided for such determinations in local courts.

Dated: November 26, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-28280 Filed 11-30-90; 8:45 am]

BILLING CODE 4310-DN-M

43 CFR Public Land Order 6822

[WY-930-4214-10; WYW 29542]

Amendment of Public Land Order No. 6397, Partial Revocation of Reclamation Withdrawal; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will amend Public Land Order No. 6397, which partially revoked the Executive Order of May 14, 1915, as it affected 25,402.58 acres of public land withdrawn by the Bureau of Reclamation for the Colorado River Project (Flaming Gorge Unit). The land descriptions, comprising a total of 1,215 acres, were inadvertently omitted from Public Land Order No. 6397; however, the acreage of the lands, described below, were included in the total acreage of the land revoked by Public Land Order No. 6397.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Tamara J. Gertsch, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6115.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 6397, which revoked the Executive Order of May 14,

1915, is hereby amended for the following described lands:

a. This land is located within the Flaming Gorge National Recreation Area and is subject to an oil shale withdrawal.

Sixth Principal Meridian, Wyoming

T. 17 N., R. 106 W.,
Sec. 4, NW¼SW¼.

The area described contains 40 acres in Sweetwater County.

b. These lands are subject to a coal withdrawal created by the Executive Order of July 13, 1910.

T. 12 N., R. 109 W.,
Sec. 14;
Sec. 15, lots 1 to 4, inclusive, and lots 7 to 11, inclusive, E½NE¼, NW¼NE¼, and NE¼NW¼;
Sec. 22, lots 6, 7, W½of lot 10, lot 11, NE¼NW¼, SW¼NW¼, and W½SE¼NW¼.

The areas described aggregate 1,175.49 acres in Sweetwater County.

2. The land described in paragraph 1a is located within the Flaming Gorge National Recreation Area, and will therefore remain closed to the operation of the public land laws, including the mining laws. The land has been and will continue to be open to mineral leasing for oil and gas and sodium in some circumstances. The land is administered by the U.S. Forest Service.

3. The land described in paragraph 1b is located within a coal withdrawal, and will not be opened to the operation of the public land laws nor to nonmetalliferous mineral location. The land has been and will continue to be open to metalliferous mineral location and mineral leasing.

Dated: November 26, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-28281 Filed 11-30-90; 8:45 am]

BILLING CODE 4310-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-157]

Radio Broadcasting Services; Show Low, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, issued on the Commission's own motion, substitutes Channel 228C3 for Channel 228A at Show Low, Arizona, and modifies the Class A license issued to Dorothy Litchfield Woodworth for Station KVWM-FM to specify operation on the higher powered channel. *See* 54 FR 26220, June 22, 1989. Coordinates for Channel 228C3 at Show Low are 34-13-14 and 110-01-49. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 11, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-157, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Arizona, is amended by removing Channel 228A and adding Channel 228C3 at Show Low.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28269 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-498; RM-6916]

Radio Broadcasting Services; Bethany Beach, DE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278A to Bethany Beach, Delaware, at the request of Alfred R. Campagnone. See 54 FR 48283, November 22, 1989. Channel 278A can be allotted to the Bethany Beach in compliance with the Commission's minimum distance separation requirements. The coordinates are North Latitude 38-32-22 and West Longitude 75-03-20. With this action, this proceeding is terminated.

DATES: Effective January 11, 1991. The window period for filing applications will open on January 14, 1991, and close on February 13, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-498, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Delaware, is amended by adding Channel 278A at Bethany Beach.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28267 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-579; RM-7065]

Radio Broadcasting Services; Big Rapids and Whitehall, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C3 for Channel 272A at Big Rapids, Michigan, and modifies the license for Station WAAQ(FM) to specify operation on the higher class channel, in response to a petition filed by West Michigan Radio, Inc. *See* 54 FR 53657 December 29, 1989. The coordinates for Channel 272C3 are 43-43-20 and 85-36-30. To accommodate the upgrade at Big Rapids, we will substitute Channel 248A for Channel 273A at Whitehall, Michigan. The

construction permit for Channel 273A at Whitehall will be amended to specify operation on Channel 248A. Pyramid Broadcasting, Inc., is the permittee of Channel 273A. The coordinates for Channel 248A at Whitehall are 43–23–04 and 86–19–30. Canadian concurrence has been obtained for these allotments.

EFFECTIVE DATE: January 11, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–579, adopted November 8, 1990, and released November 28, 1990.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 272A and adding Channel 272C3 at Big Rapids and by removing Channel 272A and adding Channel 248A at Whitehall.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90–28268 Filed 11–30–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 819 and 852

RIN 2900–AE90

VA Acquisition Regulation; Expansion of Procurement Preference Program

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending the VA Acquisition Regulation (VAAR) to expand the existing Vietnam Era and Disabled Veteran-Owned Small Business Outreach Program to include all veteran-owned businesses. The existing Procurement Preference Program Goals Report is also being codified. This amendment will implement the initiative recently approved by the Deputy Secretary of Veterans Affairs and will enable contracting activities to solicit offers from a larger category of veterans on a preferred basis.

EFFECTIVE DATE: These interim rules are in effect December 3, 1990. Comments must be received on or before January 2, 1991. Comments will be available for public inspection until January 14, 1991.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132 of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Barbara Danzig, Chief, Acquisition Policy Staff (93P), Office of Acquisition and Material Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2334.

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 1983, the Department of Veterans Affairs directed all VA contracting activities to take affirmative action to solicit Vietnam era and disabled veteran-owned small businesses and assist them in participating in VA contracting opportunities. On December 27, 1984, the VAAR was changed to include this program. Since October 1, 1988, VA contracting activities have established annual Vietnam era and disabled veteran-owned business procurement goals. On April 5, 1990, the Deputy Secretary approved an initiative to expand the Vietnam era and disabled veteran-owned small business program to include all veteran-owned businesses and has mandated the inclusion of all small veteran-owned businesses in the VA Socioeconomic Procurement Program. The VAAR is being changed accordingly.

II. Executive Order 12291

Pursuant to the memorandum from the Director, Office of Management and Budget, to the Administrator, Office of Information and Regulatory Affairs, dated December 13, 1984, this rule is exempt from sections 3 and 4 of Executive Order 12291.

III. Regulatory Flexibility Act (RFA)

Since a notice of proposed rule making is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2) and are, therefore, not subject to the requirements of the Act. Nevertheless, these amendments will not 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.

IV. Paperwork Reduction Act

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 819 and 852

Government procurement.

Approved: November 23, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

48 CFR Chapter 8, Department of Veterans Affairs, is amended as set forth below:

PART 819—[AMENDED]

1. The authority citation for part 819 continues to read as follows:

Authority: 38 U.S.C. 210 and 40 U.S.C. 486(c).

Subpart 819.2—[Amended]

2. In subpart 819.2, section 819.201, paragraph (a) and the first sentence in paragraph (d) are revised to read as follows:

819.201 General policy.

(a) The Director, Office of Small and Disadvantaged Business Utilization (OSDBU) (005SB) is responsible for the overall supervision of the Department of Veterans Affairs Small and Disadvantaged Business Utilization program and will assist administrations and key staff officials in developing their respective small business programs.

* * * * *

(d) The Director, National Cemetery System, Chief Benefits Director, Deputy Assistant Secretary for Facilities, Deputy Assistant Secretary for Administration, Director, VA Marketing Center and Directors of Department of Veterans Affairs field facilities with Acquisition and Materiel Management Service activities will designate an employee of their respective organizations to serve as a small and small disadvantaged business specialist.
* * *

3. In subpart 819.2, section 819.202–5, paragraphs (a) through (h) are added to read as follows:

819.202–5 Data collection and reporting requirements.

* * * * *

(a) Each VA acquisition activity shall establish goals for expenditure of funds with preferred businesses within their projected annual budget. The preference programs supported by VA are listed in paragraph (c) of this section. OSDBU is responsible for Department-wide goals and accomplishments and will approve or adjust each acquisition activity's goals.

(b) A Procurement Preference Program Goals Report (Report Control Symbol 00–0427) shall be submitted annually by each acquisition activity to reach OSDBU by November 1. Each report shall contain total expenditure estimates and goals for the current fiscal year and explanations of the methods utilized to arrive at each proposed goal.

(c) All acquisition activities shall submit information and procurement preference goals as identified in paragraphs (c)(1) through (c)(9) of this section. In addition, the Office of Acquisition and Materiel Management, the VA Marketing Center and the Office of Facilities shall submit the information identified in paragraphs (c)(1) through (c)(12) of this section. Goals shall be expressed in dollars and rounded to the nearest thousand.

(1) Estimate of total procurement dollar expenditures. (Excluding delivery orders against General Services Administration (GSA) FSS contracts.)

(2) Small business awards.

(3) Minority business direct awards.

(4) SBA 8(a) awards.

(5) Women-owned business awards.

(6) Labor surplus area awards.

(7) Veteran-owned business awards.

(8) Vietnam era veteran-owned business awards (including disabled Vietnam era veterans).

(9) Disabled veteran-owned business awards (other than Vietnam era disabled veterans).

(10) Estimate of total dollar value of subcontracts to be awarded by reporting prime contractors.

(11) Subcontracts to be awarded to small business concerns by prime contractors.

(12) Subcontracts to be awarded to small disadvantaged business concerns by prime contractors.

(d) Anticipated problems in the attainment of the proposed goal in any category shall also be identified. This information will be used in negotiating the Department goals with SBA.

(e) As an addendum to the report, each procuring activity shall provide a narrative explaining the reason(s) for any shortfall(s) in the achievement of any previous fiscal year goal category. This explanation shall be specific and will be used by OSDBU to justify Department shortfalls.

(f) Upon review by OSDBU of the proposed goals, each acquisition activity will be notified of the acceptance of goals as submitted, or of any deficiencies. If the goals are not acceptable, the acquisition activity will be requested to submit further written justification for the goal submitted. Based on documents submitted, OSDBU will make a final determination on the goal assignment.

(g) Accomplishment of goals identified in paragraphs (c)(1) through (c)(12) of this section will be determined by OSDBU from data reported by acquisition activities into the Federal Procurement Data System (FPDS).

(h) Achievement in subcontracting shall be reported by Office of Facilities, Office of Acquisition and Materiel Management, and VA Marketing Center on a semiannual basis to be received by OSDBU not later than October 31 for the period ending September 30, and April 30 for the period ending March 31.

4. In subpart 819.2, section 819.202–70, paragraphs (a), (d), (m) and (n) are revised to read as follows:

819.202–70 Additional responsibilities.

* * * * *

(a) Develop a plan of operation to increase the share of contracts and purchase orders awarded to small business, including veteran, Vietnam era and disabled veteran-owned, and LSA concerns.

* * * * *

(d) Make maximum utilization of the SBA small business source list (i.e., Procurement Automated Source System) when considering the disposition of all procurement requirements. As part of each procurement action involving other than small purchase procedures, VA acquisition personnel shall periodically request from SBA a PASS listing of veteran-owned, including Vietnam era and disabled, and women-owned contractors capable of meeting known requirements. Acquisition personnel will utilize PASS as a primary source file. Firms identified on the PASS list shall be included in the contract file. Small business source lists are available through the SBA Regional Offices.

* * * * *

(m) If the acquisition activity is assigned an SBA Procurement Center Representative (PCR), assure that the representative is provided logistical support, cooperation, and access to all reasonably obtainable contract information directly pertinent to PCR's official duties.

(n) Encourage technical and requirements personnel to identify veteran-owned and women-owned small business sources.

* * * * *

Subpart 819.70—[Amended]

5. In subpart 819.70, remove the word "Business" in the subpart heading and add, in its place, the word "Businesses".

6. In subpart 819.70, section 819.7001, the last sentence in paragraph (a), and paragraph (b) are revised to read as follows:

819.7001 Policy.

(a) * * * Consistent with and in furtherance of that statute, it is the policy of the Department of Veterans Affairs to encourage participation by veteran-owned and operated small businesses, including Vietnam era and disabled, in VA acquisitions.

(b) All VA facilities having procurement requirements for which veteran-owned small businesses are known sources, will take affirmative action to solicit these firms and assist them in participating in VA acquisition opportunities.

7. In subpart 819.70, section 819.7002, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively, a new paragraph (a) is added, and the first sentence of the introductory text to section 819.7002, and newly redesignated paragraph (c) are revised to read as follows:

819.7002 Definition.

A veteran-owned small business is a small business that is at least 51 percent owned by a veteran who also controls and operates the business.* * *

(a) Veterans who served in the U.S. Armed Forces and were discharged or

released under conditions other than dishonorable.

* * * * *

(c) Disabled veterans with a minimum compensable disability of 30 percent, or a veteran who was discharged for disability.

8. In subpart 819.70, section 819.7003 is revised to read as follows:

819.7003 Procedure.

(a) To obtain information on business development for veteran-owned businesses and further identify veteran-owned small businesses, contracting officers shall contact the veterans affairs officers at the local SBA district office. When counselling small businesses, contracting officers shall determine if the business is veteran-owned and operated and ensure that SF 129s are completed properly to identify veteran-owned business.

(b) The veteran-owned business representation in 852.219–70 shall be included in all solicitations.

9. In subpart 819.70, section 819.7004, the section heading and the first two sentences in section 819.7004 are revised to read as follows:

819.7004 Waiver of the use of veteran-owned firms.

It is the policy of the Department of Veterans Affairs to provide veteran-owned firms every opportunity to participate in the acquisition process. A contracting office wishing to waive this policy for a particular procurement involving other than small purchase procedures must first process a VA Form 90–2268. * * *

PART 852—[AMENDED]

10. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 210 and 40 U.S.C. 486(c).

Subpart 852.2—[Amended]

11. In subpart 852.2, section 852.219–70, the paragraph designation for a paragraph (a) is removed, paragraph (b) is removed, and the certification following the undesignated introductory text to the section is revised to read as follows:

852.219–70 Veteran-owned small business.

* * * * *

Veteran-Owned Small Business

The offeror represents that the firm submitting this offer ( ) is ( ) is not, a veteran-owned small business, ( ) is ( ) is not, a Vietnam era veteran-owned small business, and ( ) is ( ) is not, a disabled veteran-owned small business. A veteran-owned small business is defined as a small business, at least 51 percent of which is owned by a veteran who also controls and operates the business. Control in this context means exercising the power to make policy decisions. Operate in this context means actively involved in day-to-day management. For the purpose of this definition, eligible veterans include:

(a) A person who served in the U.S. Armed Forces and who was discharged or released under conditions other than dishonorable.

(b) Vietnam era veterans who served for a period of more than 180 days, any part of which was between August 5, 1964, and May 7, 1975, and were discharged under conditions other than dishonorable.

(c) Disabled veterans with a minimum compensable disability of 30 percent, or a veteran who was discharged for disability.

Failure to execute this representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award (see FAR 14.405).

(End of Provision)

[FR Doc. 90–28220 Filed 11–30–90; 8:45 am]

BILLING CODE 8320–01–M

Proposed Rules

Federal Register
Vol. 55, No. 232
Monday, December 3, 1990

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

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 140 and 646

[FHWA Docket No. 90-15]

RIN 2125—AC64

Reimbursement for Railroad Work and Railroad-Highway Insurance Protection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA proposes to revise its regulations on reimbursement for railroad work to add an optional method of determining eligibility of reimbursable self-insurance costs and raise the reimbursable limits for railroad protective insurance. These changes should ease the administrative burden of determining appropriate self-insurance rates for worker compensation insurance and public liability and property damage insurance, and bring the reimbursable railroad protective liability insurance limits into line with the loss exposure increases over the last 10 years.

DATES: Comments must be received on or before February 1, 1991.

ADDRESSES: Submit written signed comments, to the Federal Highway Administration, HCC–10, FHWA Docket No. 91–15, room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Jerry L. Poston, Office of Engineering, 202–366–0450; or Michael J. Laska, Office of Chief Counsel, 202–366–1383, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The FHWA's current regulation dealing with reimbursement for worker compensation insurance and public liability and property damage insurance for railroad force account work performed on Federal-aid highway projects is contained in 23 CFR part 140, subpart I. Under existing § 140.906(b), the costs of this insurance are eligible for reimbursement. Costs may be developed by one of the following three means: (1) Actual costs to the railroad of the insurance premiums; (2) a labor additive rate based on historical premiums cost data; or (3) if a railroad is a self-insurer, at experience rates properly developed from actual costs, not to exceed the rates of a regular insurance company.

Several railroads are self-insurers. The Liability Insurance Committee of the Railroad Insurance Management Association claims that railroads have experienced considerable difficulty in getting self-insurance rates approved. It has suggested as an alternative that a reimbursable fixed national force account self-insurance rate of 8 percent, to cover both worker compensation insurance and public liability and property damage insurance, be included in the regulation.

Prior to a 1982 regulatory change, 23 CFR part 140, subpart I contained a provision allowing use of a fixed percentage labor surcharge to cover the insurance costs. The percentages were 3 percent for worker compensation insurance and 1 percent for public liability and property damage insurance. However, due to difficulties in establishing reasonable and universally applicable national rates, these fixed rates for insurance costs along with several other fixed labor surcharge rates were dropped from the regulation.

The FHWA agrees that problems are occurring in determining equitable self-insurance rates. To ease the administrative burden of determining appropriate self-insurance rates, the FHWA is proposing to amend its regulation to allow the alternative of a fixed rate to cover both worker compensation insurance and public liability and property damage insurance. The FHWA is proposing to use an 8-percent rate as suggested by the Railroad Insurance Management Association. Information available to the FHWA indicates the commercial rate for this insurance is in the range of 9 to 14 percent.

The FHWA's current regulation dealing with maximum dollar amounts of coverage for railroad protective liability insurance to be reimbursed from Federal-aid funds is contained in 23 CFR part 646, subpart A. Under existing § 646.111(a), the maximum dollar amounts of coverage to be reimbursed from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of $2 million per occurrence with an aggregate of $6 million for each annual period with certain exceptions included in 23 CFR 646.111(b).

The above limits have been in effect since 1980. Because of loss exposure increases over the last 10 years and the obvious potential for catastrophic loss involving a train derailment at a rail/highway project site, the Liability Insurance Committee of the Railroad Insurance Management Association has requested that the reimbursable limits be raised to $5 million per occurrence and $10 million aggregate per annual policy period.

The FHWA agrees that there is a need to update its railroad protective liability insurance coverage limits. Accordingly, the FHWA is proposing to amend its regulation to increase the reimbursable coverage to $5 million per occurrence and an aggregate of $10 million per annual period. The FHWA has limited information on the availability and increased cost of insurance for the proposed increased limits. Commenters are invited to submit any information they have on these issues.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has also initially determined that the expected impact of this proposed revision will be minimal. Although contractors may be reimbursed for additional insurance coverage, the FHWA believes that such reimbursement would not appreciably

impact the contractors, including small entities. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act (Pub. L. 96–354), and based on information available to FHWA at this time, this section, if promulgated, will not have a significant economic impact on a substantial number of small entities. Commenters are invited to submit any data relevant to this issue.

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

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

In consideration of the foregoing, the FHWA proposes to amend part 140, subpart I and part 646, subpart A of chapter 1 of title 23, Code of Federal Regulations, as set forth below.

List of Subject in 23 CFR Parts 140 and 646

Grant programs—transportation, Highways and roads, Insurance, Railroads.

Issued on: November 23, 1990.

T.D. Larson,

Administrator.

The FHWA proposes to amend 23 CFR part 140, subpart I and part 646, subpart A as follows:

PART 140—REIMBURSEMENT

1. The authority citation for part 140 is revised to read as follows and all other authority citations which appear throughout part 140 are removed:

Authority: 23 U.S.C. 101(e), 114(a), 115(b), 120, 121, 122 and note, 315; 49 CFR 1.48(b).

Subpart I—Reimbursement For Railroad Work [Amended]

2. Part 140, subpart I is amended by revising § 140.906(b)(2) to read as follows:

§ 140.906 Labor costs.

* * * * *

(b) * * *

(2) Where the company is a self-insurer there may be reimbursement.

(i) At experience rates properly developed from actual costs, not to exceed the rates of a regular insurance company for the class of employment covered or

(ii) At the option of the Company, a fixed rate of 8-percent for worker compensation, public liability and property damage insurance together.

PART 646—RAILROADS

3. The authority citation for part 646 continues to read as follows:

Authority: 23 U.S.C. 109(e), 120(d), 130, and 315; 49 CFR 1.48(b).

Subpart A—Railroad-Highway Insurance Protection [Amended]

4. In § 646.111, paragraph (a) is revised to read as follows:

§ 646.111 Amount of coverage.

(a) The maximum dollar amounts of coverage to be reimbursed from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of $5 million per occurrence with an aggregate of $10 million applying separately to each annual period except as provided in paragraph (b) of this section.

* * * * *

[FR Doc. 90–28244 Filed 11–30–90; 8:45 am]

BILLING CODE 4910–22–M

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23 CFR Part 625

[FHWA Docket No. 90–13]

RIN 212S–AC22

Design Standards for Highways; Geometric Design of Highways and Streets

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA is requesting comments on a proposed amendment to the design standards which apply to highway construction and reconstruction projects eligible to receive funding under the Federal-aid highway program. A 1990 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled "A Policy on Geometric Design of Highways and Streets" has replaced the previous version of this policy published in 1984. If adopted by the FHWA, the new AASHTO publication would constitute FHWA's policy on the geometric design for federally-assisted construction projects.

DATES: Comments must be received on or before April 2, 1991.

ADDRESSES: Submit written, signed comments in FHWA Docket No. 90–13 Federal Highway Administration, room 4232, HCC–10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The current and proposed design standards are on file at the Office of the Federal Register in Washington, DC, and are available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR part 7, appendix D. Copies of the current AASHTO publications are also available for purchase from the American Association of State Highway and Transportation Officials, suite 225, 444 North Capitol Street NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-Aid and Design Division, Office of Engineering (202) 366–1327, or Mr. Michael J. Laska, Office of the Chief Counsel (202) 366–1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, policies, and standard specifications that have been approved by the FHWA for application on all Federal-aid highway projects are incorporated by reference in 23 CFR part 625.

The American Association of State Highway and Transportation Officials (AASHTO) is an organization which represents the 52 State Highway and Transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex officio member, and DOT officials participate in various AASHTO activities as non-voting representatives. Among other functions, the AASHTO develops and issues standards,

specifications, policies, guides, and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications approved by the FHWA and incorporated in 23 CFR part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA before they are applied to Federal-aid projects.

Recently the AASHTO revised "A Policy on Geometric Design of Highways and Streets" (Policy). The primary reasons for development of the new document were to provide guidance on the design of highways and to update the previous Policy to incorporate the latest design criteria. A more detailed discussion of the changes in the revised Policy is included later in this NPRM.

Although the standards contained in the Policy do apply to the Interstate System, specific guidance applicable to design of highways on the Interstate System is included in another AASHTO publication "A Policy on Design Standards—Interstate System." The latest 1989 edition of that publication is the subject of a separate NPRM (see 54 FR 30095, July 18, 1989.)

Summary of Changes

The following paragraphs provide a brief synopsis of the information that is included in each of the ten chapters of the Policy and as appropriate, any significant additions, revisions or deletions made to the currently approved 1984 AASHTO Policy (old) in the 1990 (new) Policy.

Foreword

The only change is adding a reference to the Transportation Research Board's (TRB) 1987 publication Special Report 214, entitled "Designing Safer Roads, Practices for Resurfacing, Restoration, and Rehabilitation" for guidance for design of resurfacing restoration or rehabilitation (3R) projects (see 23 CFR 625.5(a)(11)).

Chapter I—Highway Functions

The concept of functional classification is presented and the various components considered in detail. This serves as an introduction to functional classification and an explanation of how the concept is employed in the publication. There are no significant changes made in this chapter.

Chapter II—Design Controls and Criteria

Those characteristics of vehicles, pedestrians, and traffic that act as criteria for design of various highway and street functional classes are covered in this chapter. Significant changes to the old Policy are the addition of five design vehicles along with their characteristics (page 21). The turning paths for all the design vehicles are revised. The coverage of capacity (page 75) is revised to agree with TRB's 1985 Special Report 209, "Highway Capacity Manual" (see 23 CFR 625.5(a)(6)). Additional information is provided on the elderly driver (page 42) and pedestrian (page 97).

Chapter III—Elements of Design

The basic elements of design, such as sight distance requirements, horizontal alinement, including superelevation, widths of turning roadways and vertical alinement, including maximum grades and climbing lanes, are covered in this chapter. Significant revisions to the chapter include the following:

1. Decision sight distances (page 125) are now provided for particular avoidance maneuvers, e.g., decision sight distance for a stop maneuver on a rural road, rather than a range of values only based on speed.

2. A maximum superelevation rate of 0.12 is now included (page 150) in the new Policy and values for design elements related to design speed and horizontal curvature are provided for this rate.

3. The figures showing the maximum and comfortable speed for horizontal curves, the superelevation and minimum length of superelevation runoff for low speed urban streets (page 186) are corrected so that the values provided in the figures agree with the method of their derivation explained in the old Policy.

4. Pavement widths for turning roadways (page 202) and widening for pavements on curves (page 213) necessary to accommodate the larger design vehicles are incorporated into the new Policy.

5. A new figure is added showing speed loss on grades for trucks reflecting the trend in decreased truck weight/horsepower ratio (page 231).

6. The criteria for justifying climbing lanes on two-lane (page 241) and multi-lane highways (page 251) are revised to agree with the 1985 "Highway Capacity Manual."

7. A section describing operational improvements on two-lane highways (page 262), including passing lane sections, three-lane sections, turnouts, shoulder driving and shoulder use, is added.

8. Figures showing design controls for crest (page 287) and sag (page 292) vertical curves based on the lower range of values for stopping sight distance are added.

Chapter IV—Cross Section Elements

The elements of a highway, such as pavement cross slope, traffic lanes, shoulders, medians, frontage roads and roadsides, are discussed in this chapter. Significant revisions to the Chapter include the following:

1. Suggested widths for two-way left-turn lanes of 10 to 16 feet are added (page 355).

2. The 1989 AASHTO "Roadside Design Guide" is referenced for guidance on sideslopes, traffic barriers, median barriers, and crash cushions (page 358).

3. Changes are made to the section on "Drainage Channels/Sideslopes" (page 351) and "Traffic Barriers" (page 361) to conform with information in the AASHTO "Roadside Design Guide."

4. A caution is added to consider in the design of a median barrier its effect on sight distance on horizontal curves and also that median widths should allow for the possible installation of a median barrier (page 364).

5. The section on "Noise Control" (page 376) is revised to agree with later information on determining traffic noise impacts.

6. Design of curb cuts (page 399) is revised to agree with Section 4.7 of the "Uniform Federal Accessibility Standards" (UFAS) required by 29 U.S.C. 792 (See 41 CFR 101-19.6, appendix A or 24 CFR part 40, appendix A).

Chapter V—Local Roads and Streets

The design guidance applicable to those roads functionally classified as local rural roads and local urban streets is covered in this chapter. There is only one significant change. For bridges of greater than 100 feet total length which are to remain in place, minimum structural capacity and roadway widths are no longer provided. Structures of this length shall be analyzed individually (page 427).

Chapter VI—Collector Roads and Streets

The design guidance applicable to those roads functionally classified as rural collector roads and urban collector streets is covered in this chapter. There are only few changes to this chapter. For low-volume rural highways grades may be two percent steeper than shown in Table VI-3 (page 472) rather than one percent, the median width providing space for a separate left turn lane is 10 to 16 feet rather than 10 to 18 feet (page 483), and the maximum dimension for a

barrier curb is changed from 8-inches to 9-inches (page 484).

Chapter VII—Rural and Urban Arterials

The basis for design of the principal and minor arterial road systems in rural and urban areas is presented in this chapter. The significant changes between the old and the new Policies are as follows:

1. The limits of design speeds for various types of terrain are lowered (page 494). A 40 mph design speed is added whereas the minimum in the old Policy is 50 mph.

2. Appropriate grades are added to Table VII–I (page 496) for a 40 mph design speed.

3. In Table VII–2 (page 499) widths are added for a 40 mph design speed. Widths are now shown for a Design Hour Volume (DHV) of over 200 rather than a DHV of over 400. In effect this reduces the minimum width of shoulder for DHV's over 400 from 10 feet to 8 feet.

4. A sentence is added indicating that on reconstructed arterials it may be acceptable to retain 11-foot lanes if the alinement and safety experience are satisfactory (page 508).

5. The indication that it is desirable to provide a 10-foot shoulder along 4-lane rural arterials is eliminated. Also, the wording is changed to recommend at least an 8-foot shoulder (page 508).

6. Long bridges are defined as having a length over 200 feet and it is indicated that offsets for these structures shall be at least 4 feet on both the left and right (pages 497 and 534).

7. The paragraph suggesting rural median openings be spaced far apart is omitted. Median widths are revised and those from 50 to 80 feet are discouraged where there are intersections (page 509).

8. A provision is added that when barrier curbs are provided along shoulders, the shoulders should be adequate to accommodate disabled vehicles and be at least 6 feet wide.

9. In the new Policy traffic lanes 11-feet wide and 8-foot shoulders are now permitted (page 515). The minimum widths in the old policy are 12-feet and 10-feet, respectively. Total right-of-way widths are omitted.

Chapter VIII—Freeways

The various types of freeways, their design elements, controls, criteria and cross-sectional elements are covered in this chapter. There are no significant changes in this chapter.

Chapter IX—At-Grade Intersections

The basic types of intersections and the elements involved in their designs, primarily those concerning the accommodation of turning movements, are described in this chapter. The following are the major changes to this chapter:

1. The practice of constructing short radii horizontal curves in order to achieve a right angle intersection is discouraged (page 686).

2. Edge-of-pavement layouts to accommodate the larger design vehicles are added (page 690).

3. Turning paths (page 708) for the larger WB–62 design vehicle negotiating various curve radii are added.

4. There is a revision in the method for determining sight distance at intersections for Cases III–B and III–C (page 754). The major change is that it is assumed the main line vehicle will slow to 85 percent of the design speed.

5. Superelevation rates of 0.12 may be used for curves at intersections where climatic conditions are favorable (page 776).

6. Turning paths of larger vehicles negotiating median openings with various control radii and designs are added (page 805).

7. A caution on the use of continuous left-turn lanes on highways with more than 4 lanes is added (page 826).

8. Deceleration lengths for auxiliary lanes do not include the length of taper. The taper length is now considered separately (page 828).

9. The method for determining lengths of tapers for auxiliary lanes presented in the "Manual on Uniform Traffic Control Devices for Streets and Highways" (see 23 CFR 655.601) is added (page 830).

10. Information is added addressing horizontal and vertical alinement requirements for highway/railroad crossings (page 842).

Chapter X—Grade Separation and Interchanges

The basic types of interchanges and grade separations, along with the design of their features, are discussed in this chapter. The following are the significant changes to this chapter:

1. Figure X–7 (page 882) is corrected to show the minimum horizontal distance required to effect grade separation based on current minimum sight distances.

2. A discussion (page 900) and figure X–22 on the use of the X-pattern ramp configuration are added.

3. The discussion of collector-distributor (C–D) roads in conjunction with cloverleaf interchanges (page 904 and 953) is revised to provide more specific guidance on minimum ramp volumes for consideration of C–D roads (1000 vph).

4. The gore area discussion (page 967) is expanded and figure X–61 is added to illustrate the terms used in defining the gore.

5. The wording regarding the connection of closely spaced entrance and exit terminals with an auxiliary lane (page 946) is revised.

6. The design of acceleration lanes is revised somewhat to include a minimum gap acceptance requirement for design of both two-lane (page 949 and 1000) and single-lane (page 965) entrance ramps. The minimum gap acceptance length of 300 feet to 500 feet may result in a shorter length of contiguous length of acceleration lane adjoining the through lane than the 600 feet required in the old Policy (depending on the length of ramp available for acceleration preceding the nose.)

7. The discussion of major forks and branch connections is revised to some extent (page 967).

8. Design of exit terminals is revised somewhat to permit greater variance in divergence as well as other changes (page 989 and 998).

9. Branch connections are shown with 50:1 to 70:1 tapers rather than only a 70:1 taper (page 1005).

Review Procedure

Based on an analysis of public comments and its own independent review, the FHWA will determine if the new Policy is acceptable, in whole or in part, as the basis for design of Federal-aid highways.

Regulatory Evaluation and Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has also determined that the expected impact of this proposed amendment will be minimal. This determination is based on the fact that although the new Policy contains new material, the basic criteria remain essentially the same. In all practicality, the new Policy reflects the criteria for the most part which have been in use in designing Federal-aid highways for the last several years. Accordingly, a full regulatory evaluation has not been prepared at this time.

Based on the discussion above and under the criteria of the Regulatory Flexibility Act (Pub. L. 96–354), the FHWA hereby certifies that the action will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

The FHWA has carefully considered the federalism implication of this action in the light of the principles, criteria, and requirements of the Presidents Executive Order on Federalism, E.O. 12612, October 26, 1987. The FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, the FHWA proposes to amend chapter I of title 23, Code of Federal Regulations, part 625 as set forth below.

Issued on: November 23, 1990.

T. D. Larson,

Administrator.

The FHWA proposes to amend 23 CFR part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (a)(1) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) * * *

(1) A Policy on Geometric Design of Highways and Streets, AASHTO 1990. [3]

* * * * *

[FR Doc. 90–28245 Filed 11–30–90; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–61–88]

RIN 1545–AM95

Nondiscrimination Requirements for Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document amends previously proposed regulations under the nondiscrimination requirements for qualified retirement plans under section 401(a)(4) and the average benefit percentage test under section 410(b)(2)(A)(ii) of the Internal Revenue Code. The amendments delay the effective dates in those proposed regulations. These amendments will provide the pubic with extra time to comply with the regulations and will affect sponsors of and participants in tax-qualified retirement plans.

DATES: Wrtitten comments must be delivered by February 1, 1991.

ADDRESSES: Send written comments to: Internal Revenue Service, P.O. box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (EE–61–88), Washington DC 20044. In the alternative, comments may be hand delivered to: Internal Revenue Building, room 4429, 1111 Constitution Ave., NW., Attention: CC:CORP:T:R (EE–61–88), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rebeca Wilson or David Munroe at 202–377–9372 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Statutory Authority

This document amends previously proposed regulations under sections 401(a)(4) and 410(b) of the Internal Revenue Code. These regulations are propose to be issued under the authority contained in sections 401(a)(4), 410(b), and 7805 of the code.

Explanation of Provisions

On May 14 and September 14, 1990, the Treasury Department and the Internal Revenue Service published proposed comprehensive nondiscrimination regulations for qualified retirement plans under section 401(a)(4) and the average benefit percentage test under section 410(b)(2)(A)(ii) (55 FR 19897 and 55 FR 37888). The proposed regulations contain a number of requirements that are satisfied by reasonable, good faith compliance for plan years beginning before 1991. Since publication, the Treasury and the Service have received many comments requesting a delay of the effective data and an extension of the period in which reasonable, good faith compliance is permitted. After studying the issue, the Treasury and the service have decided to delay the effective date of these regulations from plan years beginning on or after January 1, 1981, to plan years beginning on or after January 1, 1992. This extension is limited to the provisions specified in this document and does not apply to other regulations under sections amended or added by the Tax Reform Act of 1986.

In addition, consistent with the change in the effective date for the average benefit percentage test, employers may chose to test employee stock ownership plans separately for purposes of that test for plan years beginning before January 1, 1992, in conformity with § 1.410(b)–7(e) prior to its amendment by the September 14, 1990, proposed regulations. Further, employers that meet the reasonable, good faith requirement of § 1.401(a)(4)–13 for the 1989, 1990, and 1991 plan years by operating their plans in accordance with the proposed regulations as published on May 14, 1990, need not take into account for those years the transitional rules provided for proposed § 1.401(a)(4)–13(c). However, the provisions of § 1.401(a)(4)–13(c) are proposed to be effective for those plans for the first plan year beginning on or after January 1, 1992.

This document is part of a coordinated package of guidance allowing employers an additional period to make amendments for certain requirements of the Tax Reform Act of 1986. It is issued concurrently with Notice 90–73, 1990–51 I.R.B., which (1) extends the expiration date of the remedial amendment period under section 401(b) until the end of the first plan year beginning after December 31, 1991, for certain disqualifying provisions and (2) extends the transitional date for the safe harbors under section 403(b)(12) in Notice 89–23, 1989–1 C.B. 654.

The amendments to the proposed regulations delay the time of required compliance with the proposed regulations. Accordingly, this document amends the sections of the purposed regulations published on may 14 and September 14, 1990, that are listed below, to delay the effective date and extend the reasonable, good faith compliance period for the proposed regulations under section 401(a)(4) and the average benefit percentage test under section section 410(b)(2)(A)(ii).

Regulation section	Subject
1.401(a)(4), A-1(a)(1)	Optional forms of benefit.
1.401(a)(4)-3	Nondiscrimination in amount of benefits.
1.401(a)(4)-6	Defined benefit plans with employee contributions.
1.401(a)(4)-7	Effect of section 401(l) permitted disparity.
1.401(a)(4)-8	Conversion of contributions and benefits.
1.401(a)(4)-13	Effective dates.
1.410(b)-10(d)	Effective dates and transition rules.
1.411(d)-4, A-1(b)(1)	Section 411 protected benefits.

For plan years in which the amendments made by section 1112f(a) of TRA '86 apply to a plan, but before the proposed effective date, a plan must be operated in accordance with a reasonable, good faith interpretation of the requirements of section 401(a)(4). Whether compliance is reasonable and in good faith will generally be determined on the basis of facts and circumstances, including the extent to which the employer has consistently resolved all unclear issues in its favor. Reasonable, good faith compliance will be deemed to exist, however, if a plan is operated in accordance with the proposed regulations.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending issuance of final regulations. If future regulations are more restrictive, they will be applied without retroactive effect.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Written Comments

Before adopting these proposed regulations, 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 in their entirety.

Drafting Information

The principal authors of these proposed regulations are Rebecca Wilson and David Munroe of the Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.401–0 through 1.425–1

Employee benefit plans, Employee stock ownership plans, Income taxes, Individuals retirement accounts, Pensions, Stock options.

Proposed Amendments to the Regulations

The notices of proposed rulemaking (to amend 26 CFR part 1) that were published on May 14, 1990 (55 FR 19897), and September 14, 1990 (55 FR 37888), are amended as follows:

Income Tax Regulations

(26 CFR Part 1)

Paragraph 1. The authority citation for part 1 is amended by adding the following citations:

Authority: 26 U.S.C. 7805. * * * §§ 1.401(a)–4, 1.401(a)(3)–3, 1.401(a)(4)–6, 1.401(a)–7, 1.401(a)–8, and 1.401(a)–13 also issued under 26 U.S.C. 401(a)(4). § 1.410(b)–10 also issued under 26 U.S.C. 410(b).

Par. 1a. The authority citation for part 1 is further amended by revising the citation for § 1.411(d)–4 as follows:

Authority: * * * § 1.411(d)–4 also issued under 26 U.S.C. 411(d)(6).

Par. 2. Section 1.401(a)–4 as proposed to be amended on May 14, 1990 (55 FR 19907), is amended by revising the last sentence of A–1(a)(1) to read as follows:

§ 1.401(a)–4 Optional forms of benefit.

* * * * *

A–1: (a) *In general*—(1) *Scope.* * * * See § 1.401(a)(4)–4(d) for the definition of an optional form of benefit for plan years beginning after December 31, 1991.

* * * * *

Par. 3. Section 1.401(a)(4)–3 as proposed on May 14, 1990 (55 FR 19912), is amended by revising the last sentence of paragraphs (c)(3)(iii) and the last sentence of paragraph (c)(3)(iv)(A) to read as follows:

§ 1.401(a)(4)–3 Nondiscrimination in amount of benefits.

* * * * *

(c) *General test for nondiscrimination in amount of benefits provided.* * * *

(3) *Determining accrual rates.* * * *

(iii) *Accrued-to-date method.* * * * This method may, but need not, be applied with respect to benefits accrued and participation in plan years beginning after a selected data no later than December 31, 1991.

(iv) *Projected accrual rate method*—(A) *In general.* * * * This method may, but need not, be applied solely with respect to benefits accrued and participation in plan years beginning after a selected date no later than December 31, 1991.

* * * * *

Par. 4. Section 1.401(a)(4)–6 as proposed on May 14, 1990 (55 FR 19920), is amended as follows:

1. Paragraph (b)(3)(iii) is revised to read as set forth below.

2. Paragraph (b)(5) is revised to read as set forth below.

3. Paragraph (c)(4)(iii) is revised to read as set forth below.

§ 1.401(a)(4)–6 Defined benefit plans with employee contributions.

* * * * *

(b) *Determination of employer-derived and employee-derived benefits* * * *

(3) *Minimum benefit method* * * *

(ii) *Minimum benefit.* A plan satisfies this paragraph (b)(3)(ii) if it provides that in plan years beginning after December 31, 1991, each employee will accrue a benefit that equals or exceeds the sum of—

(A) The accrued benefit derived from employee contributions made for plan years beginning after December 31, 1991, determined in accordance with section 411(c), and

(B) Fifty percent of the total benefit accrued in plan years beginning after December 31, 1991, as determined under the plan benefit formula without regard to that portion of the formula designed

to satisfy the minimum benefit requirement of this paragraph (b)(3)(ii).

* * * * *

(5) *Cessation of employee contributions method.* If a plan provides that no employee contributions, other than employee contributions allocated to separate accounts, may be made to the plan for plan years beginning after December 31, 1991, the plan may treat all benefits under the plan (other than benefits attributable to employee contributions allocated to separate accounts) as employer-derived.

(c) *Employee contributions not allocated to separate accounts* * * *

(4) *Grandfather rule for plans in existence on May 14, 1990.* * * *

(iii) For plan years beginning after December 31, 1991, all employees under the plan are permitted to make employee contributions at a uniform rate with respect to all compensation under the plan; and

* * * * *

Par. 5. Section 1.401(a)(4)–7 as proposed on May 14, 1990 (55 FR 19921), is amended by revising the first sentence of paragraph (d)(4)(i) to read as follows:

§ 1.401(a)(4)–7 Effect of section 401(l) permitted disparity.

* * * * *

(d) *Special rules* * * *

(4) *Transition rules*—(i) *Scope.* This paragraph (d)(4) provides rules that are applicable to a plan that was in existence prior to the first plan year beginning before January 1, 1989, that uses either the accrued-to-date method or the projected method under paragraph (c)(5) (iii) or (iv) of this section to impute disparity, and that applies such methods solely with respect to benefits accrued and participation in plan years beginning after a selected date no later than December 31, 1991. * * *

* * * * *

Par. 6. Section 1.401(a)(4)–8 as proposed on May 14, 1990 (55 FR 19924), is amended by revising the last sentence of paragraph (b)(3)(i) to read as follows:

§ 1.401(a)(4)–8 Conversion of contributions and benefits.

* * * * *

(b) *Nondiscriminatory benefits under a defined contribution plan* * * *

(3) *Option to use accrued-to-date method*—(i) *In general.* * * * The method provided in this paragraph (b)(3)(i) may, but need not, be applied solely with respect to participation, and adjusted account balances attributable to allocations accrued, in plan years beginning after a selected date no later than December 31, 1991, which date is the same for all employees in the plan.

* * * * *

Par. 7. Section 1.401(a)(4)–13 as proposed on May 14, 1990 (55 FR 19930), and amended on September 14, 1990 (55 FR 37899), is amended by revising the first sentence of paragraph (a) and by revising paragraph (c)(6)(ix) to read as follows:

§ 1.401(a)(4)–13 Effective dates.

(a) *In general.* Sections 1.401(a)(4)–1 through 1.401(a)(4)–13 apply to plan years beginning on or after January 1, 1992. * * *

* * * * *

(c) *Transitional rules for certain defined benefit plans* * * *

(6) *Definitions* * * *

(ix) *Reconstructed compensation for the freeze year.* The term "reconstructed compensation for the freeze year" means an employee's compensation for the freeze year determined under the following method in the same manner for every employee in the plan: First, select a single plan year beginning after the close of the freeze year but beginning not later than December 31, 1992; second, determine the employee's compensation for the selected plan year under the same compensation definition used to determine the employee's compensation for the current plan year under paragraph (c)(6)(ii)(A)(*3*) of this section; third, multiply the employee's compensation for the selected plan year by a fraction, the numerator of which is the employee's compensation for the freeze year determined under the same compensation definition used to determine the employee's frozen accrued benefit, and the denominator of which is the employee's compensation for the selected plan year determined under the compensation definition used to determine the employee's frozen accrued benefit.

Par. 8. Section 1.410(b)–10(d), as proposed on May 14, 1990 (55 FR 19934), is amended by revising the first sentence to read as follows:

§ 1.410(b)–10 Effective dates and transition rules.

* * * * *

(d) *Effective date for average benefit percentage test.* Section 1.410(b)–5 applies to plan years beginning on or after January 1, 1992. * * *

Par. 9. Section 1.411(d)–4, as proposed to be amended on May 14, 1990 (55 FR 19935), is amended by revising the last sentence of A–1(b)(1) to read as follows:

§ 1.411(d)–4 Section 411(d)(6) protected benefits.

* * * * *

A–1: * * *

(b) *Optional forms of benefit*—(1) *In general.* * * * See § 1.401(a)(4)–4(d) for the definition of an optional form of benefit for plan years beginning on or after January 1, 1992.

* * * * *

John D. Johnson,

Acting Commissioner of Internal Revenue.

[FR Doc. 90–28034 Filed 11–30–90; 8:45 am]

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26 CFR Part 42

[PS–98–90]

RIN 1545–AP22

Fuel Floor Stocks Tax of 1990

AGENCY: Internal Revenue Service, Treasury.

AGENCY: Notice of proposed rulemaking.

SUMMARY: This document contains a notice of proposed rulemaking relating to the floor stocks taxes on gasoline, diesel fuel, and aviation fuel that are held on December 1, 1990. These rules reflect changes to the law made by the Revenue Reconciliation Act of 1990. The proposed regulations provide guidance relating to the person liable for the tax, exemptions from the tax, and reporting and record keeping responsibilities for the tax.

DATES: Written comments and requests for a public hearing must be received by January 2, 1991.

ADDRESSES: Send written comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, room 4429, Attn: CC:CORP:T:R (PS–98–90), Washington, DC 20044. In the alternative, comments and requests may be hand delivered to: CC:CORP:T:R (PS–98–90), Internal Revenue Service, room 4429, 1111 Constitution Ave., NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Frank Boland, (202) 566–4475 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The requirements for the collection of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information requirements should be sent to the Office of Management and Budget, Attention: Desk Officer for the

Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224.

The requirements for collection of information in this proposed regulation are in § 42.5(b). This information is required by the Internal Revenue Service to verify compliance with sections 11211 and 11213 of the Revenue Reconciliation Act of 1990. This information will be used to determine the amount of floor stocks tax for which a person is liable. The likely respondents/recordkeepers are businesses and other organizations.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on information that is available to the Internal Revenue Service. Individual respondents and recordkeepers may require more or less time, depending on their particular circumstances.

Estimated total annual recordkeeping burden: 75,000 hours.

Estimated average annual burden per recordkeeper: 0.5 hour.

Estimated number of recordkeepers: 150,000.

Explanation and Provisions

Background and Purpose of the Floor Stocks Tax

The Revenue Reconciliation Act of 1990, Public Law 101–508 (the "Act"), increases the rates of excise taxes on gasoline, diesel fuel, and aviation fuel, effective December 1, 1990. The gasoline tax, under section 4081 of the Internal Revenue Code (the "Code"), increases from 9 cents per gallon to 14.1 cents per gallon; the diesel fuel tax, under section 4091, increases from 15 cents per gallon to 20.1 cents per gallon; and the aviation fuel tax, under section 4091, increases from 14 cents per gallon to 17.6 cents per gallon. These new rates include the 0.1-cent-per-gallon tax that funds the Leaking Underground Storage Tank Trust Fund ("LUST Fund").

The Act also imposes a floor stocks tax, which does not appear in the Code, on these fuels. The floor stocks tax is a one-time tax on fuels that are held at the first moment of December 1, 1990, at a point in the distribution chain where these fuels would not otherwise be subject to the increased tax rates. The rate of floor stocks tax generally is equal to the difference between the old and new tax rates, without regard to the LUST Fund financing rate. Thus, for example, the tax on sales or removals of gasoline after November 30, 1990, is increased by 5.1 cents per gallon but the floor stocks tax on gasoline is only 5 cents per gallon.

General Operation of the Tax

A floor stocks tax of 5 cents per gallon generally is imposed on previously-taxed gasoline and diesel fuel that is held at the first moment of December 1, 1990. Also, a floor stocks tax of 3.5 cents per gallon generally is imposed on previously-taxed aviation fuel that is held at the first moment of December 1, 1990. A 2.5-cents-per-gallon tax is imposed on diesel fuel that is held at that time for use in trains and was not previously taxed at the Highway Trust Fund financing rate under section 4091. Special rates apply to gasoline or diesel fuel used to produce gasohol or a diesel/fuel alcohol mixture. Exemptions from the tax are allowed for fuel held exclusively for an exempt use, for gasoline and diesel fuel held in the tank of a motor vehicle or motorboat, and gasoline or diesel fuel held by a person if the aggregate amount of such fuel held by that person (or the controlled group of which that person is a member) is not in excess of a specified amount. The person liable for the tax is the person that has title to the fuel at the first moment of December 1, 1990. This person must pay the tax to the Internal Revenue Service on or before May 31, 1991.

Definitions

Section 42.2 of the regulations provides definitions relating to the floor stocks taxes. The definitions of "aviation fuel" and "diesel fuel" are in substance the same as the existing definitions under Notice 89–17, 1989–1 C.B. 647. Similarly, the definition of "gasoline" is in substance the same as the existing definition under § 48.4081–1(e)(4) of the proposed gasoline tax regulations (52 FR 44141, 44144 (November 18, 1987)) but also includes gasoline blend stocks and additives specified in Rev. Rul. 88–70, 1988–2 C.B. 338. The definition of "train" is similar to the existing definition in section IV(D)(1) of Notice 88–30, 1988–1 C.B. 497, 506, but is clarified to include both freight and passenger trains.

Imposition of Floor Stocks Tax

Section 42.3 identifies the fuels subject to the floor stocks tax, lists the applicable rates of tax, and identifies the person liable for the tax.

Section 42.3(d) and section 11218 of the Act provide that fuel held in a foreign trade zone at the first moment of December 1, 1990, is subject to the floor stocks tax.

However, this fuel is not taxed if it is otherwise exempt from tax under the rules of § 42.4.

Exemptions From the Floor Stocks Tax

Section 42.4 provides rules relating to exemptions from the floor stocks tax.

First, under § 42.4(b), the floor stocks tax generally does not apply to fuel held at the first moment of December 1, 1990, exclusively for an exempt use. An "exempt use" is any use of a fuel (other than use in producing gasohol or a diesel fuel/alcohol mixture, or use as fuel in a train) discussed in section 6420, 6421, or 6422 of the Code which entitles the user to a credit or refund of the tax imposed under section 4081 or 4091, as the case may be. The regulations provide that fuel is held exclusively for an exempt use only if: (i) The person holding the fuel at the first moment of December 1, 1990, actually uses the fuel in an exempt use, or (ii) in the case of gasoline, the person holding the fuel at that time is a gasoline wholesale distributor described in section 6416(a)(4) to the extent it actually sells the fuel at a tax-excluded price for a use described in section 6416(b)(2). Accordingly, except in the case of gasoline actually sold at a tax-excluded price by such a gasoline wholesale distributor, fuel is not held exclusively for an exempt use if it is held for resale (including resale to a person who will use the fuel for an exempt use). However, the user of fuel in an exempt use may be entitled to a credit or refund of floor stocks tax pursuant to sections 34, 6416, 6420, and 6427.

Diesel fuel held for use in a train is not treated as held for an exempt use and, therefore, a floor stocks tax of 2.5 cents per gallon applies to such fuel, even if the operator or owner of the train is a State or local government. Although State and local governments generally may obtain a credit or refund of tax paid on diesel fuel used by them for their exclusive use, section 6427(l)(4), as added by the Act, provides that the 2.5-cents-per-gallon tax on diesel fuel used in trains is not refundable.

Second, under § 42.4(c), the floor stocks tax does not apply to gasoline or diesel fuel held at the first moment of December 1, 1990, in the fuel supply tank of a motor vehicle or motorboat. No exemption is provided for fuel held in "dead storage" (*i.e.*, the amount of fuel that will not be pumped out of a storage tank because the fuel is below the mouth of the draw pipe).

Third, under § 42.4(d), a person is not liable for the floor stocks tax on gasoline if the amount of gasoline held by the person at the first moment of December

1, 1990, does not exceed 4,000 gallons. In determining whether this threshold is crossed, the amount of gasoline a person holds exclusively for an exempt use and the amount of gasoline held by a person in the fuel supply tank of a motor vehicle or motorboat is not taken into account. If a person holds more than 4,000 gallons of gasoline, then the floor stocks tax is imposed on all gasoline that is held by the person and that is not otherwise exempt.

Members of a controlled group of companies and other organizations must aggregate the gasoline held by all members of the group in determining whether they hold not more than 4,000 gallons of gasoline. If holdings of all members in aggregate exceed 4,000 gallons, then the *de minimis* exemption does not apply to any member of the group. The aggregation rule for controlled groups does not affect the requirement that each separate person liable for floor stocks tax file a return. See §§ 42.3(c) and 42.5(d).

The rules in § 42.4(d) also apply to diesel fuel except that the threshold amount is 2,000 gallons.

Inventory, Payment, and Return

Section 42.5 requires that every person liable for tax and certain other specified persons must prepare and retain an inventory of fuel held at the first moment of December 1, 1990 (other than fuel that was not previously subject to tax or that is in the fuel supply tank of a motor vehicle or motorboat). Fuel held for use in a train must also be inventoried.

The tax must be paid by May 31, 1991, using Form 8109, Federal Tax Deposit Coupon. A return on Form 720, Quarterly Federal Tax Return (Revised January 1991), must also be filed by that date. Persons who are also required to report other excise taxes for the first quarter of 1991 must report the floor stocks tax and the other excise taxes on one Form 720. The due date for the return is May 31, 1991, even if returns for the other excise taxes are ordinarily due at an earlier date. This rule does not extend the time for making deposits or payments of the other excise taxes.

Reliance on These Proposed Regulations

These regulations are being issued in proposed form to provide timely guidance to taxpayers and to allow interested parties appropriate opportunity to provide comments prior to issuance of final regulations. Although final regulations may include changes made, for example, in response to comments, it is intended that taxpayers may rely on the proposed regulations until final regulations are issued.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Administrator of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, 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 in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. If a public hearing is scheduled, notice of the time and place for the hearings will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Frank Boland, Office of the Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service. However, other persons from the Service and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 42

Excise taxes, Revenue Reconciliation Act of 1990.

Proposed Amendments to the Regulations

Accordingly, 26 CFR, ch. I, is proposed to be amended as follows:

Paragraph 1. A new part 42 of the Code of Federal Regulations is added as follows:

PART 42—FUEL FLOOR STOCKS TAX FOR 1990

Sec.
42.1 Scope of part.
42.2 Definitions relating to the floor stocks tax.
42.3 Imposition of floor stocks tax.
42.4 Exemptions from floor stocks tax.
42.5 Requirements with respect to inventory, payment and return.
42.6 Applicability of other laws.

Authority: 26 U.S.C. 7805.

§ 42.1 Scope of part.

The regulations in this part 42 relate to the fuel floor stocks taxes imposed by sections 11211(j) and 11213(b)(5) of the Revenue Reconciliation Act of 1990, Public Law 101–508. The taxes are imposed on previously-taxed gasoline, diesel fuel, and aviation fuel held at the first moment of December 1, 1990, and on diesel fuel held for use in trains on that date. These regulations describe the specific articles subject to tax, the rates of tax, and the persons liable for tax. These regulations also describe exemptions from the tax and requirements for inventory of fuel, payment of tax, and filing a return reporting the tax. These regulations are effective on December 1, 1990.

§ 42.2 Definitions relating to the floor stocks tax.

(a) *Overview.* This section provides definitions for purposes of the regulations in this part.

(b) *Act.* The term "Act" means the Revenue Reconciliation Act of 1990, Public Law 101–508.

(c) *Aviation fuel.* The term "aviation fuel" means any liquid (other than gasoline) that is commonly or commercially known or sold as a fuel that is suitable for use in an aircraft.

(d) *Controlled group*—(1) *In general.* The term "controlled group" means—

(i) Any controlled group of corporations (within the meaning of paragraph (d)(2) of this section); and

(ii) Any other group of organizations under common control (within the meaning of paragraph (d)(3) of this section).

(2) *Controlled group of corporations*—(i) *In general.* The term "controlled group of corporations" has the meaning given that term by section 1563(a), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears therein.

(ii) *Excluded members.* For purposes of this part, a controlled group of corporations includes members that are described in section 1563(b) (relating to excluded members).

(iii) *Examples of controlled groups.* Under section 1563(a), controlled groups of corporations include, but are not limited to—

(A) Parent-subsidiary controlled groups as defined in § 1.1563–1(a)(2);

(B) Brother-sister controlled groups as defined in § 1.1563–1(a)(3); and

(C) Combined groups as defined in § 1.1563–1(a)(4).

(3) *Group of organizations under common control.* The term "group of organizations under common control" means any group of organizations (as defined in § 1.52–1(b)) that would be treated as a group of trades or businesses under common control for purposes of § 1.52–1 if—

(i) The rules of § 1.52–1 were applied without regard to whether an organization conducts a trade or business; and

(ii) The phrase "more than 50 percent" were substituted for "at least 80 percent" each place it appears in § 1.52–1(d)(2).

(e) *Diesel fuel.* The term "diesel fuel" means any liquid (including a diesel fuel/alcohol mixture but not including gasoline) that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle or diesel-powered train.

(f) *Diesel fuel/alcohol mixture.* The term "diesel fuel/alcohol mixture" means any mixture described in section 4091(c)(1)(A).

(g) *Floor stocks tax.* The term "floor stocks tax" means the tax imposed by sections 11211(j) and 11213(b)(5) of the Act on fuel held at the first moment of December 1, 1990.

(h) *Fuel.* The term "fuel" means gasoline, diesel fuel, and aviation fuel.

(i) *Gasohol.* The term "gasohol" means any mixture treated as gasohol for purposes of section 4081(c).

(j) *Gasoline.* The term "gasoline" means—

(1) All products (including gasohol) that are commonly or commercially known or sold as gasoline and are suitable for use as a motor fuel (other than products that are not sold as gasoline and have an American Society for Testing Materials octane number of less than 75 as determined by the "motor method"); and

(2) All products that are listed in Revenue Ruling 88–70, 1988–2 Cumulative Bulletin 338, as "gasoline blend stocks" or "products commonly used as additives in gasoline."

(k) *Train.* The term "train" means any equipment or machinery that rides on rails regardless of whether the equipment or machinery transports passengers, freight, or a combination of both passengers and freight. Thus, the term includes a locomotive, work train, switching engine, or track maintenance machine. The term "train" does not include any equipment or machinery that does not ride on rails.

§ 42.3 Imposition of floor stocks tax.

(a) *Overview.* This section identifies the fuels subject to the floor stocks tax, the applicable rates of tax, and the persons liable for the tax.

(b) *Fuels subject to tax and rates of tax*—(1) *Gasoline*—(i) *Imposition of tax.* Section 11211(j)(1)(A) of the Act imposes a floor stocks tax on gasoline (including gasohol)—

(A) On which tax was imposed under section 4081 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Generally applicable rate of tax.* Except as otherwise provided in paragraph (b)(1)(iii) of this section, the rate of floor stocks tax on gasoline is 5 cents per gallon.

(iii) *Rates relating to gasohol.* The rate of floor stocks tax under this paragraph (b)(1) is—

(A) 5 cents per gallon in the case of gasohol;

(B) 6.22 cents per gallon in the case of gasoline that was taxed at a reduced rate under section 4081(c) and is used in producing gasohol that contains ethanol;

(C) 5.56 cents per gallon in the case of gasoline that was taxed at a reduced rate under section 4081(c) and is used in producing gasohol that does not contain ethanol;

(D) .55 cent per gallon in the case of gasoline that was not taxed at a reduced rate under section 4081(c) and is used in producing gasohol that contains ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such gasoline); and

(E) Zero in the case of gasoline that was not taxed at a reduced rate under section 4081(c) and is used in producing gasohol that does not contain ethanol (and .11 cent per gallon is recoverable pursuant to section 6427(f) with respect to such gasoline).

(2) *Diesel fuel*—(i) *Imposition of tax.* Section 11211(j)(1)(A) of the Act imposes of floor stocks tax on diesel fuel (including diesel fuel/alcohol mixtures)—

(A) On which tax was imposed at a Highway Trust Fund financing rate under section 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Generally applicable rate of tax.* Except as otherwise provided in paragraph (b)(2)(iii) of this section, the rate of floor stocks tax on diesel fuel described in paragraph (b)(2)(i) of this section is 5 cents per gallon.

(iii) *Rates relating to diesel fuel/alcohol mixtures.* The rate of floor stocks tax under this paragraph (b)(2) is—

(A) 5 cents per gallon in the case of a diesel fuel/alcohol mixture;

(B) 6.22 cents per gallon in the case of diesel fuel that was taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that contains ethanol;

(C) 5.56 cents per gallon in the case of diesel fuel that was taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that does not contain ethanol;

(D) 1.22 cents per gallon in the case of diesel fuel that was not taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that contains ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such diesel fuel); and

(E) .56 cent per gallon in the case of diesel fuel that was not taxed at a reduced rate under section 4091(c)(1)(B) and is used in producing a diesel fuel/alcohol mixture that does not contain ethanol (and no amount is recoverable pursuant to section 6427(f) with respect to such diesel fuel).

(3) *Diesel fuel held for use in trains*—(i) *Imposition of tax.* Section 11211(j)(1)(B) of the Act imposes a floor stocks tax on diesel fuel—

(A) On which no tax was imposed at a Highway Trust Fund financing rate under section 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person and is used by that person to propel a train on rails.

(ii) *Rate of tax.* The rate of floor stocks tax under this paragraph (b)(3) is 2.5 cents per gallon.

(4) *Aviation fuel*—(i) *Imposition of tax.* Section 11213(b)(5) of the Act imposes a floor stocks tax on aviation fuel—

(A) On which tax was imposed under section 4041(c)(1) or 4091 before December 1, 1990; and

(B) Which is held at the first moment of December 1, 1990, by any person.

(ii) *Rate of tax.* The rate of floor stocks tax under this paragraph (b)(4) is 3.5 cents per gallon.

(c) *Person liable for tax*—(1) *In general.* The person liable for the floor stocks tax on any fuel subject to tax is the person that holds the fuel at the first moment of December 1, 1990. For purposes of the floor stocks tax, fuel is

held at the first moment of December 1, 1990, by the person that has title to the fuel (whether or not delivery to that person has been made) at such time, as determined under applicable local law.

(2) *Special rule.* Each business unit that has, or is required to have, its own employer identification number is treated as a separate person for purposes of the floor stocks tax. For example, a chain of retail service stations that has one employer identification number is one person for purposes of the floor stocks tax and a parent corporation and a subsidiary that each have a different employer identification number are two persons for purposes of the floor stocks tax.

(d) *Treatment of fuel in foreign trade zones.* Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any fuel that is located in a foreign trade zone at the first moment of December 1, 1990, shall be subject to floor stocks tax, if—

(1) Internal revenue taxes have been determined, or customs duties liquidated, with respect to such fuel before December 1, 1990, pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934; or

(2) Such fuel is held at the first moment of December 1, 1990, under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

§ 42.4 Exemptions from floor stocks tax.

(a) *Overview.* This section provides rules for determining exemptions from the floor stocks tax. Generally, tax is not imposed—

(1) On fuel held exclusively for an exempt use;

(2) On gasoline or diesel fuel held in the tank of a motor vehicle or motorboat; or

(3) On gasoline or diesel fuel held by a person if the person does not hold more than a specified amount of that fuel.

(b) *Fuel held for exempt uses*—(1) *Gasoline.* The floor stocks tax does not apply to gasoline held exclusively for an exempt use. In determining whether gasoline is held exclusively for an exempt use, the following rules apply:

(i) The term "exempt use" means, with respect to gasoline, any use of gasoline (other than use in producing gasohol) which is described in sections 6420, 6421 or 6427 and which entitles the user to a credit or refund of the tax imposed by section 4081. Thus, for example, exempt use of gasoline includes use on a farm for farming purposes, use in an off-highway business use, use in certain intercity, local and school buses, exclusive use by a State or local government or nonprofit educational organization, and use in commerical aircraft.

(ii) Gasoline is held exclusively for an exempt use only if—

(A) The person that holds gasoline at the first moment of December 1, 1990, actually uses the gasoline in an exempt use; or

(B) A gasoline wholesale distributor described in section 6416(a)(4) holds gasoline at the first moment of December 1, 1990, and sells the gasoline at a tax-excluded price for a use described in section 6416(b)(2).

Accordingly, except as provided in this paragraph (b)(1)(ii), gasoline is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the gasoline is held for resale (including resale to a person that will use the gasoline in an exempt use). Thus, for example, gasoline held by a gasoline service station is not exempt from the floor stocks tax under this paragraph (b)(1) if it will be sold to a farmer for use on a farm for farming purposes. However, the farmer would be eligible to claim an income tax credit for the tax under sections 34 and 6420.

(2) *Diesel fuel.* The floor stocks tax does not apply to diesel fuel held exclusively for an exempt use. In determining whether diesel fuel is held exclusively for an exempt use, the following rules apply:

(i) The term "exempt use" means, with respect to diesel fuel, any use of diesel fuel (other than in producing a diesel fuel/alcohol mixture or as fuel in a diesel-powered train) which is described in section 6427 and which entitles the user to a credit or refund of the tax imposed by section 4091. Thus, for example, exempt uses of diesel fuel that is not used as fuel in a diesel-powered train include use other than as a fuel in a diesel-powered highway vehicle (as defined in § 48.4041-8(b)(4)), use on a farm for farming purposes, exclusive use by a State or local government or nonprofit educational organization, and use in an off-highway business use.

(ii) Diesel fuel held for use in a diesel-powered train is not exempt from the floor stocks tax under this paragraph (b)(2) even if the fuel is held by a State or local government. Similarly, the exemptions for use other than as fuel in a diesel-powered highway vehicle and off-highway business use do not apply to fuel used in a diesel-powered train. See section 6427(1)(4), as added by the Act.

(iii) The floor stocks tax does not apply to diesel fuel held for use in a bus if a credit for, or a refund of, the tax, in whole or in part, is allowable for diesel fuel used in the bus under section 6427(b). Thus, for example, the floor stocks tax does not apply to diesel fuel held for use in an intercity bus if the diesel fuel was previously subject to tax at a reduced rate of 3 cents per gallon or 3.1 cents per gallon.

(iv) Diesel fuel is held exclusively for an exempt use only if the person that holds the fuel at the first moment of December 1, 1990, actually uses the diesel fuel in an exempt use.

(v) Accordingly, diesel fuel is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the diesel fuel is held for resale (including resale to a person that will use the diesel fuel in an exempt use). Thus, for example, diesel fuel held by a retailer is not exempt from the floor stocks tax under this paragraph (b)(2) if it will be sold to a construction company for use in the construction company's off-road machinery. However, the construction company would be eligible to claim a credit or refund of the tax under section 6427.

(3) *Aviation fuel.* The floor stocks tax does not apply to aviation fuel held exclusively for an exempt use. In determining whether aviation fuel is held exclusively for an exempt use, the following rules apply:

(i) The term "exempt use" means, with respect to aviation fuel, any use of aviation fuel which is described in section 6427 and which entitles the use to a credit or refund of the tax imposed by section 4091. Thus, for example, exempt use of aviation fuel includes any use other than use as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)), use on a farm for farming purposes, and exclusive use by a State or local government or nonprofit educational organization.

(ii) Aviation fuel is held exclusively for an exempt use only if the person that holds the aviation fuel at the first moment of December 1, 1990, actually uses the aviation fuel in an exempt use. Accordingly, aviation fuel is not held exclusively for an exempt use if, at the first moment of December 1, 1990, the aviation fuel is held for resale (including resale to a person that will use the aviation fuel in an exempt use). Thus, for example, aviation fuel held by a fixed base operator is not exempt from the floor stocks tax under this paragraph (b)(3) if it will be sold to an airline for use in commercial aviation. However, the airline would be eligible to claim a credit or refund of the tax under section 6427.

(c) *Exemption for gasoline or diesel fuel held in vehicle tank.* The floor stocks tax does not apply to gasoline or

diesel fuel held, at the first moment of December 1, 1990, in the fuel supply tank of a motor vehicle (as defined in § 48.4041–8(c)) or motorboat. Fuel held in the fuel supply tank of a train or an aircraft is not exempt from the floor stocks tax under this paragraph (c).

(d) *Exemption for certain amounts of fuel*—(1) *In general.* The floor stocks tax does not apply to—

(i) Gasoline that a person holds at the first moment of December 1, 1990, if the aggregate amount of gasoline held by that person at that time does not exceed 4,000 gallons; and

(ii) Diesel fuel that a person holds at the first moment of December 1, 1990, if the aggregate amount of diesel fuel held by that person at that time does not exceed 2,000 gallons.

(2) *Additional rules.* The following additional rules apply for purposes of this paragraph (d):

(i) *Aviation fuel.* Aviation fuel is not exempt from the floor stocks tax merely because it is held in *de minimis* amounts at the first moment of December 1, 1990.

(ii) *Coordination with other exemptions.* In determining the aggregate amount of gasoline or diesel fuel held by a person at the first moment of December 1, 1990, there shall be excluded the amount of gasoline or diesel fuel exempt from the floor stocks tax by reason of paragraph (b) of this section (relating to fuel held for exempt uses), or paragraph (c) of this section (relating to gasoline and diesel fuel held in the tank of a vehicle).

(iii) *All amounts held subject to tax if threshold exceeded.* The floor stocks tax applies to all amounts of gasoline (or diesel fuel, as the case may be) held by a person (and not exempt from tax under paragraph (b) or (c) of this section) if the aggregate amount of fuel held by the person at the first moment of December 1, 1990, exceeds 4,000 gallons (2,000 gallons in the case of diesel fuel).

(iv) *Controlled groups.* A member of a controlled group (as defined in § 42.2(d)) holds more than 4,000 gallons of gasoline (2,000 gallons in the case of diesel fuel) if the aggregate amount of all gasoline (or diesel fuel, as the case may be) held by all members of the controlled group exceeds 4,000 gallons of gasoline (2,000 gallons in the case of diesel fuel).

(3) *Examples.* The following examples illustrate the rules of this paragraph (d):

Example 1. A holds 10,000 gallons of gasoline on December 1, 1990, 6,000 of which are held exclusively for use on a farm for farming purposes. The remaining 4,000 gallons are held for use in A's highway vehicles. A is not a member of a controlled group. A is not subject to the floor stocks tax on any of the 10,000 gallons because the aggregate amount of fuel held by A for uses other than exempt uses does not exceed 4,000 gallons.

Example 2. On December 1, 1990, B holds 1,900, gallons of diesel fuel and 3,900 gallons of gasoline. B is not a member of a controlled group. B is not liable for the floor stocks tax on diesel fuel because B's holdings of diesel fuel do not exceed 2,000 gallons. B is not liable for the floor stocks tax on gasoline because B's holdings of gasoline do not exceed 4,000 gallons.

Example 3. On December 1, 1990, C holds 4,100 gallons of gasoline for resale at a service station. C is liable for a floor stock tax of $205 (4,100 × $.05) on that gasoline.

Example 4. D, E, and F are members of the same controlled group. On December 1, 1990, D holds 2,000 gallons of gasoline, E holds 2,500 gallons of gasoline, and F holds 500 gallons of gasoline. None of the gasoline is held for an exempt use or in the fuel supply tank of a motor vehicle. Because the aggregate amount held by all members of the group exceeds 4,000 gallons, all gasoline held by each member is subject to the floor stocks tax. Thus, D is liable for tax of $100 (2,000 × $.05), E is liable for tax of $125 (2,500 × $.05) and F is liable for tax of $25 (500 × $.05).

§ 42.5 Requirements with respect to inventory, payment and return.

(a) *Overview.* This section sets forth requirements for inventory of fuel, payment of tax and filing a return reporting the tax.

(b) *Inventory.* Every person liable for the floor stocks tax, every person holding gasoline or diesel fuel for resale, and every person holding gasoline or diesel fuel for use as a fuel in a trade or business of providing transportation services by motor vehicles (other than a bus to which section 6421(b) or 6427(b) applies) shall prepare an inventory of all gasoline, diesel fuel and aviation fuel held by that person at the first moment of December 1, 1990 (other than fuel on which no tax under section 4081 or 4091 was imposed before December 1, 1990, and gasoline or diesel fuel held in the fuel supply tank of a motor vehicle or motorboat). In addition every person who, at the first moment of December 1, 1990, holds diesel fuel for use in a train shall prepare an inventory of all such fuel. The inventory shall be determined as of the first moment of December 1, 1990, but work-back and work-forward inventories will be acceptable if supported by adequate commercial records of receipt, use and disposition of the fuel. Persons subject to the inventory requirement of this paragraph (b) must maintain records of the inventory and make the records available for inspection and copying by internal revenue agents and officers. Records of the inventory are not to be filed with the Internal Revenue Service.

(c) *Payment of tax.* The floor stocks tax shall be paid without assessment or notice on or before May 31, 1991. The payment shall be accompanied by Form 8109, *Federal Tax Deposit Coupon*, in accordance with the instructions applicable to that form. The boxes on Form 8109 for "720" and "1st Quarter" shall be marked.

(d) *Filing of returns*—(1) *Form 720.* Every person liable for the floor stocks tax shall make a return of the tax on Form 720, *Quarterly Federal Excise Tax Return*, (Revised January 1991). The return shall be prepared and filed in accordance with the instructions relating to the return. The applicable Form 720 and its separate instructions may be obtained at many local Internal Revenue Service offices or by calling the following toll-free number: 1–800–829–3676.

(2) *Time for filing Form 720.* The Form 720 reporting liability for the floor stocks tax shall be filed on or before May 31, 1991. This Form 720 is for the first calendar quarter of 1991. In the case of a person not otherwise required to file Form 720 for that calendar quarter, the return shall be marked "Final-Floor Stocks" at the top. Only one Form 720 shall be filed for any calendar quarter. If a person is also required to report liability for other excise taxes for the first calendar quarter of 1991 on Form 720 and that Form 720 would otherwise be due on or before a date earlier than May 31, 1991, that person shall report the floor stocks tax and the other taxes on one Form 720 filed on or before May 31, 1991. This rule does not extend the time for making deposits or paying any excise tax.

§ 42.6 Applicability of other laws.

(a) *In general.* All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 in the case of gasoline and section 4091 in the case of diesel fuel or aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this part, apply with respect to floor stocks tax to the same extent as if the tax was imposed by section 4081 or section 4091, as the case may be.

(b) *Credits and refunds.* For rules relating to credits and refunds with respect to floor stocks tax paid on gasoline, diesel fuel, or aviation fuel used in an exempt use, see sections 34, 6416, 6420, 6421 and 6427.

(c) *Penalties and interest.* For the application of provisions relating to interest and penalties, see chapters 67 and 68 of subtitle F.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90–28303 Filed 11–28–90; 1:54 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL: 3864-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emission Regulations for Gasoline-Fueled and Methanol-Fueled Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public workshop and reopening of comment period.

SUMMARY: This notice announces the time and place for a public workshop related to EPA's proposed requirements to control evaporative emissions from light-duty vehicles, light-duty trucks, and heavy-duty vehicles.

DATES: The workshop will be held on December 19, 1990. It will start at 8:30 a.m. and adjourn at approximately 4:30 p.m. The comment period is being reopened for a limited time to allow comments on information presented at the workshop and to allow attendees to clarify or explain statements made at the workshop. Comments will be accepted until January 22, 1991.

ADDRESSES: The workshop will be held at the Ann Arbor Regent Hotel, U.S. Highway 23 at Plymouth Road, Ann Arbor, Michigan. Interested parties may submit written comments (in duplicate if possible) on the revisions being considered by EPA for the evaporative test procedure described in this notice and presented at the workshop to Public Docket No. A-89-18, at: Air Docket Section (LE-131), U.S. Environmental Protection Agency, Attention: Docket No. A-89-18, 401 M Street, Room M-1500 SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Carlson, Standards Development and Support Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4270.

SUPPLEMENTARY INFORMATION: EPA is holding this workshop to provide the public with an opportunity to understand EPA's current position on the revised evaporative test procedure, to ask questions, and to comment on EPA's ideas. This public workshop is not a public hearing as described under section 307(d) of the Clean Air Act. A public hearing was held on March 6, 1990. A court reporter will be present to make a written transcript of the proceedings and a copy will be placed in the docket following the workshop. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter: Philip Liburdi, 20088 Woodside, Harper Woods, Michigan 48225. Telephone: (313) 527-4040.

I. Introduction

On August 19, 1987 EPA published a notice of proposed rulemaking in the **Federal Register** to control gasoline volatility and vehicle evaporative emissions (52 FR 31274). The proposal included an evaporative canister preconditioning step intended to ensure that evaporative control systems are designed to work effectively and maintain their level of control under in-use operating conditions. However, subsequent EPA analyses showed that the proposed changes were insufficient to ensure effective control of in-use evaporative emissions. EPA subsequently issued proposed changes to the evaporative test procedure on January 19, 1990 (55 FR 1913) which kept the canister loading to breakthrough at the beginning of the test sequence and added two high-temperature diurnal heat builds for the fuel tank. Both of these steps were aimed at eliminating evaporative and running loss emissions in all but a small number of in-use events.

During the time that the Agency's second proposal was undergoing final review, General Motors (GM) introduced an alternative test procedure significantly different from EPA's proposal. The GM test procedure included a canister loading step, a specific test for running loss emissions, a high-temperature hot soak, and two extended 24-hour ambient diurnal heating and cooling cycles. EPA requested comments on both the EPA and GM test procedures, held a public hearing on March 6, 1990, and accepted written comments through June 5, 1990.

Since the end of the comment period, EPA has been analyzing the comments received as well as following the actions of the California Air Resources Board (CARB) to adopt their own revised evaporative test procedure. This notice and the upcoming workshop itself are intended to present EPA's current position on the revised evaporative test procedure and afford the public an opportunity to provide comments and to ask questions.

II. Key Aspects of Revised Evaporative Test Procedure

EPA's overall goals for the revised evaporative test procedure continue to be the elimination of uncontrolled evaporative and running loss emissions from all but a small number of in-use events while at the same time minimizing the testing burden on industry and government. These goals translate into the following expectations: (1) Fuel tank emissions which can occur from three or more consecutive daily temperature rises (diurnal emissions) representative of in-use operating conditions on high-ozone days will be controlled routinely; (2) evaporative emissions which occur while the vehicle is being operated (running losses) rarely will occur on any vehicle; and (3) vapors purged from the evaporative canister will not increase exhaust emissions.

The January 1990 proposed procedure has been modified by EPA in several ways in order to improve the ability of the test procedure to meet these goals. The key aspects of EPA's revised test procedure, each of which will be discussed in further detail below, are as follows: (1) Revised vehicle preconditioning events; (2) fuel temperature control during the exhaust emissions test; (3) a revised diurnal emissions test; (4) the introduction of a new running loss test; and (5) requirements for high-temperature hot soak and permeation loss tests. Major issues also to be discussed include the sequencing of the diurnal and running loss test segments and the introduction of alternative test provisions in some test segments. Figure 1 contains a flow chart of the sequence EPA is considering for the revised evaporative test procedure.

BILLING CODE 4820-02-M

REVISED PROPOSED
TEST PROCEDURE

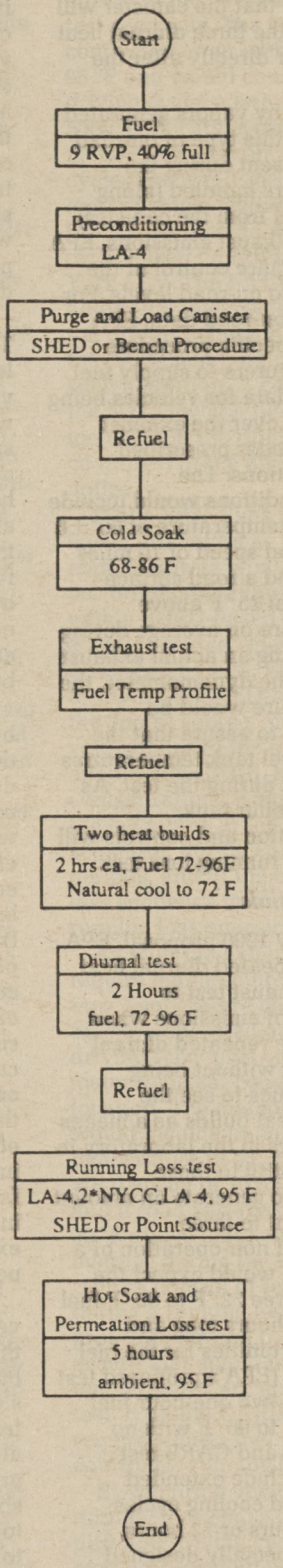

FIGURE 1

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A. Vehicle Preconditioning

For the preconditioning of the vehicles, EPA's revised test procedure would begin with an initial refueling followed by one LA–4 driving cycle to load the fuel system with test fuel. These steps would be followed by a canister loading procedure, and a subsequent cold soak, followed by the exhaust test.

This sequence of preconditioning events is different from the sequence contained in EPA's January 1990 proposal, which contained an LA–4 driving cycle after the canister loading and before the exhaust test. EPA now believes that the previously proposed sequence could have led manufacturers to emphasize purging during preconditioning, when exhaust emissions are not measured. Consequently, in-use emissions could have increased, possibly significantly. The revised sequence of events would require manufacturers to design their emission control systems so that a fully loaded canister will quickly recover its capacity without adversely affecting measured exhaust emissions. This revised sequence of preconditioning events is essentially the same procedure CARB recently adopted.

EPA has considered several options in developing the canister loading procedure. These have included whether loading would occur in a SHED (Sealed Housing for Evaporative Determination) or with an alternate, non-SHED procedure, whether the canister would be loaded with butane or gasoline vapors, and to what extent the canister would be loaded. EPA does not believe that these different canister loading methods have a significant effect on the design of evaporative systems, but some alternatives are more facilities-intensive than others. Therefore, in addition to the SHED-based procedure, EPA expects to permit loading with an alternative bench procedure that does not require a SHED.

The bench procedure would load the canister with butane vapors following an initial, specified purge volume, in a manner similar to the provisions contained in the CARB and GM procedures. Also, in order to ensure that the canister is loaded past breakthrough, EPA would load the canister to 1.5 times the working capacity of the charcoal in the canister, the same amount required in the CARB test procedure.

B. Exhaust Emissions Test

After the preconditioning events, the next step in the test procedure would be the exhaust emissions test. Although EPA expects to make no fundamental changes to this part of the test procedure, the importance of the exhaust test segment has increased. This is because the canister loading which occurs directly before the exhaust test will require manufacturers to design evaporative control systems with adequate purge so that the canister will be able to handle the three diurnal heat builds which occur directly after the exhaust test.

To ensure that any vapors generated in the tank during this type of on-road driving will be present during the exhaust test and are handled (along with vapors purged from the canister) without harm to exhaust emissions, EPA now expects to require control of the tank temperature to on-road levels. For collection of such on-road data, EPA would provide a specific procedure requiring manufacturers to supply fuel tank temperature data for vehicles being operated outdoors over the exhaust driving schedule under prescribed summertime conditions. The meteorological conditions would include an initial ambient temperature of 80°±6 °F, a sustained wind speed of 10 miles per hour or less, and a road surface temperature at least 25 °F above ambient temperature on average during the test. Then, during an actual exhaust emissions test on the dynamometer, the fuel tank temperature would be controlled in order to assure that the measured in-use fuel tank temperatures are being achieved during the test. As explained later, similar tank temperature collection and controls will be required for the running loss test.

C. Diurnal Heat Builds

As in the January 1990 proposal, EPA plans to include repeated diurnal heat builds after the exhaust test to encourage control of emissions when vehicles experience repeated diurnal temperature cycles without being driven. EPA continues to see the repeated diurnal heat builds as a means of generating vapors in the laboratory in an equivalent quantity to those generated in use. To generate an amount of vapors equivalent to three consecutive days of non-operation of a vehicle in use, EPA would expect the test to consist of three 72 °F to 96 °F fuel diurnals, each two hours long and separated by opportunities for the fuel to be cooled down. (EPA's proposed test procedure includes two one-hour fuel heat builds of 72 °F to 96 °F with no cool-down; the GM and CARB test procedures both include extended ambient heating and cooling cycles scheduled for 48 hours or 72 hours, respectively, in a specially designed SHED.)

The length of the time period for the diurnal heat build has been raised as an issue. One concern is that if the canister is loaded in too short a period of time, the charcoal in the canister may be heated uncharacteristically (adsorption is exothermic) and this may lower the capacity of the canister to adsorb vapors. In addition, heating the fuel in a short period of time requires raising the heating blanket temperature well above the maximum diurnal temperature in order to obtain the maximum diurnal temperature inside the fuel tank. This situation may result in "hot-spots" where the fuel is unevenly heated, potentially affecting vapor generation during the diurnal test.

Based on data submitted by Ford and Toyota examining the effects which the length of the diurnal heat build has on vapor generation, it is not conclusive whether the above phenomena have any substantial effect on emissions; it appears that heat builds longer than two hours result in similar loadings. In an effort to accommodate concern over these phenomena while minimizing the facilities impact which a longer heat build would have due to longer SHED occupancy time, EPA now plans to extend the duration of the diurnal heat build from one hour to two hours.

As mentioned above, the three heat builds will be separated by fuel cool-down periods. The inclusion of the cool-down between the heat builds, as compared to the alternative of refueling with fresh fuel, will incorporate the effects of weathering on diurnal emissions as well as any effects of backpurge on evaporative systems. Backpurge is a phenomenon which occurs as fuel tank vapors cool and condense, drawing vapors from the canister back to the fuel tank. Data submitted by GM shows that backpurge can have an effect on evaporative canister loading levels. However, since the cool-down periods will occur outside of the SHED (and therefore should not increase the need for additional facilities significantly) and will incorporate weathering effects, EPA expects to include such cool-down periods.

For current and anticipated future vehicle designs, EPA does not believe that the additional hour for the heat build or the opportunity for backpurge significantly improve the test procedure from a technical standpoint. However, although they add some time to the test procedure, their presence in the test should not be problematic. EPA expects to include these test procedure features to potentially increase the flexibility of manufacturers in future system designs.

As mentioned above, the GM and CARB diurnal test procedures require the vehicle to be placed in a specially designed SHED for a period of 48 or 72 hours, respectively. The modified SHED has been called a variable temperature (VT) SHED and would allow the entire enclosure to be heated and cooled while emissions measurements are taken, as opposed to heating and cooling the fuel tank only. If manufacturers, EPA and other testing organizations continue to perform the same number of tests as they do today, these test provisions would require the addition of a considerable number of new VT SHEDs, as well as modifications to current SHEDs. In an attempt to minimize these facilities impacts, EPA's revised test procedure would increase SHED time by one hour only, since the length of the diurnal heat build would be increased from one to two hours and only the last of the three diurnals would need to be performed in the SHED. (The other two diurnals as well as the cool-down could be performed outside of the SHED.) In addition, EPA's test procedure would retain direct tank heating and thus allow manufacturers to use their current SHEDs. Therefore manufacturers, EPA and others would not be required to modify existing SHEDs or build new VT SHEDs.

For vehicles which have insulated fuel tanks, manufacturers would be required to submit temperature data taken from a side-by-side diurnal exposure of two vehicles of the same model, one with an insulated tank and one with an uninsulated tank of otherwise similar design. During the side-by-side exposure, the fuel temperature rise in the uninsulated tank should approximate the range of 72 °F to 96 °F. The effect of the insulation observed in the fuel temperatures would be used to adjust the high end of the diurnal temperature range, generating an alternative range for all diurnal testing for the vehicle with the insulated fuel tank.

D. Running Loss Test

EPA now plans to include a test to measure running losses as part of the revised test procedure similar to the running loss test contained in the GM test procedure. EPA did not originally include a running loss test as part of the January 1990 proposal in an attempt to stay as close as possible to the current test procedure. Nevertheless, the proposed test procedure was designed to ensure that running losses did not occur under most conditions. However, because of the widespread support for including an explicit running loss test raised by vehicle manufacturers in their comments on the proposal, and the benefit of having running loss data, EPA has decided to include an official running loss test procedure.

The running loss test would be preceded by a refueling to counter any effects of fuel weathering during earlier test segments. The test would be conducted at an ambient temperature of 95 °F and would consist of one LA–4 driving cycle, a two-minute idle, two New York City cycles (NYCCs), a two-minute idle, and an additional LA–4 cycle. The NYCC has not been a part of motor vehicle testing regulations before but it is a common, well-established test cycle based on driving patterns in New York City. The NYCCs would add additional low-speed and idle periods to the driving schedule in order to assure that sufficient purging occurs during such operation. A copy of the version of the NYCC which EPA is considering for inclusion in the running loss test is contained in the appendix to today's notice.

While EPA plans to use a SHED-based procedure as the reference test, manufacturers would have the option of performing the running loss test either with a SHED-based procedure or under a "point source" method similar to that described by GM. EPA's test procedures for both the SHED-based method and the "point source" method would be very similar to the methods recently adopted by CARB. Hydrocarbon concentrations would be monitored at the beginning of the running loss test sequence, during each of the idle periods, and at the end of the running loss sequence in order to determine total running loss emissions.

As with the exhaust test, EPA would require manufacturers to supply fuel tank temperature data for vehicles as they are operated over the running loss driving schedules under specified meteorological conditions at an outdoor location. The meteorological conditions would include an initial ambient temperature of 95°±5 °F, a sustained wind speed of 10 miles per hour or less, and a road surface temperature at least 30 °F above ambient temperature on average during the test. EPA would then require control of fuel tank temperatures during a running loss test to match the profile generated by the manufacturer to assure that actual in-use fuel tank temperatures are achieved during the test. Both the CARB and GM procedures require similar fuel tank temperature control for running loss testing.

By requiring vehicles to control running loss emissions over the two different driving cycles, with in-use tank temperatures and under typical ozone-day temperatures, EPA would encourage manufacturers to design vehicles which would assure that running losses will rarely occur, even under high-temperature in-use driving.

E. Hot Soak and Permeation Loss Tests

The final steps of the revised procedure are the hot soak test followed by the testing of permeation losses. The hot soak emissions test will be unchanged from the current procedure except that it follows longer, high-temperature driving and the SHED soak temperature will be 95 °F, in order to simulate high-ozone day conditions. The permeation loss test is a new requirement. Permeation losses are fuel vapor emissions which occur at all times, including periods when a vehicle is at rest, but are not attributable to other sources of emissions, such as hot soak losses, refueling emissions or diurnal emissions. Potential sources of permeation losses are from hoses, open bottom evaporative canisters, canister vents and plastic fuel tanks.

Until recently, EPA did not believe that such emissions were significant and did not include a test to measure them. However, recent testing performed by GM shows that significant levels of such emissions occur with some current vehicles at relatively constant levels over time. EPA expects to include a permeation loss test as part of the revised evaporative test procedure. The test would be performed directly after the high-temperature hot soak emissions test and would require the vehicle to continue to soak in a 95 °F SHED for four hours, with emissions measurements taken hourly.

The GM and CARB test procedures do not have a separate test to measure permeation losses. However, because the diurnal tests included in the GM and CARB procedures have 24-hour sampling of emissions, these tests implicitly account for any permeation losses. EPA's permeation loss test is intended to minimize permeation losses without the need for extended diurnal testing. As discussed later under Alternative Test Procedures, the placement of the hot soak and permeation loss tests at the end of the test sequence would allow EPA to truncate this part of the test procedure when circumstances warranted (*e.g.*, when valid data was available on that vehicle from earlier testing).

F. Sequencing of Diurnal and Running Loss Test Segments

EPA strongly believes that the sequencing of the events within the test procedure is very important because of

the effects the sequencing can have on the design of the evaporative control system. EPA is planning to adopt a sequence in which the exhaust test (which begins with a loaded canister) is followed by three high-temperature diurnal heat builds, the running loss test, the hot soak test and permeation loss test (see Figure 1). By adopting this sequence of events, EPA would be encouraging vehicle manufacturers to design evaporative control systems which can sufficiently purge a loaded canister over the exhaust test without significantly affecting exhaust emissions, handle three subsequent diurnal loadings, and operate at high ambient temperatures without emitting running losses.

The GM and CARB test procedures have included a different sequence of testing events in which the exhaust test is followed by a running loss test, a hot soak test, and then two (for GM) or three (for CARB) extended-time diurnal heat builds. EPA believes this sequence of testing events might not encourage manufacturers to sufficiently purge their evaporative canisters during the exhaust test since they would be able to the distribute the purging of vapors over the additional driving of the running loss test, before the diurnal test of canister capacity.

G. Alternative Test Procedures

Because of vehicle modifications which make fuel tank removal difficult, it has become increasingly difficult for EPA to install tank thermocouples on many in-use vehicles. This has made EPA's job of enforcing the emissions standards difficult in many cases. Therefore, EPA is considering alternative procedures for the diurnal, exhaust and running loss segments which would make it possible for EPA to conduct the test procedure without installing tank thermocouples. EPA expects to monitor tank temperature whenever it is convenient and appropriate.

For diurnal testing, manufacturers would be required to specify the length of time a vehicle must soak in a 110 °F SHED with a simple, specified fan configuration in order to achieve a tank temperature rise of 72 °F to 96 °F. EPA would then be able to repeat the process, achieving heat builds without monitoring tank temperatures. For the exhaust and running loss tests, manufacturers would be required to supply EPA with instructions as to how the fuel tank should be heated and/or cooled to follow the in-use tank temperature profile determined by manufacturers. A fan/heater configuration would be specified (probably a constant-speed front-end fan and a proportional-speed underbody fan positioned in front of the vehicle, and a heater/blower positioned in a standard position relative to the midpoint of the fuel tank). Instructions would consist of the on/off actions necessary to control the tank temperature to match the predetermined profile.

EPA is also considering several provisions which would allow EPA to truncate the test procedure if a vehicle has already exceeded the emissions standards part of the way through the test or to reenter the test procedures when one part of the test has been voided. The goal of the reentry provisions are to make it easier for EPA to return to the same point in the test without increasing the overall stringency of the test.

One provision would allow EPA to monitor emissions in a SHED during any of the three diurnal heat builds, not just the final heat build. If the evaporative emissions standard were exceeded during any one of the heat builds, the test could be terminated at EPA's discretion, and the vehicle would be considered as having failed the test.

Another provision would allow EPA to terminate the procedure after the diurnal test. Running loss, hot soak and permeation loss test results submitted by the manufacturers or generated in other EPA testing on that vehicle could be substituted, at EPA's discretion, to determine compliance with the evaporative standard.

EPA also is planning to include provisions which would allow the test procedure to be reentered when one segment of the test procedure has been voided for some reason, such as a violation of test tolerances or following instructions incorrectly. In any vehicle test in which a void occurred, EPA could use the emission results from the portion of the test which occurred prior to the void. As described below, EPA would then conduct an abbreviated sequence which would substitute for the valid portions of the test procedure without remeasuring emissions.

Specifically EPA is considering a special, abbreviated sequence which would begin with the same canister loading procedure, followed immediately by the exhaust test drive (with relaxed speed trace and temperature trace tolerances of ±4 miles per hour and ±4 °F, respectively) without exhaust emissions measurement. When a void occurs during the diurnal test, EPA could either repeat the entire test or run the abbreviated sequence as described above. The remainder of the test would continue as usual starting with the diurnal sequence.

When a void occurs after a valid diurnal measurement, EPA could either rerun the entire sequence or perform a special preconditioning of the canister. In this alternative, the canister would be purged and then loaded to 90% of working capacity. While this canister loading will not exactly replicate the canister loading during the standard sequence, this procedure should yield an accurate indication of running loss performance while considerably shortening the retest. After purging and loading, the remainder of the test would continue as usual, beginning with the running loss test.

III. Format of Workshop

The workshop will be conducted informally. EPA will make a presentation highlighting the revisions to the January 1990 proposal described in this notice. After EPA's presentation, attendees will be encouraged to ask questions and make oral presentations. Written comments will be accepted until January 22, 1991. As noted earlier, a court reporter will be present to make a written transcript of the workshop.

Dated: November 20, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

APPENDIX—NEW YORK CITY DRIVING SCHEDULE BEING CONSIDERED BY EPA FOR INCLUSION IN RUNNING LOSS TEST

[Speed Versus Time Sequence]

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
0	0.0	1	0.0	2	0.0
3	0.0	4	0.0	5	0.0
6	0.0	7	0.0	8	0.0
9	0.0	10	0.0	11	0.0
12	0.0	13	0.0	14	0.0

APPENDIX—NEW YORK CITY DRIVING SCHEDULE BEING CONSIDERED BY EPA FOR INCLUSION IN RUNNING LOSS TEST—Continued

[Speed Versus Time Sequence]

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
15	0.0	16	0.0	17	0.0
18	0.0	19	0.0	20	0.0
21	0.0	22	0.0	23	0.0
24	0.0	25	0.0	26	0.0
27	0.0	28	0.0	29	0.0
30	0.0	31	0.0	32	0.0
33	0.0	34	0.0	35	0.0
36	0.0	37	0.0	38	0.0
39	0.0	40	0.0	41	0.0
42	0.0	43	0.0	44	0.0
45	0.0	46	0.0	47	0.0
48	0.0	49	2.80	50	5.60
51	7.00	52	7.60	53	7.60
54	6.20	55	6.40	56	7.60
57	9.50	58	8.90	59	8.60
60	9.60	61	12.40	62	15.00
63	17.80	64	21.00	65	22.90
66	21.70	67	18.20	68	14.50
69	10.20	70	5.60	71	2.50
72	2.10	73	3.10	74	5.70
75	9.00	76	10.80	77	10.80
78	9.50	79	6.50	80	3.90
81	2.60	82	1.00	83	0.80
84	0.10	85	0.0	86	0.0
87	0.0	88	0.0	89	0.0
90	0.0	91	0.0	92	0.0
93	0.0	94	0.0	95	0.0
96	0.0	97	2.70	98	8.20
99	12.40	100	15.70	101	17.40
102	17.30	103	17.20	104	15.10
105	11.20	106	8.60	107	5.90
108	5.40	109	6.80	110	6.90
111	4.80	112	5.70	113	7.10
114	6.80	115	5.90	116	6.00
117	6.00	118	5.90	119	5.60
120	5.50	121	7.20	122	9.90
123	10.80	124	11.40	125	11.90
126	12.10	127	12.60	128	12.30
129	10.60	130	9.90	131	9.40
132	8.90	133	7.60	134	6.10
135	5.00	136	3.70	137	2.60
138	1.00	139	0.80	140	0.10
141	0.40	142	0.20	143	0.0
144	0.0	145	0.0	146	1.30
147	6.00	148	10.20	149	12.10
150	13.80	151	15.10	152	16.20
153	15.90	154	16.00	155	16.80
156	17.50	157	18.00	158	19.60
159	21.70	160	23.10	161	23.70
162	24.10	163	24.50	164	25.00
165	25.20	166	24.60	167	24.80
168	23.80	169	22.70	170	22.10
171	21.60	172	21.10	173	20.80
174	19.20	175	17.00	176	13.90
177	14.10	178	14.60	179	14.60
180	14.50	181	14.40	182	14.20
183	14.20	184	13.20	185	11.50
186	8.40	187	5.50	188	3.70
189	2.90	190	1.30	191	0.80
192	0.30	193	0.10	194	0.10
195	0.0	196	1.30	197	3.90
198	9.9	199	15.9	200	19.3
201	20.7	202	21.4	203	21.4
204	20.5	205	19.0	206	16.7
207	13.1	208	11.2	209	14.9
210	19.8	211	23.8	212	25.7
213	26.2	214	26.4	215	23.3
216	19.6	217	18.9	218	19.3
219	19.4	220	18.5	221	17.5
222	16.4	223	15.6	224	15.6
225	16.0	226	16.8	227	17.5
228	18.0	229	19.6	230	21.7
231	23.5	232	24.6	233	25.0
234	24.3	235	23.1	236	20.7
237	17.2	238	13.5	239	9.2
240	3.3	241	0.0	242	0.0
243	0.0	244	0.0	245	0.0
246	0.0	247	0.0	248	0.0

APPENDIX—NEW YORK CITY DRIVING SCHEDULE BEING CONSIDERED BY EPA FOR INCLUSION IN RUNNING LOSS TEST—Continued

[Speed Versus Time Sequence]

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
249	0.0	250	0.0	251	0.0
252	0.0	253	0.0	254	0.0
255	0.20	256	2.0	257	4.5
258	6.4	259	7.2	260	7.6
261	7.2	262	6.6	263	6.5
264	5.1	265	4.4	266	5.5
267	3.0	268	3.4	269	3.0
270	2.9	271	1.3	272	0.80
273	0.30	274	0.0	275	0.0
276	0.30	277	4.7	278	9.7
279	13.9	280	16.7	281	19.1
282	20.5	283	20.5	284	19.7
285	19.9	286	20.4	287	20.9
288	21.4	289	21.9	290	22.4
291	22.1	292	21.4	293	20.8
294	20.3	295	20.5	296	19.3
297	17.3	298	17.1	299	16.7
300	14.3	301	11.9	302	10.7
303	10.2	304	9.4	305	10.6
306	12.8	307	13.7	308	12.3
309	10.4	310	8.6	311	5.5
312	3.2	313	2.0	314	0.60
315	0.0	316	0.0	317	0.0
318	0.0	319	0.0	320	0.0
321	0.0	322	0.0	323	0.0
324	2.5	325	6.1	326	5.5
327	3.2	328	3.6	329	6.1
330	9.1	331	9.8	332	8.6
333	6.8	334	5.9	335	5.6
336	6.0	337	7.2	338	8.4
339	9.3	340	7.6	341	5.5
342	2.5	343	0.10	344	0.0
345	0.0	346	0.0	347	0.0
348	0.0	349	0.0	350	0.0
351	0.0	352	0.0	353	0.0
354	0.0	355	0.0	356	0.0
357	0.0	358	0.0	359	0.0
360	0.0	361	0.0	362	0.0
363	0.0	364	0.0	365	0.0
366	0.0	367	0.0	368	0.0
369	0.0	370	0.0	371	0.0
372	0.0	373	0.0	374	0.0
375	0.0	376	0.0	377	0.0
378	0.0	379	0.0	380	0.0
381	0.0	382	0.0	383	0.0
384	0.0	385	0.0	386	0.0
387	0.0	388	0.0	389	0.0
390	0.0	391	0.0	392	0.0
393	0.0	394	0.0	395	0.0
396	0.20	397	1.6	398	3.0
399	3.0	400	2.1	401	2.3
402	4.6	403	7.8	404	9.9
405	10.7	406	10.2	407	10.1
408	10.7	409	10.9	410	11.4
411	11.1	412	10.0	413	8.8
414	8.2	415	8.6	416	10.2
417	11.8	418	13.0	419	13.3
420	12.8	421	11.7	422	11.7
423	12.4	424	13.7	425	14.4
426	14.3	427	14.7	428	15.1
429	15.3	430	15.8	431	14.5
432	12.2	433	11.1	434	12.0
435	13.1	436	12.2	437	8.9
438	7.7	439	7.6	440	8.0
441	5.5	442	3.3	443	2.4
444	1.4	445	0.60	446	0.0
447	0.0	448	0.0	449	0.0
450	0.0	451	0.0	452	0.0
453	0.0	454	0.0	455	0.0
456	0.0	457	0.0	458	0.0
459	0.0	460	0.0	461	0.0
462	0.0	463	0.0	464	0.0
465	0.0	466	0.0	467	0.0
468	0.0	469	0.0	470	0.0
471	0.0	472	0.0	473	0.0
474	0.0	475	0.0	476	0.0
477	0.0	478	0.0	479	0.0
480	0.0	481	0.0	482	0.0

APPENDIX—NEW YORK CITY DRIVING SCHEDULE BEING CONSIDERED BY EPA FOR INCLUSION IN RUNNING LOSS TEST—Continued

[Speed Versus Time Sequence]

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
483	0.0	484	0.0	485	0.0
486	0.0	487	0.0	488	0.0
489	0.0	490	0.0	491	0.0
492	0.0	493	0.0	494	0.0
495	0.0	496	1.0	497	4.1
498	7.4	499	10.2	500	11.3
501	11.8	502	12.2	503	14.3
504	16.0	505	17.8	506	18.6
507	19.6	508	20.2	509	19.9
510	19.7	511	20.8	512	21.0
513	18.8	514	17.6	515	13.0
516	7.5	517	2.9	518	0.80
519	0.0	520	0.20	521	0.70
522	1.4	523	2.3	524	2.7
525	3.0	526	2.7	527	1.2
528	0.10	529	0.70	530	1.8
531	3.1	532	3.9	533	5.3
534	7.8	535	9.7	536	10.3
537	10.2	538	9.4	539	7.1
540	6.8	541	8.9	542	10.6
543	11.9	544	15.5	545	19.6
546	22.8	547	25.1	548	26.0
549	26.7	550	27.3	551	27.7
552	27.6	553	27.3	554	25.7
555	23.3	556	20.6	557	17.8
558	14.9	559	11.3	560	7.4
561	4.6	562	1.7	563	0.70
564	0.0	565	0.0	566	0.0
567	0.0	568	0.0	569	0.0
570	0.0	571	0.0	572	0.0
573	0.0	574	0.0	575	0.0
576	0.0	577	0.0	578	0.0
579	0.0	580	0.0	581	0.0
582	0.0	583	0.0	584	0.0
585	0.0	586	0.0	587	0.0
588	0.0	589	0.0	590	0.0
591	0.0	592	0.0	593	0.0
594	0.0	595	0.0	596	0.0
597	0.0	598	0.0		

[FR 90-27810 Filed 11-30-90; 8:45 am]

BILLING CODE 4820-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-585, RM-7338]

Radio Broadcasting Services; St. Marys, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Sunrise Broadcasting Corp. proposing the allotment of FM Channel 275C2 to St. Marys, Kansas, as that community's first local service. There is a site restriction of 24.3 kilometers (15 miles) east of the community. The coordinates for Channel 275C2 are 39-05-47 and 95-48-55.

DATES: Comments must be filed on or before January 22, 1991 and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Howard J. Braun, Shelley Sadowsky, Rosenman & Colin, 1300 19th Street, NW., suite 200, Washington, DC 20036, (Counsel for the petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-585. adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28272 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-576, RM-7393]

Radio Broadcasting Services; Garrison, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by James P. Gray ("petitioner"), seeking the allotment of Channel 252A to Garrison, Kentucky, as that community's first local FM service. The coordinates for the proposal are North Latitude 38–37–00 and West Longitude 83–07–18.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James P. Gray, 10 Trinity Place, Fort Thomas, Kentucky 41075.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–576, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90–28270 Filed 11–30–90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-574, RM-7534]

Radio Broadcasting Services; Los Lunas, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Patricia Benns Komorowski seeking the substitution of Channel 292C1 for Channel 292A at Los Lunas, New Mexico, and the modification of her construction permit for a new station on the Class A channel to specify operation on the higher powered channel. Channel 292C1 can be allotted to Los Lunas in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter site specified in the outstanding construction permit. The coordinates for Channel 292C1 at Los Lunas are North Latitude 34–49–19 and West Longitude 106–41–16. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 292C1 at Los Lunas or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lauren A. Colby, Esq., 10 E. Fourth Street, P.O. Box 113, Frederick, Maryland 21701 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–574, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

Assistant Clerk, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–28271 Filed 11–30–90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-586, RM-7532]

Radio Broadcasting Services; Pamplico, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Pamplico Broadcasting Limited Partnership seeking the substitution of Channel 271C2 for Channel 271A at Pamplico, South Carolina, and the modification of its construction permit for Station WMXT to specify operation on the higher powered channel. Channel 271C2 can be allotted to Pamplico in compliance with the Commission's minimum distance separation requirements with a site restriction of 22.5 kilometers (14.0 miles) southwest to avoid a short-spacing to Stations WKZQ–FM, Channel 269C2, Myrtle Beach, South Carolina, and Station WJSK, Channel 272A, Lumberton, South Carolina, and to accommodate petitioner's desired transmitter site. The coordinates for Channel 271C2 at Pamplico are North Latitude 33–52–15 and West Longitude 79–45–20. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use

of Channel 271C2 at Pamplico or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Frank R. Jazzo, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., suite 400, Washington, DC 20036–2679 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–586, adopted November 7, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90–28273 Filed 11–30–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–578, RM–7492]

Radio Broadcasting Services; Mount Vernon, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pathways Broadcasting ("petitioner"), seeking the allotment of Channel 244A to Mount Vernon, Illinois, as that community's third local FM service. The coordinates for the proposal are North Latitude 38–19–28 and West Longitude 88–55–35.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Stanley G. Emert, Jr., Lockridge & Becker, P.C., P.O. Box 107, Knoxville, Tennessee 34401 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–578, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90–28278 Filed 11–30–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–587, RM–7479]

Radio Broadcasting Services; Tusculum, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Tusculum Regional Broadcasting Company proposing the allotment of Channel 276A to Tusculum, Tennessee, as the community's first local FM service. The proposed coordinates for Channel 276A at Tusculum are North Latitude 36–10–58 and West Latitude 82–40–14.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., Esquire, 1359 Black Meadow Road, Spotsylvania, Virginia 22553 (Counsel to Tusculum Regional Broadcasting Company).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Communication's Notice of Proposed Rule Making, MM Docket No. 90–587, adopted November 7, 1990, and released November 28, 1990. The full text of this Communication decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28274 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-577, RM-7507]

Radio Broadcasting Services; Georgetown, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Kentucky Radio Limited Partners ("petitioner"), seeking the substitution of Channel 277A for Channel 276A at Georgetown, Kentucky. Channel 277A can be allotted to Georgetown in compliance with the Commission's minimum distance separation requirements with a site restriction 10.8 kilometers (6.7 miles) south. The coordinates for this allotment are North Latitude 38-06-57 and West Longitude 84-31-19.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Linda J. Eckard, Mark N. Lipp, Mullin, Rhyne, Emmons and Topel, P.C., 1000 Connecticut Avenue, NW., suite 500, Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-577, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28277 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-579, RM-7330]

Radio Broadcasting Services; Pasco, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Thomas W. Read, d/b/a West Pasco Fine Arts Radio, permittee of Station KUKE(FM), Channel 267A, Pasco, Washington, seeking the substitution of FM Channel 267C3 for Channel 267A and modification of the permit for Station KUKE(FM) accordingly. Pasco is located within 320 kilometers (199 miles) of the United States-Canadian border and, therefore, international coordination of this proposal is required. Coordinates used for requested Channel 267C3 at Pasco are 46-13-16 and 119-11-20.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Howard J. Barr and Neal J. Friedman, Esqs., Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-579, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90-28275 Filed 11-30-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-575, RM-7236]

Radio Broadcasting Services; Clarksburg, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on the substitution of Channel 223A for Channel 224A at Clarksburg, West Virginia, and the modification of the license for Station WVHF-FM to specify operation on the alternate Class A channel, in response to a petition filed by the Harrison Corporation. Channel 223A can be

allotted to Clarksburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.4 kilometers (2.7 miles) west of the community to accommodate petitioner's desired transmitter site. The coordinates for Channel 223A at Clarksburg are North Latitude 39–15–48 and West Longitude 80–23–40. Canadian concurrence is required since Clarksburg is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before January 22, 1991, and reply comments on or before February 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–575, adopted November 8, 1990, and released November 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 90–28276 Filed 11–30–90; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 55, No. 232
Monday, December 3, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Public Law No. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies in carrying out their programs, will meet in Plenary Session on Monday, December 17, 1990 from 1 p.m. until approximately 5 p.m., and on Tuesday, December 18, 1990 from 9:15 a.m. until approximately 12 noon in the Amphitheatre of the Office of Thrift Supervision, Second Floor, 1700 G Street, NW., Washington, DC.

The Conference's Plenary Session will begin with a symposium on the history and future of the Administrative Conference. The symposium will conclude at approximately 2:45 p.m., after which the Conference will consider, not necessarily in the order stated, proposed recommendations on the following subjects:

1. Federal Agency Electronic Records Management and Archives;

2. Simplified Proceedings at the Occupational Safety and Health Review Commission;

3. Congressional Demands for Sensitive Agency Information; and

4. Medicaid Rulemaking and Policymaking.

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street, NW., suite 500, Washington, DC 20037, telephone (202) 254–7020.

Dated: November 29, 1990.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 90–28406 Filed 11–30–90; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Request for Designation Applicants to Provide Official Services in the Geographic Area Currently Assigned to the State of Alaska (AK) and the Memphis (TN) Agency

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic areas currently assigned to the specified agencies. The official agencies are the Alaska Department of Natural Resources, Division of Agriculture (Alaska) and the Memphis Grain and Hay Association (Memphis).

DATE: Applications must be postmarked on or before January 2, 1991.

ADDRESSES: Applications must be submitted to Neil E. Porter, Deputy Director, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–447–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 152–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Alaska, located at 915 South Bailey, Palmer, AK, 9645–0949, and Memphis located at 1390 Channel Avenue, Memphis TN, 38113, were designated under the Act on June 1, 1988, as official agencies to provide official inspection services.

The designations of these official agencies terminate on May 31, 1991. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Alaska, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of Alaska, except those export port locations within the State which are serviced by the Service.

The geographic area presently assigned to Memphis, in the States of Arkansas and Tennessee, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Arkansas: Craighead, Crittenden, Cross, Lee, Mississippi, Phillips Poinsett, and St. Francis Counties.

In Tennessee: Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton Counties.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Continental Grain Co., and West Tennessee Soya, both in Tiptonville, and Planters Gin, Ridgely, all in Lake County, Tennessee (located inside Cairo Grain Inspection Agency, Inc.'s area); and Lockhart-Coleman Grain Company, Augusta, Woodruff County, Arkansas (located inside Little Rock Grain Exchange Trust's area).

Interested parties, including Alaska and Memphis, are hereby given opportunity to apply for official agency designation to provide the official

services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning June 1, 1991, and ending May 31, 1994. Parties wishing to apply for designation should contact the Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: November 15, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–28146 Filed 11–30–90; 8:45 am]

BILLING CODE 3410–EN–M

Designation Renewal of the Decatur (IL) Agency and the State of South Carolina (SC)

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Decatur Grain Inspection, Inc. (Decatur), and the South Carolina Department of Agriculture (South Carolina), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: January 1, 1991.

ADDRESS: Neil E. Porter, Deputy Director, Compliance Division, FGIS, USDA, room 1647, South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–447–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service announced that Decatur's and South Carolina's designations terminate on December 31, 1990, and requested applications for official agency designation to provide official services within specified geographic areas in the July 2, 1990, **Federal Register** (55 FR 27277). Applications were to be postmarked by August 1, 1990. Decatur and South Carolina were the only applicants, and each applied for the entire area currently assigned to that agency.

The Service announced the applicant names in the September 4, 1990, **Federal Register** (55 FR 35912) and requested comments on the applicants for designation. Comments were to be postmarked by October 19, 1990. No comments were received.

The Service evaluated all available information regarding the designation criteria in section 8(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Decatur and South Carolina are able to provide official services in the geographic areas for which the Service is renewing their designation.

Effective January 1, 1991, and terminating December 31, 1993, Decatur and South Carolina are designated to provide official inspection services in their specified geographic areas, as previously described in the July 2 **Federal Register.**

Interested persons may obtain official services by contracting Decatur at 217–429–2466, and South Carolina at 803–554–1311.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: November 15, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–28144 Filed 11–30–90; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on the Designation Applicants in the Geographic Areas Currently Assigned to the Gibson City (IL) et al.

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to Donald Swanstrom dba Gibson City Grain Inspection Department (Gibson City), Indianapolis Grain Inspection & Weighing Service, Inc. (Indianapolis), and the Wyoming Department of Agriculture (Wyoming).

DATE: Comments must be postmarked on or before January 17, 1991.

ADDRESSES: Comments must be submitted in writing to Paul Marsden, RM, FGIS, USDA, room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

SprintMail users may respond to [PMARSDEN/FGIS/USDA].

Telecopier users may send responses to the automatic telecopier machine at 202–447–4628, attention: Paul Marsden.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul Marsden, telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the October 1, 1990, **Federal Register** (55 FR 39995). Applications were to be postmarked by October 31, 1990. Gibson City, Indianapolis, and Wyoming were the only applicants for designation in those areas, and each applied for the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register,** and the applicants will be informed of the decision in writing.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: November 15, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–28145 Filed 11–30–90; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on the Designation Applicant in the Geographic Area Currently Assigned to the Springfield (IL) Agency

AGENCY: Federal Grain Inspection Service (Service), HHS.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation

in the geographic area currently assigned to Glen Wallace dba Springfield Grain Inspection Department.

DATE: Comments must be postmarked on or before January 17, 1991.

ADDRESES: Comments must be submitted n writing to Paul Marsden, RM, FGIS, USDA, room 0628, South Building, P.O. Box 96454, Washington, DC 20090-6454.

SprintMail users may respond to [PMARSDEN/FGIS/USDA].

Telecopier users may send responses to the automatic telecopier machine at 202–447–4628, attention: Paul Marsden.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul Marsden, telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within a specified geographic area in the October 1, 1990, **Federal Register** (55 FR 39996). Applications were to be postmarked by October 31, 1990. Springfield Grain Inspection, Inc. was the only applicant, and applied for the entire geographic area.

This notice provides interested persons the opportunity to present their comments concerning the applicant for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register,** and the applicant will be informed of the decision in writing.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: November 15, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–28148 Filed 11–30–90; 8:45 am]

BILLING CODE 3410-EN-M

Designation of the John R. McCrea Agency, Inc. (IA) Agency

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation of John R. McCrea Agency, Inc. (McCrea), as an official agency responsible for providing official services under the U.S. Gain Standards Act, as Amended (Act).

EFFECTIVE DATE: January 1, 1991.

ADDRESSES: Neil E. Porter, Deputy Director, Compliance Division, FGIS, USDA, room 1647, South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–447–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that John R. Mcrea dba John R. McCrea Agency requested the voluntary cancellation of its designation, effective December 31, 1990, and requested applications for official agency designation to provide official services within the specified geographic area in July 2, 1990, **Federal Register** (55 FR 27278).

Applications were to be postmarked by August 1, 1990. McCrea was the only applicant for designation and applied for the entire area.

The Service announced the applicant name in the September 4, 1990, **Federal Register** (55 FR 35913) and requested comments on the applicant for designation. Comments were to be postmarked by October 19, 1990. No comments were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that McCrea is able to provide official services in the geographic area for which the Service is designating it.

Effective January 1, 1991, and terminating December 31, 1993, McCrea is designated to provide official inspection services in the specified geographic area previously described in the July 2 **Federal Register.**

Interested persons may obtain official services by contacting McCrea at 319–242–2073.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: November 15, 1990.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 90–28147 Filed 11–30–90; 8:45 am]

BILLING CODE 3410-EN-M

Packers and Stockyards Administration

Proposed Posting of Stockyards; Hazel Green Horse Auction, et al

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

AL–183 Hazel Green Horse Auction, Hazel Green, Alabama

GA–208 Hugh Watson Stockyard, Gainesville, Georgia

GA–209 Cordele Livestock Market, Inc., Cordele, Georgia

MO–268 Bates Co. Sales, Inc., Rich Hill, Missouri

Pursuant to the authority under section 302 of the Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, Room 3408—South Building, U.S. States Department of Agriculture, Washington, DC 20250 by December 28, 1990.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 28th day of November, 1990.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 90–28283 Filed 11–30–90; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

Milton Community Development RC&D Measure, Delaware

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Milton Community Development RC&D Measure, in Sussex County, Delaware.

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Soil Conservation Service, 9 E. Loockerman Street, Dover, Delaware, 19901, telephone (302) 678-4160.

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

As a result of these findings, Elesa Cottrell, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan to: (1) Grade and protect approximately 1,500 feet of riverbank which is currently being undercut by the Broadkill River, (2) build an aluminum picket fence between the town's public library and the Broadkill River, (3) replace the deteriorating narrow asphalt walkway with a 10 foot wide brick walkway, (4) replace the guard railing and inadequate overhead lighting system along the Broadkill River and next to the public parking lot, (5) beautify the downtown area by installing two sitting areas and two areas for trees in the public parking lot, (6) install a bronze plaque in one of the sitting areas to honor the five former governors from this community, (7) install a flap-gate on the storm drain in the public parking lot to eliminate a local flooding condition, (8) build a footbridge across the Broadkill River so pedestrians will be able to circle the entire project area, and (9) continue the brick walkway from the public parking lot area to Wagamon's Pond spillway.

The installation of this project will increase the quality of life in this small community.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Elesa K. Cottrell.

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

Dated: November 26, 1990.

Lester E. Stillson,

Acting State Conservationist.

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

Introduction

The Milton Community Development RC&D Measure is a federally assisted action authorized for planning under section 1528-1538 of the Agriculture and Food Act (Public Law 97-98). An environmental assessment was undertaken in conjunction with the development of the RC&D measure plan. This assessment was conducted in consultation with local, state, and federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location:

U.S. Department of Agriculture, Soil Conservation Service, 207 Treadway Towers, 9 E. Loockerman Street, Dover, Delaware 19901-7377.

Recommended Action

The project sponsors plan to: (1) Grade and protect approximately 1,500 feet of shoreline which is currently being undercut by the Broadkill River, (2) build an aluminum fence between the town's public library and the Broadkill River, (3) replace a deteriorating narrow asphalt walkway with a 10 foot wide brick walkway, (4) replace the guard railing and inadequate overhead lighting system, (5) beautify the downtown area by installing two sitting areas and two areas for trees in the public parking lot, (6) install a bronze plaque in one of the sitting areas to honor the five former governors from this community, (7) install a flap-gate on the existing storm drain in the public parking lot to eliminate a local flooding condition, (8) build a footbridge across the Broadkill River so pedestrians will be able to circle the entire project area, and (9) continue the brick walkway from the parking lot area to Wagamon's Pond spillway.

Effect on Recommended Action

The proposed action will: (1) Eliminate the soil erosion that is occurring from the vertical riverbank and reduce a safety hazard, (2) beautify this small community, (3) honor the five former governors that came from this community, (4) eliminate a local flooding condition, and (5) allow pedestrians to circle the entire project area.

There are no threatened or endangered species of plants or animals that would be affected by the installation of the proposed project. The State Historic Preservation Officer has indicated that the project area is located on a site of no archaeological resources and that no reconnaissance is necessary.

No significant adverse environmental impact will result from the proper installation of the proposed project.

Alternatives

A. To do nothing would not meet the objectives of the sponsors nor the RC&D Council. The riverbank would continue to erode and trees along the bank would continue falling into the river. The beautification of the downtown area would not be addressed and the five former governors would not be recognized for their outstanding contribution. Further, the quality of life in the greater Milton area would not be improved.

B. The selection of alternate sites would not reduce the erosion that is currently occurring, nor would it address the local flooding problem.

C. Proceed with the proposed plan to correct the erosion problem, eliminate the flooding problem, honor the five former governors, and improve the appearance of the downtown area.

Alternative "C", the selected plan, will meet the needs and objectives of the sponsor and is compatible with the objectives of the first State RC&D Council and the Sussex County RC&D Committee.

Conclusion

The Environmental Assessment summarized above indicates that this federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined

that an environmental impact statement for the Milton Community Development Measure is not required.

Dated: November 26, 1990.

Lester E. Stillson,

Acting State Conservationist.

[FR Doc. 90-28224 Filed 11-30-90; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-421-060]

Animal Glue and Inedible Gelatin From the Netherlands; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on animal glue and inedible gelatin from the Netherlands. Interested parties who object to this revocation must submit their comments in writing not later than December 31, 1990.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, the Department of Treasury published an antidumping finding on animal glue and inedible gelatin from the Netherlands (42 FR 64115). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than December 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by December 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by December 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: November 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-28308 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-061]

Animal Glue and Inedible Gelatin From Sweden; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on animal glue and inedible gelatin from Sweden. Interested parties who object to this revocation must submit their comments in writing not later than December 31, 1990.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, the Department of Treasury published an antidumping finding on animal glue and inedible gelatin from Sweden (42 FR 64416). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than December 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by December 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by December 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: November 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-28309 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-479-063]

Animal Glue and Inedible Gelatin From Yugoslavia; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on animal glue and inedible gelatin from Yugoslavia. Interested parties who object to this revocation must submit their comments in writing not later than December 31, 1990.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S.

Department of Commerce, Washington, DC 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, the Department of Treasury published an antidumping finding on animal glue and inedible gelatin from Yugoslavia (42 FR 64416). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than December 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by December 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by December 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: November 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–28310 Filed 11–30–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–025]

Clear Sheet Glass From Italy; Intent To Revoke Antidumping Finding.

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Intent to Revoke Antidumping Finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on clear sheet glass from Italy. Interested parties who object to this revocation must submit their comments in writing not later than December 31, 1990.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph Fargo or Laurie Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–5253.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1971, the Department of Treasury published an antidumping finding on clear sheet glass from Italy (36 FR 23360). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than December 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by December 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by December 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: November 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–28311 Filed 11–30–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–046]

Polychloroprene Rubber From Japan; Intent To Revoke Antidumping Finding.

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on polychloroprene rubber from Japan. Interested parties who object to this revocation must submit their comments in writing not later than December 31, 1990.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1971, the Department of Treasury published an antidumping finding on polychloroprene rubber from Japan (38 FR 33593). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than December 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by December 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by December 31, 1990, we shall conclude that the finding is no longer of interest to

interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: November 26, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-28312 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-517-501]

Carbon Steel Wire Rod From Saudi Arabia; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on carbon steel wire rod from Saudi Arabia. We preliminarily determine the total bounty or grant to be 0.43 percent *ad valorem* for the period January 1, 1987 through December 31, 1987. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1986, the Department of Commerce (the Department) published in the **Federal Register** (51 FR 4206) the final affirmative countervailing duty determination and countervailing duty order on carbon steel wire rod from Saudi Arabia. On February 29, 1988, Georgetown Steel Corporation, Northstar Steel Texas, Inc., Raritan River Steel Company and Atlantic Steel Company, petitioners in this proceeding, requested an administrative review of the order. We published the initiation on March 25, 1988 (53 FR 9788). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Saudi carbon steel wire rod. Carbon steel wire rod is a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. During the review period, such merchandise was classifiable under item numbers 607.1400, 607.1710, 607.1720, 607.1730, 607.2200 and 607.2300 of the *Tariff Schedules of the United States Annotated* (TSUSA). Such merchandise is currently classifiable under HTS item numbers 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7213.41.30, 7213.41.60, 7213.49.00 and 7213.50.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and eight programs. During the review period, there was only one Saudi producer and exporter of the subject merchandise, the Saudi Iron and Steel Company (HADEED).

Analysis of Programs

(1) Public Investment Fund Loan to HADEED

The Public Investment Fund (PIF) was established in 1971 as one of five specialized credit institutions set up by the Government of Saudi Arabia. The other specialized credit institutions are the Saudi Industrial Development Fund (SIDF), the Saudi Agricultural Bank, the Saudi Credit Bank and the Real Estate Development Fund. These specialized credit institutions are funded completely by the Saudi government and were the only sources of long-term financing in Saudi Arabia during the review period.

The PIF was established in 1971 to provide financing to large-scale, commercially productive projects that have some equity participation of the Saudi government. PIF by-laws exclude firms or projects without Saudi government equity from applying to the PIF for financing. From 1973 through the end of the review period, the PIF has provided loans to 18 firms. Of these, 12 (including HADEED) are at least 50 percent-owned by the Saudi Basic Industries Corporation (SABIC). Of the remaining six borrowers, three are 50 percent-owned by PETROMIN, and three are unrelated: Saudia Airlines, a utility company and a real estate investment fund. We verified that firms receiving PIF financing represent less than one-half of all large scale firms, and only a very small portion of all industrial enterprises, in the Kingdom.

Because only firms with some direct or indirect government equity participation are eligible for PIF financing, only a few enterprises have received PIF financing. We therefore preliminarily determine that PIF loans are provided to a specific group of enterprises in Saudi Arabia, and that the PIF loan to HADEED is countervailable to the extent that it is given on terms inconsistent with commercial considerations.

The PIF loan to HADEED was part of the initial investment package for construction of a direct reduction plant, a steel making plant, and a rolling mill at Jubail. The PIF loan comprised 60 percent of HADEED's total capitalization. The first repayment of loan principal was not due until 1989, five and one-half years after the October 1983 start-up of production at the plant. For the period between start-up and commencement of principal repayment, the loan contract requires that HADEED pay a variable service charge, or interest, on the outstanding balance based on its profitability in a given fiscal year. In January 1990, after resolution of a dispute between the PIF and HADEED regarding the amount of service charge that was due to be paid in August 1987, HADEED paid the PIF a service charge equal to three percent of the outstanding balance as of August 1987, the amount that the PIF had determined was due in 1987. There was no penalty as a result of the delayed payment.

Using the two sources for medium- to long-term industrial financing available in Saudi Arabia, the commercial banks and the SIDF, we have constructed a composite benchmark interest rate to determine whether the PIF loan to HADEED was on terms inconsistent with commercial considerations. Since the PIF loan covered 60 percent of HADEED's total project costs, for our

benchmark we assumed that HADEED could have financed 50 percent of its total project costs with a SIDF loan (the maximum eligibility for a company with at least 50 percent Saudi ownership) and the remaining 10 percent of project costs with a Saudi commercial bank loan. The SIDF loan portion of the benchmark was used because, of all the specialized credit institutions, it is the only fund besides the PIF which lends to industrial or manufacturing projects and, thus, is most representative of what HADEED would otherwise have to pay for long-term loans in Saudi Arabia. We used the two-percent flat rate of interest applied to SIDF loans through 1987. The commercial bank portion of the benchmark was based on the average rate of interest on HADEED's medium-term commercial borrowings during the review period.

In order to determine the value in 1987 of the service charge on HADEED's PIF loan, we discounted the nominal amount of the service charge that HADEED paid by three percent per annum for the period between August 1987 and January 1990. We then compared the amount of the discounted service charge with the amount of interest that would have been due in August 1987 based on our benchmark interest rate. Because the discounted service charge is less than the amount of interest that would have been due had HADEED borrowed at the benchmark rate, we preliminary determine that the amount of the interest savings from the PIF loan provided a counteravailable bounty or grant to HADEED. To calculate the benefit, we divided the interest savings by HADEED's total sales in 1987. On this basis, we preliminarily determine the benefit from the PIF loan to be 0.16 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

(2) SABIC's Transfer of SULB shares to HADEED

SABIC was established in 1976 by the Government of Saudi Arabia as an industrial development corporation. SABIC has been the majority shareholder in HADEED since the steel company's inception in 1979. In 1982, SABIC acquired all of the remaining shares in the Steel Rolling Company (SULB), a Saudi producer of steel reinforcing bars of which SABIC had been the majority shareholder since 1979. In December 1982, SABIC decided to transfer its shares in SULB to HADEED in return for new HADEED stock. Through the stock transfer, SULB became a wholly-owned subsidiary of HADEED.

In Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod From Saudi Arabia, (51 FR 4206; February 3, 1986), we determined that HADEED was unequityworthy in December 1982 and that the transfer of SABIC's shares in SULB to HADEED in exchange for additional shares in HADEED was inconsistent with commercial considerations.

To determine the benefit to HADEED from the acquisition of SULB, we used our rate of return shortfall methodology. We determined the amount of the equity infusion to be the net book value of SULB's equity at the time of the transfer. As best available information on the national average rate of return on equity in Saudi Arabia, we used the 1987 annual average rate of return on U.S. direct investment in Saudi Arabia. Based on the most recent data available from the U.S. Commerce Department's Bureau of Economic analysis, the 1987 average rate of return on equity was 12.39 percent. We computed the rate of return shortfall by taking the difference between this figure and the 1987 rate of return on equity in HADEED. We multiplied the rate of return shortfall by the net book value of SULB' equity, and divided the resulting figure by the total value of HADEED's and SULB's consolidated sales in 1987. On this basis, we preliminarily determine the benefit from this equity infusion to be 0.14 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

We note that under no circumstances do we countervail in any year an amount greater than that which would result from treating the government's equity infusion as an outright grant. We calculated this "grant cap" by using as our allocation period the average useful life of assets in the steel industry which, according to the "Asset Guideline Classes" of the U.S. Internal Revenue Service, is 15 years. Using the average weighted cost of capital in Saudi Arabia in 1982 as a discount rate, our declining balance grant methodology would yield a benefit in the review period of 0.29 percent *ad valorem*, if the amount of the equity infusion were treated as a grant.

(3) Preferential Provision of Equipment to HADEED

Under a lease/purchase arrangement, the Royal Commission for Jubail and Yanbu built for HADEED two bulk ship unloaders at the Jubail industrial port for unloading iron ore, and constructed a conveyor belt system for transporting iron ore from the pier to HADEED's plant in the Jubail Industrial Estate. When construction of these facilities was completed in 1982, the Commission transferred custody to HADEED under a lease/purchase agreement.

As originally planned, the bulk ship unloader and conveyor system was built to serve both HADEED and an adjacent plant in the Jubail Industrial Estate. The second plant was not built, however, leaving HADEED as the sole user of this equipment. The terms of the lease/purchase agreement require that HADEED must repay the equipment and construction costs plus a two-percent fee for the cost of money in 20 annual installments. The annual payments are stepped, with the lowest payment levels occurring at the beginning and the highest payment levels occurring at the end of the 20-year period.

In the *Saudi Wire Rod* (*op. cit.*), we found that the two-percent cost-of-money fee is the Commission's standard charge for recovery of costs on other facilities in the Jubail Industrial Estate. Of the projects examined, a urea berthside handling system built for the exclusive use of another company located in the Estate was the most comparable to HADEED ship unloader and conveyor system. Therefore, we compared the repayment schedule for HADEED's ship unloader and conveyor system to the repayment schedule for a berthside handling system. Although both agreements carried the standard cost-of-money fee, we found that HADEED's end-loaded, stepped repayment schedule was more advantageous than the annuity-style repayment schedule on the berthside handling system. Therefore, we determine that HADEED's ship unloader and conveyer system was provided on preferential terms. Moreover, because the equipment is used exclusively by HADEED, we find that it is provided to a specific enterprise and, thus, confers a bounty or grant.

To calculate the benefit, we compare the principal and fees being paid in each year by HADEED to the principal and fees that would be paid under the repayment schedule used for the berthside handling system. We allocated the sum of the present values of the differences in the two repayment schedules over 20 years, using a two-percent discount rate. The resulting benefit for 1987 was then divided by the value of HADEED's sales during the review period. On this basis, we preliminarily determine the benefit from the preferential provision of the unloader and conveyor system to be 0.02 percent *ad valorem* for the period January 1, 1987 through December 31, 1987.

(4) Income Tax Holiday for Joint Venture Projects in Saudi Arabia

Under Article 7 of the Foreign Capital Investment Code of January 1, 1979, a 10-year income tax holiday may be granted for economic development projects. The following three conditions must be fulfilled to obtain approval by the Saudi Foreign Investment Committee: (1) Saudi participation is not less 25 percent of total capital; (2) the foreign capital shall be invested in nontraditional development projects which, for the purposes of the Foreign Capital Investment Code, do not include petroleum related and/or mineral extraction projects; and (3) the investment shall be accompanied by foreign technical know-how and expertise. This tax holiday applies only to income taxes that are owed by the foreign share of the enterprise.

Companies with foreign capital comprised less than one-fourth of all companies operating in the Kingdom during the review period, of which those companies in nontraditional industries are a further subgroup. Because the application of these criteria limited benefits under this program to a discrete class of beneficiaries and a relatively small number of enterprises, we determine that it is specific and countervailable.

In 1987, HADEED reported a profit for fiscal year 1986. Thus, DEG, HADEED's foreign partner, would have been liable for income tax during the review period had it not still been eligible for the income tax holiday.

At verification, we examined income tax calculations for HADEED and found what DEG's tax liability for 1987 would have been if it had not been entitled to the income tax holiday. To calculate the benefit from the tax holiday, we divided the amount of tax DEG would have paid absent the tax holiday by HADEED's total sales for 1987. On this basis, we preliminarily determine the bounty or grant from the income tax holiday to be 0.11 percent *ad valorem*.

(5) Other Programs

We also examined the following programs and preliminarily determine that HADEED did not benefit from them during the review period:

1. SABIC loan guarantees;

2. Preferential provision of services by SABIC;

3. Government procurement preferences; and

4. Issuance of preferential government bonds.

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant to be 0.43 percent *ad valorem* for the period January 1, 1987 through December 31, 1987. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1987 and exported on or before December 31, 1987.

The Department also intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

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 355.22.

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-28313 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Modification: Ms. Nancy Black and Dr. Bernd Wursig (P36A)

Modification No. 1 to Permit No. 630

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research No. 630 issued to Ms. Nancy Black and Dr. Bernd Wursig, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, California 95039, on April 13, 1988, is hereby modified in the following manner:

A. Number and Kind of Marine Mammals

Sections A.1., A.1.a. and A.1.b. of Permit No. 630 are deleted and replaced with:

A.1. Up to 500 Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) may be taken annually by inadvertent harassment during photographic studies. Animals may be encountered and photographed more than once; although during any single encounter no more than three attempts may be made to approach a single individual, cow/calf pair, or discrete group of animals within 100 yards.

A.2. Of the animals listed in A.1, up to seven (7) may be tagged as described in the application and modification request.

A.3. During any single encounter, each approach of an animal within a distance less than 100 yards (i.e., each approach of an animal in a manner inconsistent with Southwest Regional Guidelines) shall be counted as a take against the authorized number.

B. Special Conditions

Section B.6 and B.8 are changed to read:

B.6 The Holder shall submit a report by December 31 of each year the permit is valid. The report shall include information on the use and effects of radio tagging and marking, specifically:

a. The number of days on the water and the number of vessels operating and number of people involved;

b. The number of animals approached and photographed;

c. The number of times each animal or discrete group of animals was approached, the number of tagging attempts for each animal, and the distance(s) of each approach/tagging attempt;

d. The nature of any and all incidents where the behavior of animals may have changed in response to the research activities, including a description of the animals' behavior before, during, and after the research activities;

e. Whether and how response varied, by time, location, nature of approach, etc;
f. Measures taken to minimize disturbance and the apparent effectiveness thereof; and
g. A description of the objectives, methods, and results of the research.

B.8 This Permit is valid with respect to the taking authorized herein until December 31, 1991.

This modification becomes effective upon publication in the **Federal Register.**

The Permit and modification are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Silver Spring, Maryland 20910;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 23, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-28235 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit: Dr. Susan H. Shane

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Permit: Dr. Susan H. Shane (P127D).

On September 4, 1990, notice was published in the **Federal Register** (55 FR 35924) that an application had been filed by Dr. Susan H. Shane, 250 Cottini Way, Santa Cruz, California 95060, to conduct scientific research which involves the potential take by harassment of Atlantic bottlenose dolphins (*Tursiops truncatus*).

Notice is hereby given that on November 23, 1990, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a Scientific Research Permit for the above taking, subject to certain conditions set forth therein.

The National Marine Fisheries Service has determined that this research satisfies the issuance criteria for scientific research permits. The taking is required to further a bona fide scientific purpose and does not involve the unnecessary duplication of research. No lethal taking is authorized.

Interested persons may review the Permit and documents submitted in connection with the application by appointment at the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910 (301/427-2289);

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893-3141); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514-6196).

Dated: November 23, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-28236 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License, Afferon Corp.

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the national Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Number 4,939,149 entitled "Use of Resininferatoxin and Analogues Thereof to Cause Sensory Afferent C-Fiber and Thermoregulatory Desensitization" and the U.S. Patent Application Serial Number 7-358,073, entitled "New Class of Compounds Having a Variable Spectrum of Activities for Capsaicin-Like Responses, Compositions and Uses Thereof" and the divisional application 7-515,721, to Afferon Corporation, have a place of business at Tucson, AZ. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 36 U.S.C. 209 and 37 CFR 404.7. The licensee is restricted to the field of topical human and veterinary medical uses of resin inferatoxin or like molecules.

The invention of U.S. Patent 4,939,149 relates to a method for desensitizing a subject animal, which comprises administering to the subject animal a therapeutically effective desensitizing amount of resininferatoxin for desensitizing the subject animal to neurogenic inflammation, to chemically and thermally induced pain and to responses involving sensory afferent pathways sensitive to capsaicin and to responses involving the hypothalamic temperature control region, and a pharmaceutically acceptable carrier therefor.

The invention of U.S. Patent Application 7-358,073 relates to a new class of compounds having a variable spectrum of activities for capsaicin-like responses, compositions thereof, processes for preparing the same, and uses thereof. Compounds of the invention are prepared by combining phorbol related diterpenes and homovanillac acid analogs via esterification at the exocyclic hydroxy group of the diterpene. Examples of these compounds include 20-homovanillyl-mezerein and 20-homovanillyl-12-deoxyphrobol-13-phenylacetate.

The availability of the invention for licensing has published in the **Federal Register** of December 8, 1988 (53 FR 49583) and of December 19, 1989 (54 FR 51925). A copy of the instant patent application SN 7-358,073 may be purchased from the NTIS Sales Desk by telephoning 703/487-4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

A copy of the U.S. Patent 4,939,149 may be purchased for $1.50 from the following address:

U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Center for Utilization of Federal Technology, NTIS, box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technolgy, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90-28225 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-04-M

Prospective Grant of Exclusive Patent License; Holton Industries, Inc.

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i)

that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial Number 7-398,564, "Grooming and/or Foraging Apparatus for Reduction of Stress in Caged Animals" to Holton Industries, Inc. having a place of business at Frenchtown, N.J. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention provides grooming and/or foraging opportunities for caged animals, specifically to nonhuman primates, in order to enrich the environment thereof, thus to reduce boredom and stress of the animals. By increasing normative behavior, the inventive method and apparatus reduce abnormal behavior and broaden the behavioral repertoire of the animal. The inventive structure includes a hard backing board of Plexiglass, Lexan, metal or other similar materials, covered with a natural or artificial cloth, fur, fleece, carpeting or the like. Food particles of different sizes with rough edges may be rubbed into the cloth material to elicit foraging activities from the animal.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 54, #242, p. 51925 (December 19, 1989).

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephone 1-800-336-4700 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Neil L. Mark, Center for the Utilization of Federal Technology, NTIS, box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90-28226 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Arab Republic of Egypt

November 27, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1991.

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) 566-5810. 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 Bilateral Cotton Textile Agreement of January 16, 1990 between the Governments of the United States and the Arab Republic of Egypt establishes import limits for the period January 1, 1991 through December 31, 1991.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

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). Information regarding the 1991 Correlation will be published in the **Federal Register** at a later date.

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.

Dated: November 27, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

November 27, 1990.

Dear Commissioners: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and the Arrangement Regarding International Trade in Textiles done in Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton Textile Agreement of January 16, 1990, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period which begins on January 1, 1991 and extends through December 31, 1991, in excess of the following levels of restraint:

Category	12-month restraint limit
218-220, 224-227, 313-317 and 326, as a group.	65,180,002 square meters.
Sublevels in the group	
218	2,508,000 square meters.
219	15,329,523 square meters.
220	15,329,523 square meters.
224	15,329,523 square meters.
225	15,329,523 square meters.
226	15,329,523 square meters.
227	15,329,523 square meters.
313	28,149,399 square meters.
314	15,329,523 square meters.
315	18,001,597 square meters.
317	15,329,523 square meters.
326	2,508,000 square meters.
Limits not in a group	
300/301	5,993,265 kilograms of which not more than 839,057 kilograms shall be in Category 301.
339	727,107 dozen.

Imports charged to these category limits for the period January 1, 1990 through December 31, 1990 shall be charged against those levels of restraints to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by

previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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. 90-28305 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textiles and Textile Products from Jamaica

November 27, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels for the new agreement year.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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) 566-5810. 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 Bilateral Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textile Agreement of August 27, 1986, as amended, between the Governments of the United States and Jamaica establishes limits and guaranteed access levels for the period January 1, 1991 through December 31, 1991.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

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). Information regarding the 1991 Correlation will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 6049, published on February 27, 1987; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 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.

Dated: November 27, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

November 27, 1990.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber and Other Vegetable Fiber Textile Agreement of August 27, 1986, as amended, between the Governments of the United States and Jamaica; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Jamaica and exported during the twelve-month period which begins on January 1, 1991 and extends through December 31, 1991, in excess of the following designated levels:

Category	12-month restraint level
331/631	350,000 dozen pairs.
336/636	118,000 dozen.
338/339/638/639	827,756 dozen.
340/640	387,080 dozen of which not more than 327,529 dozen shall be in shirts made from fabrics with two or more colors in the warp and/or the filling in Categories 340-Y/640-Y—(only HTS numbers. 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050, 6205.20.2060, 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060).
341/641	486,054 dozen.
342/642	175,000 dozen.
345/845	119,935 dozen.
347/348/647/648	893,459 dozen.
352/652	600,000 dozen.
445/446	48,098 dozen.
447	10,000 dozen.
632	100,000 dozen pairs.

Imports charged to these category limits for the period January 1,1990 through December 31, 1990 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and Jamaica.

In accordance with the provisions of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), you are directed to establish guaranteed access levels for properly certified cotton, man-made fiber and other vegetable fiber textile products in the categories listed below. These products shall be assembled in Jamaica from fabric formed and cut in the United States and re-exported to the United States from Jamaica during the twelve-month period which begins on January 1, 1991 and extends through December 31, 1991.

Category	Guaranteed access level
331/631	1,320,000 dozen pairs.
336/636	125,000 dozen.
338/339/638/639	1,500,000 dozen.
340/640	300,000 dozen.
341/641	375,000 dozen.
342/642	200,000 dozen.
345/845	50,000 dozen.
347/348/647/648	2,000,000 dozen.
352/652	3,250,000 dozen.
447	30,000 dozen.
632	3,300,000 dozen pairs.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements

established in the directive of February 19, 1987 shall be denied entry unless the Government of Jamaica authorizes the entry and any charges to the appropriate designated consultation levels or specific limits. Any shipment for entry under the Special Access Program which is found not to qualify for the Special Access Program may be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs shuld construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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 Texitle Agreements.

[FR Doc. 90-28306 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 27, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 4, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, 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 bulletion boards of each Customs port or call (202) 343-6496. 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 adjusted, variously, for swing, carryover and carryforward.

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 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.

Dated: November 27, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

November 27, 1990.

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 into the United States of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on December 4, 1990, the directive of November 16, 1989 is amended to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Malaysia:

Category	Adjusted 12-month limit [1]
Fabric group 218, 219,220, 225-227, 313-315, 317, 326 and 613/614/615/617, as a group.	62,157,976 square meters.
Group II 201, 222-224, 229, 239, 330, 332, 349, 350, 352-354, 359-362, 369-O,[2] 400-434, 436, 438-O,[3] 439, 440, 443, 444, 447, 448, 459, 464-469, 600-603, 606, 607, 611, 618-622, 624-630, 632, 633, 643, 644, 649, 650, 652-654, 659, 665-670 831-834, 836, 838, 839, 840 and 843-859, as a group.	30,859,935 square meters equivalent.
Other specific limits 237	266,257 dozen.
333/334/335/835	160,223 dozen of which not more than 74,439 dozen shall be in Category 333, not more than 74,439 dozen shall be in Category 334, not more than 74,439 dozen shall be in Category 335 and not more than 74,439 dozen shall be in Category 835.
336/636	310,492 dozen.
338/339	716,620 dozen.
340/640	868,112 dozen.
342/642/842	285,034 dozen.
345	99,684 dozen.
347/348	303,804 dozen.
351/651	168,826 dozen.
634/635	545,316 dozen of which not more than 220,338 dozen shall be in Category 635.
647/648	1,156,656 dozen of which not more than 749,406 dozen shall be in Category 647-K [4] and not more than 749,406 dozen shall be in Category 648-K. [5]

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 369-O: all HTS numbers except 6307.10.2005 (Category 369-S).

[3] Category 438-O: only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.3020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.0072, 6114.10.0020 and 6117.90.0024.

[4] Category 647-K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.0045.

[5] Category 648-K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0050 and 6117.90.0046.

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. 90-28307 Filed 11-30-90; 8:45 am]

BILLING CODE 3510-DR-M

Establishment, Amendment and Adjustment of Import Limits and Restraint Periods and Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 29, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing, amending, and adjusting limits restraint periods and amending visa requirements.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, 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) 535–6735. 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 the Republic of the Philippines reached agreement, effected by a Memorandum of Understanding (MOU) dated November 16, 1990, to amend further the Bilateral Cotton, Wool and Man-Made Fiber Textiles and Textile Product and Silk Blend and Other Vegetable Fiber Apparel Agreement of March 4, 1987, as amended. As a result, the limits for Categories 347/348, 361 and 659–H, which are currently filled, will re-open.

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 47546, published on November 15, 1989; and 52 FR 11308, published on April 8, 1987. Information concerning the 1991 correlation will be published in the **Federal Register** at a later date.

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.

Dated: November 29, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

November 29, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 9, 1989, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactrued in the Philippines and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Also, this directive cancels and supersedes the directives issued to you on September 13, 1990 and September 14, 1990 concerning imports of textile and apparel products in Categories 361 and 847, produced or manufactured in the Philippines and exported during the periods beginning on June 28, 1990, in the case of Category 361, and August 29, 1990, in the case of Category 847, and extending through December 31, 1990.

Effective on December 3, 1990, you are directed to establish a Group I limit for categories not previously in a group. Charges already made to these categories shall be retained and applied to the Group I limit. The restraint period for Categories 361, 363 and 847 in Group II shall be amended to end on June 30, 1990 for Categories 361 and 363 and May 31, 1990 for Category 847. Charges made to Categories 361, 363 and 847 for the periods January 1, 1990 through June 30, 1990 (Categories 361 and 363) and January 1, 1990 through May 31, 1990 (Category 847) shall remain subject to the Group II limit. The limits for certain categories are being adjusted and new sublevels are being established for Categories 359–S/659–S, 361, 363 and 847 in Group I for the periods indicated below.

Category	12-month limit [1] (Jan. 1, 1990–Dec. 31, 1990)
Group I:	
237, 239, 331, 333/334, 335, 336, 338/339, 340/640, 341/641, 342/642, 345, 347/348, 351/651, 352/652, 359–S/659–S [2], 361, 363, 369–S [3], 431, 433, 443, 445/446, 447, 604, 631, 633, 634, 635, 636, 638/639, 643, 645/646, 647/648, 649, 650, 659–H [4] and 847, as a group.	327, 062, 731 square meters equivalent.
Sublevels in Group I:	
347/348	1,478,432 dozen.
359–S/659–S	811,250 kilograms.
643	523,216 numbers.
645/646	373,050 dozen.
647/648	851,980 dozen.
659–H	842,375 kilograms.
7-month limit [5] (June 1, 1990–December 31, 1990):	
847	328,213 dozen.
6-month limit [6] (July 1, 1990–December 31, 1990):	
363	5,000,000 numbers.
18-month limit [6] (July 1, 1990–December 31, 1991):	
361	1,800,000 numbers.
Group II	
12-month limit [1] (January 1, 1990–December 31, 1990):	
200–229, 300–326, 330, 332, 349, 350, 353, 354, 359–0 [7], 360–363, 369–0 [8], 400–414, 432, 434–442, 444, 448, 459, 464–469, 600–603, 606–629, 630, 632, 644, 653, 654, 659–0 [9] 665–670, 831–847 and 850–859, as a group.	95,102,115 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 359–S: only HTS numbers 61112,39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 569–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 65050.90.5060, 6505.90.6080, 6505.90.7060 and 6505.90.8060.

[5] The limit has not been adjusted to account for any imports exported after May 31, 1990.

[6] The limits have not been adjusted to account for any imports exported after June 30, 1990.

[7] Category 359–0: all HTS numbers except 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359–S).

[8] Category 369–0: all HTS numbers except 6307.10.2005 (Category 369–S).

[9] Category 659–0: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6080, 6505.90.7060, 6505.90.8060 (659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6112.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (659–S).

Charges for goods exported prior to June 1, 1990 for Category 847 and prior to July 1, 1990 for Category 361 shall be charged to Group II as follows:

Category	Amount to be charged
361	30,312 numbers.
847	None.

You are directed to charge the following amounts to Categories 359–S/659–S, 361, 363 and 847 for the restraint periods indicated. These charges are for goods exported during the periods beginning January 1, 1990 (Categories 359–S/659–S), June 1, 1990 (Category 847) and July 1, 1990 (Categories 361 and 363) and extending through October 31, 1990.

Category	Amount to be charged	Restraint period
359–S	214,779 kilograms.	Jan. 1, 1990–Dec. 31, 1990.
361	531,469 numbers.	July 1, 1990–Dec. 31, 1991

Category	Amount to be charged	Restraint period
363	1,612,044 numbers.	July 1, 1990–Dec. 31, 1990.
659–S	288,254 kilograms.	Jan. 1, 1990–Dec. 31, 1990.
847	76,366 dozen	June 1, 1990–Dec. 31, 1990.

Also, you are directed to deduct 178,346 kilograms for Category 359–O from the charges made to the 1990 Group II limit.

The conversion factors are indicated below:

Category	Conversion factor
333/334	34.53
352/652	11.3
638/639	12.96
359–S/659–S	11.8

Effective on December 3, 1990, you are directed to amend the visa requirements established in the directive of April 3, 1987 to include the coverage of cotton and man-made fiber textile products in newly merged Categories 359–S/659–S, produced or manufactured in the Philippines and exported on and after December 3, 1990.

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. 90–28414 Filed 11–29–90; 2:48 pm]

BILLING CODES 3510–DR–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Dependency Information-Children, Air Force Forms 1865, 1866, and 1867, OMB No. 0701–0110.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: .5 Hours.

Responses Per Respondent 1.

Number of Respondents: 7,887.

Annual Burden Hours: 3,943.

Annual Responses: 7,887.

Needs and Uses: Used to obtain information from the member, retired member, or deceased member to determine dependency for entitlement to basic allowance for quarters with-dependents rate, travel, or Uniformed Services Identification and Privilege Card of illegitimate, adopted/stepchildren and incapacitated children.

Affected Public: Individuals or households.

Frequency: Annually.

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

OMB Desk Officer: Dr. J. Timothy Sprehe.

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

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: November 28, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–28291 Filed 11–30–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Committees; Establishment of the Nuclear Fail-Safe and Risk Reduction Advisory Committee

ACTION: Establishment of the Nuclear Fail-Safe and Risk Reduction Advisory Committee.

SUMMARY: Under the provisions of Public Law 92–463, "Federal Advisory Committee Act," notice is hereby given that the Nuclear Fail-Safe and Risk Reduction Advisory Committee (Fail-Safe Committee) is being established.

The Fail-Safe Committee will advise the Secretary of Defense regarding a full-scale, comprehensive and independent analysis and evaluation of nuclear command and control procedures in the post-cold war period. In making the analysis, the Fail-Safe Committee will consider all aspects of existing and recommended positive measures for safety, security, and control of nuclear weapons, as they relate to assured execution of national policy and the prevention of unauthorized use of these weapons.

The Fail-Safe Committee will be composed of approximately five members appointed directly by the Secretary of Defense. There will be three private sector individuals and two senior DoD official serving as members. The membership will be well-balanced and composed of persons with broad experience in and knowledge of the political, technical, and military issues involved. To further ensure objectivity and balance, the criteria for selection will specify that some members must not be involved currently in the nuclear chain of command.

Dated: November 28, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–28289 Filed 11–30–90; 8:45 am]

BILLING CODE 3810–01–M

Strategic Defense Initiative Advisory Committee; Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on December 10–11, 1990.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on December 10–11, 1990 the committee will discuss the possible near-term approach for Theater Ballistic Missile Defense vis-a-vis new technological capabilities and new system concepts.

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

Dated: November 28, 1990.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–28290 Filed 11–30–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP91-477-000, et al.]

Sabine Pipe Line Co., et al.; Natural Gas Certificate Filings

November 26, 1990.

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

1. Sabine Pipe Line Co.

[Docket No. CP91-477-000]

Take notice that on November 20, 1990, Sabine Pipe Line Company (Sabine), P.O. Box 4781, Houston, Texas 77210, filed in Docket No. CP91-477-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Exxon Corporation (Exxon), under Sabine's blanket certificate issued in Docket No. CP86-522-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Sabine proposes to transport, on a firm basis, up to 5,000 MMBtu of natural gas per day for Exxon. Sabine states that construction of facilities would not be required to provide the proposed service.

Sabine further states that the maximum day, average day, and annual transportation volumes would be approximately 5,000 MMBtu, 5,000 MMBtu and 1,825,000 MMBtu respectively.

Sabine advises that service under § 284.223(a) commenced October 1, 1990, as reported in Docket No. ST91-1748-000.

Comment date: January 10, 1991, in accordance with Standard paragraph G at the end of this notice.

2. Northern Natural Gas Co.

[Docket No. CP91-484-000]

Take notice that on November 20, 1990, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-484-000 a request pursuant to §§ 157.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.2160 for authorization to abandon by sale certain facilities and install and operate a delivery point as a sales facility under its blanket certificate issued in Docket No. CP82-401-000, pursuant to sections 7(b) and (c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Northern proposes to abandon by sale to Peoples Natural Gas Company, Division of Utilicorp, Inc. (Peoples), approximately 2.5 miles of the Omaha "A" 18-inch branch line, easements and twelve farm taps and to install and operate one new delivery point and appurtenant facilities as jurisdictional sales facilities to allow Peoples to make natural gas deliveries to existing farm tap customers in Cass County, Nebraska.

It is indicated that due to a change in the classification of the pipe by the Department of Transportation, the 2.5-mile segment of line had to be rearranged to keep from jeopardizing service to Omaha and various farm tap customers along the line. Northern states that in 1989, a portion of the Omaha "A" branchline was rearranged by (1) the installation of new pipe in a different location which serves as a portion of the high pressure Omaha "A" branchline; (2) installing a regulator on the south end of the 2.5 mile segment of the Omaha "A" branchline to reduce the pressure to 50 pounds per square inch; and (3) cutting/capping the north end of the segment. Northern states that the proposed abandonment and transfer of ownership would not require removal of facilities or termination of any service because the pipeline to be transferred would continue to be operated by Peoples.

Northern states that the purpose of the new delivery point is to maintain service to existing farm tap customers. It is indicated that the delivery of volumes to the new delivery point would not impact Northern's peak day and annual deliveries and that there would not be any firm entitlements assigned to the individual farm tap end-users.

Comment date: January 10, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. Southern Natural Gas Co.

[Docket No. CP91-466-000]

Take notice that on November 19, 1990, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP91-466-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to change the operation of a delivery point for an existing customer under the blanket certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it provides natural gas service to South Georgia Natural Gas Company (South Georgia) at a delivery point on Southern's South Main Lines in Lee County, Alabama. Southern states that it delivers gas to South Georgia at a contract delivery pressure of 750 psig. Southern explains that South Georgia has requested an increase in delivery pressure to increase operational efficiency of South Georgia's system. Southern further explains the delivery point pressure change is permitted by section 3 of the General Terms and Conditions contained in Southern's FERC Gas Tariff, Sixth Revised Volume 1, which provides that a customer may request a change in delivery point pressure.

Southern therefore proposes to increase the contract delivery pressure at the South Georgia delivery point from 750 psig to 850 psig. Southern states that it would not need to construct additional facilities to increase the delivery point pressure.

Comment date: January 10, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company and Texas Eastern Transmission Corporation

[Docket Nos. CP91-492-000, CP91-497-000, CP91-498-000, and CP91-499-000]

Take notice that Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, and Texas Eastern Transmission Corporation, 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP87-115-000 and Docket No. CP88-136-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection [1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by

[1] These prior notice requests are not consolidated.

Applicants and is summarized in the attached appendix.

Comment date: January 10, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket number (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points [1]	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-492-000 (11-20-90)	North Central Oil Corporation (Producer).	10,000 10,000 [2] 3,650,000	OLA	LA, MS	10-1-90, IT, Interruptible.	ST91-3044-000, 10-12-90.
CP91-497-000 (11-21-90)	York Research Corporation (End-user).	40,000 40,000 14,600,000	Various	NY	10-19-90, IT-1, Interruptible.	ST91-3052-000, 10-26-90.
CP91-498-000 (11-21-90)	Williams Gas Marketing Company (Marketer).	100,000 100,000 36,500,000	Various	Various	8-27-90, IT-1, Interruptible.	ST91-600-000, 10-1-90.
CP91-499-000 (11-21-90)	Williams Gas Marketing Company (Marketer).	600,000 600,000 219,000,000	Various	Various	10-5-90, IT-1, Interruptible.	ST91-3053-000, 10-26-90.

[1] Offshore Louisiana is shown as OLA.
[2] Tennessee's quantities are in dekatherms.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-28238 Filed 11-30-90; 8:45 am]

BILLING CODE 6717-01-M

Application Filed

November 27, 1990.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.: 3021-032.

c. Date filed: November 21, 1990.

d. Applicant: Allegheny Hydro No. 8, L.P.; Allegheny Hydro No. 9, L.P.

e. Name of Project: Allegheny River Lock and Dam Nos. 8 and 9.

f. Location: On the Allegheny River in Armstrong and Indiana Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: John L. Sacks, Esquire, Karen A. Tomcala, Esquire, Olwine, Connelly, Chase, O'Donnell & Weyher, 1701 Pennsylvania Avenue NW., suite 1000, Washington, DC 20006, (202) 835-0500.

i. FERC Contact: Mary C. Golato (202) 219-2804.

j. Comment Date: December 26, 1990.

k. Description of Project: The Allegheny Hydro No. 8, L.P. and Allegheny Hydro No. 9, L.P. (the Partnership) propose to partially transfer the license for the Allegheny River Lock and Dam No. 8 and 9 Project to include the Connecticut National Bank, solely in its capacity as owner trustee. The Connecticut National Bank would be added as a co-licensee to the license to facilitate permanent financing of the project through a sale-leaseback transaction.

1. This notice also consists of the following standard paragraphs: B & C.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: The Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 204-RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 90-28237 Filed 11-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-45-002]

Inter-City Minnesota Pipelines Ltd., Inc.; Compliance Filing

November 26, 1990.

Take notice that on November 19, 1990, Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), in compliance with the Commission's Letter Order issued in the above-docket on November 2, 1990, tendered for filing its Second Substitute Alternate Forty-Second Revised Sheet No. 4 for inclusion in its FERC Gas Tariff Original Volume No. 1. The tariff sheet eliminates the $(.0013) per MMBtu surcharge related to reduced corporate income taxes and restates the Eastern Zone current and estimated average

costs of gas to reflect a decrease of $1.3203 per Mcf for demand and $0.0387 per Mcf for commodity.

The Commission's November 2, 1990 Letter Order also required Inter-City to file an explanation supporting the recovery of $27,081 in Eastern Zone gas costs for the October through December 1989 interval requiring prior Commission approval under § 154.306 of the Commission's regulations. Inter-City states that the underrecovery of actual purchased gas costs for the period was the result of delays in contract administration and beyond Inter-City's control. Inter-City states that it acts as a conduit pipeline and its customers negotiate their gas supply agreements directly with their gas suppliers. Delay by one of Inter-City's customers in reporting a change of terms in its supply agreement resulted in the underrecovery of actual gas costs during the October to December 1989 interval.

Inter-City states that copies of the filing were served on its customers and interested state 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 December 3, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 90-26239 Filed 11-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-30-000]

Natgas U.S. Inc.; Tariff Changes

November 26, 1990.

Take notice that on November 20, 1990, NATGAS U.S. INC. ("NATGAS"), 500, 707 Eighth Avenue, S.W., Calgary, Alberta, Canada T2P 3V3, tendered for filing in Docket No. RP91-30-000 Second Revised Sheet No. 4 Superceding Second Substitute First Revised Sheet No. 4 to its FERC Gas Tariff Original Volume No. 2.

NATGAS states that it is submitting Second Revised Sheet No. 4 (1) To reflect a decrease in demand charges during the forthcoming demand charge period (January 1, 1991 through June 30, 1991) for Canadian gas purchased by NATGAS from Northwest Alaskan Pipeline Company ("Northern") under Rate Schedule X-1; and (2) to reflect an upward adjustment in its demand charges to Northern for the December 29, 1989 through August 31, 1990 period, resulting from rate refunds covering that period distributed to NATGAS and Northern by Northern Border Pipeline Company.

NATGAS requests that Second Revised Sheet No. 4 become effective on January 1, 1991.

NATGAS states that a copy of this filing has been served on Northern.

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 & Procedure. All such petitions or protests should be filed on or before December 3, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 90-28240 Filed 11-30-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-32-000]

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 26, 1990.

Take notice that on November 21, 1990, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's F.E.R.C. Gas Tariff, Original Volume No. 1, the following revised tariff sheets:

Tenth Revised Sheet No. 157
Eighth Revised Sheet No. 158
First Revised Sheet No. 159

With these tariff sheets, Northern Border proposes to (1) revise the Maximum Rate and Minimum Revenue Credit under Rate Schedule IT-1 as called for by Northern Border's tariff every six months, (2) revise the form but not the substance of the calculation of the Minimum Revenue Credit as it appears in the tariff, and (3) revise the computation of the debt repayment obligation to be consistent with the new loan financing secured earlier this year.

Tenth Revised Sheet No. 157 and Eighth Revised Sheet No. 158 reflect the revised Maximum Rate and Minimum Revenue Credit effective January 1, 1991 through June 30, 1991 in accordance with Northern Border's tariff provisions under Rate Schedule IT-1. Northern Border proposes to decrease the Maximum Rate from 4.908 cents per 100 Dekatherm-Miles to 4.778 cents per 100 Dekatherm-Miles and decrease the Minimum Revenue Credit from 2.956 cents per 100 Dekatherm-Miles to 2.831 cents per 100 Dekatherm-Miles. These revisions do not produce any change in Northern Border's total revenue requirement due to its cost of service form of tariff.

Eighth Revised Sheet No. 158 has also been changed to correct the presentation of the calculation of the Minimum Revenue Credit as shown in § 3.33. During the conversion of the tariff sheet into ASCII format, certain underscoring meant to designate division, was lost. To avoid this problem in the future, a ÷ symbol will be used in place of the underscore.

First Revised Sheet No. 159 has been changed to reflect a revision in the debt repayment obligation as a result of new debt financing secured earlier this year. Under Northern Border's old loan agreement, the debt repayment obligation was determined by multiplying 65.22857% times the total depreciation and deferred taxes for the month. Under the new loan agreement, Northern Border's debt repayment obligation is calculated by multiplying 65% times the total monthly depreciation and deferred taxes. Section 3.33 has been revised to reflect the change in the percentage.

Northern Border has requested that these revised tariff sheets be effective January 1, 1991. Northern Border states that copies of this filing have sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) All such petitions or protests should be filed on or before December 3, 1990. Protests will be considered but 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 Cashell,

Secretary.

[FR Doc. 90–28241 Filed 11–30–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91–2–17–000]

Texas Eastern Transmission Corp. Proposed Changes in FERC Gas Tariff

November 26, 1990

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 20, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the tariff sheets:

Twenty-Fifth Revised Sheet No. 50.1 and 50.2
Eighteenth Revised Sheet No. 50A.1, 50B.1, 50C.1 and 50D.1

Texas Eastern states that the above tariff sheets are being issued pursuant to section 23, Purchased Gas Cost Adjustment, contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. This filing constitutes Texas Eastern's proposed Out-of-Cycle PGA filing to be effective December 1, 1990 pursuant to Docket No. RM86-14 (Order No. 483).

Texas Eastern states that these revised tariff sheets filed herewith reflect a demand decrease of $0.267/dth., and a commodity increase of $0.1616 per dth, representing the change in Texas Eastern's projected cost of purchased gas from Texas Eastern's last scheduled PGA filing effective November 1, 1990 in Docket No. TQ91–1–17.

The proposed effective date of the above tariff sheets is December 1, 1990.

Texas Eastern states that it anticipates that based upon current spot market indicators it will experience a considerable increase in its market-sensitive producer supplier prices effective December 1, 1990, to a level above those used in its regularly scheduled PGA filing in Docket No. TQ91–1–17, thus necessitating the instant out-of-cycle rate increase. In addition, Texas Eastern has now resolved certain gas purchase contract pricing disputes which have been under litigation. In the instant filing Texas Eastern proposes to reflect the effect of the resolution of these disputes on its projected cost of gas beginning December 1, 1990, which is approximately $0.0500/dth of the total $0.1616/dth increase proposed herein.

Texas Eastern also states that on October 31, 1990 it filed its compliance filing in Docket No. RP90–119–000 and its motion to make those tariff sheets effective December 1, 1990. The tariff sheets submitted herewith reflect the bass rates filed on October 31, 1990 in the above aforementioned compliance filing.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers 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 December 3, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–28242 Filed 11–30–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89–36–007, CP90–273–004 and CP87–106–009]

Viking Gas Transmission Co.; Tariff Filing

November 26, 1990.

Take notice that on November 19, 1990, Viking Gas Transmission Company (Viking) filed its corrected Second Revised Sheet No. 114 to Original Volume No. 2 of its FERC Gas Tariff, to be effective November 1, 1990. Viking states that the purpose of this filing is to reflect the correct pagination and the correct reduction of fuel and loss percentages as of November 1, 1990.

Viking states that copies of the filing have been mailed to all of its jurisdictional 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 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 December 3, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 90–28243 Filed 11–30–90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90–83–NG]

Chippewa Gas Corp.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 24, 1990, of an application by Chippewa Gas Corporation (Chippewa) for blanket authority to import up to 150 Bcf of natural gas from Canada over a two-year term from the date of first delivery. All transactions contemplated under Chippewa's import proposal would utilize existing facilities and would be subject to FE's reporting requirements.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., January 2, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8233.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000

Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Chippewa, a Delaware corporation with its principal place of business in Houston, Texas, is engaged in the marketing of natural gas throughout the U.S. Chippewa states that under the blanket authorization requested, it contemplates importing, either on its own behalf or on behalf of others, competitively priced natural gas supplied by a variety of Canadian suppliers for sale to U.S. purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. Chippewa further states that they may also secure arrangements for transportation of Canadian gas in the United States pursuant to agreements with certain customers.

The decision on the application for import authority will be made consistent with the DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion. A decision on Chippewa's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

All parties should be aware that if this blanket import application is granted, the authorization may permit the import of the gas at any international border point where existing facilities are located.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Chippewa's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 27, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–28314 Filed 11–30–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–67–NG]

ICG Utilities (Manitoba) Ltd.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import and to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ICG Utilities (Manitoba) Ltd. (ICG) blanket authorization to import up to 8 Bcf of Canadian natural gas and to export to Canada up to 8 Bcf of natural gas over a two-year term beginning on the date of first delivery of the 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, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 23, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–28315 Filed 11–30–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–77–NG]

ICG Energy Marketing, Inc.; Order Granting Blanket Authorization To Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting ICG Energy Marketing, Inc. (ICG Energy Marketing) blanket authorization to export to Canada up to 2 Bcf of natural gas over a two-year term beginning on the date of first export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 23, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–28316 Filed 11–30–90; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Space Charter Agreement Between Naveria Santa, Ltd. and Central America Shippers, Inc.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011306.

Title: Space Charter Agreement between Naveria Santa, Ltd. and Central America Shippers, Inc.

Parties: Empresa Naveria Santa, Ltd., Central America Shippers, Inc.

Synopsis: The proposed Agreement would permit the parties to provide vessel capacity for reciprocal space chartering within the trade between Atlantic ports of the United States in South Florida from Key West, Florida to West Palm Beach, Florida, and all inland and coastal points within the United States that can be served by these ports excluding Hawaii and Alaska.

Dated: November 27, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 28256 Filed 11–30–90; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 90–32]

Filing of Complaint and Assignment; CDM International

Notice is given that a complaint filed by CDM International ("Complainant") against Vencaribe, C.A. ("Respondent)" was served November 27, 1990. Complainant alleges that Respondent engaged in violations of section 10(b)(12) of the Shipping Act of 1984, 46 U.S.C. app. 1709(b)(12), by causing unreasonable prejudice and disadvantage to Complainant through failure to timely deliver Complainant's shipment.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by November 27, 1991, and the final decision of the Commission shall be issued by March 27, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90–28259 Filed 11–30–90; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

DATES: The following advisory committee meeting is announced:

Generic Drugs Advisory Committee

Date, time, and place. December 14, 1990, 8 a.m. to 4 p.m., Holiday Inn, Versailles Rm., 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and content person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not least that long; open committee discussion, 9 a.m. to 4 p.m.; Jack Gertzog, Center for Drug Evaluation and Research (HFD–9), Rm. 8B–45, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee gives advice on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases and makes appropriate recommendations to the Secretary, the Assistant Secretary for Health, the Commissioner of Food and Drugs, and the Director of the Center for Drug Evaluation and Research. The committee may also review Agency sponsored intramural and extramural biomedical research programs in support of FDA's generic drugs regulatory responsibilities.

Agenda—Open public hearing. Interested persons may present information or views, orally or in writing, on issues related to the agenda of this meeting. Those desiring to make formal presentations should call the contact person before December 12, 1990 and state the general nature of the evidence or arguments they wish to present, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) An overview of generic drugs at FDA, (2) the generic drug industry and the future of generic drugs, (3) FDA compliance issues, (4) bioequivalence of older drug products, (5) research opportunities, and (6) legal review.

FDA is giving less than 15 days' public notice of this Generic Drugs Advisory Committee meeting because of the need to initiate the work of the newly formed committee in a timely fashion. During this meeting, various topics will be discussed which are relevant to the orientation of the committee members.

The next regular meeting of this committee will be scheduled in the near future. The agency decided that it was in the public interest to hold this scientific and regulatory discussion on December 14, 1990 even if there was not sufficient time for the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discussion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 28, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–28426 Filed 11–29–90; 3:09 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet on December 6 to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989.) Upon completion of the Council's review, proposals will be ranked and submitted to the Migratory Bird Conservation Commission with recommendations for funding. The Meeting is open to the public.

DATES: December 6, 1990.

ADDRESSES: The meeting on December 6 will be held at Bear Island Wildlife Management Area, Route 2, box 207, Green Pond, South Carolina 29446.

FOR FURTHER INFORMATION CONTACT: John Frampton, South Carolina Wildlife and Marine Resources Department, Rembert C. Dennis Building, P.O. box 167, Columbia, South Carolina 29202, telephone (803) 734–3887.

SUPPLEMENTARY INFORMATION: The North American Wetlands Conservation Council will meet at Bear Island Wildlife Management Area, Green Pond, South Carolina at 8:30 a.m.

The meeting is to review and recommend proposals for funding to the Migratory Bird Conservation Commission pursuant to the North American Wetlands Conservation Act. The Council will also review the project evaluation process and finalize plans for issuing a revised call for proposals early in calendar year 1991.

Dated: November 23, 1990.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–28233 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AK–964–4230–15]

Alaska Native Claims Selection; Doyon, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of Sec. 14(h)(1) and 14(h)(7) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), and 1613(h)(7) will be issued to Doyon, Limited. The lands involved are in the Arctic National Wildlife Refuge and fall within the below listed townships:

Serial No.	Land description	Approximate acreage
F–22582	T. 10 S., R. 47 E., Umiat Meridian, Alaska.	364.94
F–22632	T. 13 S., R. 39 E., Umiat Meridian, Alaska.	149.00
F–22635	T. 13 S., R. 37 E., Umiat Meridian, Alaska.	60.00
	T. 13 S., R. 38 E., Umiat Meridian, Alaska.	575.00
	T. 14 S., R. 38 E., Umiat Meridian, Alaska.	155.90
F–22636	T. 12 S., R. 35 E., Umiat Meridian, Alaska.	128.16

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the "Fairbanks

Daily News-Miner." Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until January 2, 1991 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Mary M. Bone,

Supervisor, Fairbanks Section, Branch of Doyon/Northwest Adjudication.

[FR Doc. 90–28300 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–JA–M

[NV–930–91–4212–11; N–34385]

Termination of Recreation and Public Purposes Classification and Order Providing for Opening of Land; Nevada

November 21, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Recreation and Public Purposes classification, N–34385 in its entirety. The land will be opened to the public land laws generally, including the mining, mineral leasing and material sales laws.

EFFECTIVE DATES: Termination of the classification is effective December 3, 1991. The land will be open to entry at 10 a.m. on January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Clark, BLM Nevada State Office, 850 Harvard Way, P.O. box 12000, Reno, NV 89520, 702–785–6530.

SUPPLEMENTARY INFORMATION: Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by appendix 1 of Bureau of Land Management Manual 1203, dated April 14, 1987, Recreation and Public Purposes classification N–34385 is hereby terminated in its entirety:

Mount Diablo Meridian, Nevada

T. 14 N., R. 66 E.,
Sec. 34, E½SE¼SW¼SW¼, S½SE¼ SW¼.

The area described contains 25 acres in White Pine County, Nevada. the classification, made pursuant to the Act of June 14, 1926, as amended, segregated the public land from all other forms of appropriation under the public laws, including the mining, mineral leasing and material sales laws. The land was subsequently leased to the Nevada Department of Transportation for a maintenance station site. Said lease has since expired and a determination has been made that the classification is no longer appropriate.

At 10 a.m. on January 2, 1991, the land will be open to the operation of the public land laws, the mineral leasing and the material sales laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10 a.m. on January 2, 1991, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10 a.m. on January 2, 1991, the land will also be open to the operation of the mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 39, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. the Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Fred Wolf,

Acting State Director, Nevada.

[FR Doc. 90–28228 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–HC–M

[NV–050–91–4333–12]

Proposed Shooting Closure for Certain Public Lands Managed by the Las Vegas District

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed classification decision, establishment of recreational and target shooting closure for certain Public Lands administered by the BLM in the Las Vegas District, Las Vegas, Nevada.

SUMMARY: All recreational and target shooting will be prohibited on public lands within the Las Vegas Valley, Nellis Dunes, and Red Rock Canyon areas and are described as follows: T. 19 S., R. 59 E., sections 1–36; T. 19 S., R. 60 E., sections 1–36. T. 19 S., R. 61 E., sections 1–36. T. 19 S., R. 62 E., sections 12, E½, 13, 14, 15, and 20–36. T. 19 S., R. 63 E., sections 1–36. T. 19 S., R. 64 E., sections 18, 19, 30, and 31. T. 18 S., R. 63 E., sections 22–30, and 31, E½NW¼, NE¼SW¼, SE¼SW¼, W½SW¼, SW¼, 32, 33, 34, 35, and 36. T. 18 S., R. 64 E., sections 7, S½SW¼, S½SE¼, 18, 19, and 20. T. 17 S., R. 63 E., sections 31, 32, and 33. T. 20 S., R. 59 E., sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, S1/2, 20–36. T. 20 S., R. 60 E., sections 1–36. T. 20 S., R. 61 E., sections 1–36. T. 20 S., R. 62 E., sections 1–36. T. 20 S., R. 63 E., sections 1–34. T. 21 S., R. 58 E., sections 24, 25, E½, and 36, E½. T. 21 S., R. 59 E., sections 1–36. T. 21 S., R. 60 E., sections 1–36. T. 21 S., R. 61 E., sections 1–36. T. 21 S., R. 62 E., sections 1–36. T. 21 S., R. 63 E., sections 3–10, 14, W½, W½SE¼, SW¼NE¼, 15–22, 23, W½, W½ NE¼, W½SE¼, 25–36. T. 22 S., R. 59 E., sections 1–36. T. 22 S., R. 60 E., sections 1–36. T. 22 S., R. 61 E., sections 1–36. T. 22 S., R. 62 E., sections 1–33. T. 22 S., R. 63 E., sections 1–36. T. 23 S., R. 63 E., section 2. T. 22 S., R. 63½ E., sections 1, 12, 13, 24, 25, and 36. T. 23 S., R. 61 E., sections 1–10. T. 23. S., R. 60 E., sections 1–12. T. 23 S., R. 59 E., sections 1–12. T. 23 S., R. 58 E., sections 1, 2, 3, 4, 9, 10, 11, and 12.

This recreational and target shooting closure does not apply to hunting which is permitted during legally established seasons except below six thousand feet on the East slope of the Spring Mountains within the Red Rock Canyon National Conservation Area, southeast slope of the La Madre Mountains, and within one mile of any developed camp, picnic area, road, trail, or site developed for public or private use. Hunting for upland game birds is permitted for licensed hunters during legally established seasons South of Spring Mountain Ranch State park at all elevations, except within 1,000 feet of any road or structure. In addition, shooting located at BLM authorized Recreation & Public Purpose facilities is allowed.

COMMENT PERIOD: Until January 2, 1991. Interested parties may submit comments on the proposed Shooting Closure to the District Manager, Las Vegas District Office.

ADDRESSES: District Manager, Las Vegas District Office, 4765 W. Vegas Drive, P.O. box 26569, Las Vegas, Nevada 89126.

SUPPLEMENTARY INFORMATION: This shooting closure is consistent with BLM policy and is established to assist BLM

in protecting its public lands and its resources from damage caused by recreational and target shooting on public lands within the Las Vegas District. Of equal importance is the problem of recreational and target shooting causing conflicts with other users. These forms of shooting are hazardous to the well-being, comfort and safety of others and are not consistent with title 43, Code of Federal Regulations (CFR) for developed recreation areas, sites and facilities on public lands. The objective of this shooting closure is to insure that public lands, including recreation areas, sites and facilities, can be used by the maximum number of people with minimum conflict among users and minimum damage to public lands and resources (43 CFR 8365.0–2). This closure is also consistent with the Clark County Shooting Closure.

Authority for the shooting closure is contained in title 43 CFR, chapter II, part 8360, subpart 8364.1, subpart 8365, subpart 8365.0–1, subpart 8365.0–2, subpart 8365.1–6, and 8365.2–5(a).

Pursuant to 43 CFR 8360.0–7, violations of any regulations in this part by a member of the public, except for the provisions of § 8365.1–7 are punishable by a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by § 8365.1–6 are punishable in the same manner.

Dated: November 19, 1990.

Ben Collins,

District Manager, Las Vegas, Nevada.

[FR Doc. 90–28227 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–HC–M

[ID–040–01–4320–10]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATES: The meeting will be held Thursday, January 3, 1991, at 10 a.m.

ADDRESSES: The meeting will be held at the Salmon District Office, Bureau of Land Management Conference Room, South Highway 93, Salmon, Idaho.

FOR FURTHER INFORMATION CONTACT: Roy Jackson, District Manager, U.S. Department of Interior, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, ID 63467 (208) 756–5400.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92–463. The meeting is open to the public; public comments will be accepted from 1 to 1:30 p.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by January 2, 1991. The agenda items include discussion of surplus stores materials, project construction standards, update of Lemhi grazing agreements, new project proposals, and any other issues dealing with grazing management in the Salmon District.

Summary minutes of the meeting will be kept in the Salmon District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:15 p.m.) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy Jackson, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756–5400.

Dated: November 20, 1990.

Robert W. Heideman,

Associate District Manager.

[FR Doc. 90–28258 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–020–4410–08; DEIS—(90–29)]

Availability of the Kingman Resource Area's Draft Resource Management Plan and Environmental Impact Statement, Kingman Resource Area, Kingman, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (DEIS) for the proposed Kingman Resource Area Resource Management Plan (RMP). The RMP identifies BLM's proposed management for about 2,500,000 acres of public land in northwestern Arizona. The RMP proposes to designate 14 Areas of Critical Environmental Concern (ACEC) (569,700 acres) in the Preferred Alternative and 20 ACECs (326,226 acres) in Alternative 3. The following is a list of ACECs and the proposed resource use limitations.

Alternative 2 ACECs

Joshua Tree Forest—Grand Wash Cliffs (39,085 acres). Close 8510 acres to mineral material disposal, close 5632 acres to mineral entry and limit off-highway vehicle (OHV) use to designated roads, trails, and washes.

Black Mountains (Bighorn Sheep and Special Status Plant Habitat) (219,428 acres). Close 47,169 acres to mineral material disposals, limit OHV use to existing roads, trails, and washes.

Western Bajada Desert Tortoise and Cultural (15,866 acres). Close 8,909 acres to mineral entry, mineral leasing, and mineral material sales. Limit OHV use to designated roads and trails.

Wright-Cottonwood Creeks Riparian and Cultural (27,300 acres). Close 3,925 acres in the riparian zone to mineral entry and mineral material disposals and allow mineral leasing with no surface occupancy (NSO). Limit OHV use to existing roads and trails.

Cherokee Point Antelope Habitat (54,457 acres). Limit OHV use to existing roads, trails, and washes.

Hualapai Mountain Research Natural Area (Threatened and Endangered (T&E) Animal Habitat) (3,300 acres). Close to mineral entry and mineral material disposals and allow mineral leasing with NSO. Limit OHV use to existing roads and trails.

White-Margined Penstemon Reserve (17,493 acres). Allow mineral leasing with stipulations and close to mineral material disposals. Limit OHV use to designated roads and trails.

Carrow-Stephens Ranches (1795 acres). Close to mineral entry and mineral material sales and allow mineral leasing with NSO. Limit OHV use to existing roads and trails.

McCracken Desert Tortoise Habitat (23,720 acres). Close to mineral material disposals and allow mineral leasing with sitpulations. Limit OHV use to existing roads, trails, and washes.

Poachie Desert Tortoise Habitat (44,521 acres). Close to mineral material disposals and allow mineral leasing with sitpulations. Limit OHV use to existing roads and trails.

Aubrey Peak Bighorn Sheep Habitat (10,413 acres). Close to mineral material disposals and allow mineral leasing with stipulations. Limit OHV use to existing roads, trails, and washes.

Burro Creek Riparian and Cultural (37,070 acres). Close 5,826 acres in the riparian zone to mineral entry, mineral material disposals, and allow mineral leasing with NSO and in the rest of the ACEC allow mineral leasing with stipulations. Limit OHV use to designated roads and trails in the

riparian zone and existing roads, trails, and washes, in the rest of the ACEC.

Clay Hills Research Natural Area (T&S Plants) (1,113 acres). Close to mineral entry, mineral material disposals, and mineral leasing. Limit OHV use to designated roads and trails.

Three Rivers Riparian (47,139 acres). Close 27,678 acres in the riparian zone to mineral entry, mineral material disposals, and allow mineral leasing with NSO and in the rest of the ACEC allow mineral leasing with stipulations. Limit OHV use to designated roads and trails in the riparian zone and existing roads, trails, and washes, in the rest of the ACEC.

Alternative 3

Joshua Tree Forest (8510 acres). Proposed resource use limitations are the same as in Alternative 2.

Black Mountains (66, 132 acres). Proposed resource use limitations, same as Alternative 2.

Silver Creek Cultural Resources (601 acres). Acquire non-federal minerals and close to mineral entry, mineral leasing and mineral material disposals. Limit OHV use to designated roads, trails, and washes.

Western Bajada Desert Tortoise—Cultural Resource—same as alternative 2.

Wright Creek (9,236 acres) and Cottonwood Creek (4,924 acres). Proposed resource use limitations—same as for the Wright-Cottonwood Creeks Riparian and Cultural in Alternative 2.

Cottonwood Mountains Cultural Resources (1,278 acres). Acquire non-federal minerals and close to mineral entry. Limit OHV use to designated roads, trails, and washes.

Cherokee Point (54,457 acres), Hualapai Mountain Research Natural Area (3,300 acres), White-Marginal Penstemon Reserve (17,493 acres), Carrow-Stephens Ranches (1,795 acres), McCracken Desert Tortoise Habitat (23,720 acres), Poachie Desert Tortoise habitat (44,521 acres), and Aubrey Peak Bighorn Sheep habitat (10,413 acres). Proposed resource use limitations—same as Alternative 2.

Black Butte Cultural Resources (1,280 acres). Acquire non-federal minerals and close to mineral material disposals. Limit OHV use to designated roads, trails, and washes.

Clay Hills (1,113 acres). Proposed resource use limitations—same as Alternative 2.

Burro Creek Riparian (16,049 acres), Big Sandy Riparian (13,948 acres), Santa Maria Riparian (20,674 acres), and Bill Williams Riparian (10,916 acres). Proposed resource use limitations—same as Three Rivers Riparian Alternative 2.

ACECs Considered But Dropped

Mount Wilson, desert bighorn sheep habitat, was dropped because the desert bighorn sheep habitat was not threatened and the Mount Wilson WSA is recommended for wilderness designation in the Arizona Wilderness Bill before Congress.

The Desert Mountain Meadows were dropped because several have communication sites and are within Hualapai Mountain County Park. The other meadow is in the Wabayuma WAS, which is recommended for wilderness designation in the Arizona Wilderness Bill before Congress.

To give the public an opportunity to review and comment on the draft RMP/EIS, BLM has scheduled a ninety (90) day comment period. During the comment period, the public is invited to review the document and provide BLM with comments. The comment period will end ninety (90) days after EPA's notice of availability is published in the Federal Register

SUPPLEMENTARY INFORMATION: To assist the public in their review of the draft RMP/EIS, BLM has scheduled:

Public Hearings

January 15, 1991, 7 p.m., Maricopa Board of Supervisors Auditorium, 205 West Jefferson, Phoenix, Arizona.

January 17, 1991, 7 p.m., Kingman High School Auditorium, 400 Grandview, Kingman, Arizona.

Public Meetings

January 22, 1991, 7 p.m., Chamber of Commerce Building, Bullhead City, Arizona.

January 23, 1991, 7 p.m., 6 South Lindahl Road, Bagdad, Arizona.

January 24, 1991, 7 p.m., Dolan Springs Fire Station, Pierce Ferry Road & Ironwood Drive, Dolan Springs, Arizona.

A limited number of copies of the draft RMP/EIS are available upon request from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman Arizona 86401, Telephone (602) 757–3161, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 686–4464, and Arizona State Office, 3707 North 7th Street, P.O. box 16563, Phoenix, Arizona, 85011, Telephone (602) 640–5509. Public reading copies are available at these locations.

ADDRESSES: Comments should be sent to Bill Carter, Technical Coordinator, Bureau of Land Management, 2475 Beverly Avenue, Kingman, Arizona 86401.

FOR FURTHER INFORMATION CONTACT: Bill Carter, Technical Coordinator, at the above address or telephone (602) 757–3161.

Dated: November 27, 1990.

Henri R. Bisson,

District Manager.

[FR Doc. 90–28298 Filed 11–30–90; 8:45 am]

BILLING CODE 4410–08–M

[NM–040–01–4410–10]

Intent To Prepare a Resource Management Plan, Invitation for Public Involvement, and Notice of Public Meetings; Oklahoma Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, is initiating preparation of a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for BLM-managed Federal lands and minerals throughout the State of Oklahoma. The Code of Federal Regulations, title 43, subpart 1600 (43 CFR part 1600) will be followed in the preparation of this plan. The public is invited to participate in this land use planning effort, beginning with the identification of issues, and planning criteria.

Written comments or suggested issues and planning criteria will be accepted until January 31, 1991. The BLM will hold a series of public scoping meetings at which time oral comments and suggestions will be accepted.

DATES: Comments relating to the identification of issues and planning criteria will be accepted until January 31, 1991.

ADDRESSES: Comments and requests to be included on the mailing list should be sent to: Paul Tanner, Area Manager, Bureau of Land Management, Oklahoma Resource Area, 200 NW. Fifth Street, room 548, Oklahoma City, Oklahoma 73102.

FOR FURTHER INFORMATION CONTACT: Paul W. Tanner, Area Manager, or Brian Mills, RMP Team Leader, Oklahoma Resource Area, (405) 231–5491 or FTS 736–5491.

SUPPLEMENTARY INFORMATION: The planning area for the Oklahoma RMP will include all BLM-managed Federal surface and mineral estate within Oklahoma.

This includes approximately 90,000 Public Domain (PD) surface acres, 573,000 acres of split estate minerals

(private surface over Federal minerals) and approximately 850,000 acres of Federal mineral estate underlying other Federal surface management agencies (SMA's) lands. The anticipated issues to be addressed by this RMP/EIS effort include oil and gas leasing and subsequent development, the identification of areas acceptable for further consideration for coal leasing and the eligibility of segments of the Red River for evaluation under the provisions of the Wild and Scenic Rivers Act.

The issue of leasing the Federal oil and gas resource will include:

1. Determining which areas will be open for leasing and development subject to standard lease terms and conditions.

2. Determining which areas will be open for leasing and development subject to minor constraints such as seasonal restrictions.

3. Determining which areas will be open for leasing and development subject to major constraints such as no surface occupancy (NSO).

4. Determining which areas will be closed to leasing. The Federal coal resource issue to be addressed in the RMP/EIS will be a determination as to which of the Federal coal deposits within Oklahoma will be identified as acceptable for further consideration for leasing. To be identified as acceptable for consideration for leasing, a tract must pass four land use planning screens. The four Federal coal leasing screens include: A determination of coal development potential; application of the required unsuitability criteria contained in 43 CFR part 3461; a determination of multiple land use value conflicts and consultation with surface landowners as outlined in 43 CFR 3420.1–4.

Coal tracts possessing development potential were identified following the Call For Coal Information which was published in the **Federal Register** (Vol. 54, No. 23, page 5688) on February 6, 1989. The remaining three planning screens required for coal leasing determinations will be applied during this land use planning effort. Segments of the Red River will be assessed for eligibility and potential classification as wild, scenic, and/or recreational and a determination will be made regarding the suitability of segments for designation into the National Wild and Scenic Rivers System. The river study follows a three step assessment process.

1. During the first step, determination of eligibility, it must be determined if the Red River is "free flowing" and with it's adjacent land area, possesses one or more "outstandingly remarkable" values.

2. If a river segment is found to be eligible, it must then be classified as either wild, scenic, or recreational. These classifications establish guidelines for interim management until a designation or nondesignation decision is reached.

3. A determination of suitability is the third step in the assessment and evaluation process. Factors to be considered during this process include but are not limited to:

(a) Characteristics which do or do not make the area a worthy addition to the National Wild and Scenic Rivers System.

(b) Current status of land ownership, use in the area, including the amount of private land involved, and associated or conflicting uses.

(c) Reasonably foreseeable potential uses of the land and related waters which would be enhanced, foreclosed or curtailed if the area were included in the National Wild and Scenic Rivers System, and the values which could be foreclosed or diminished if the area is not protected as part of the system.

(d) Public, State, local or Federal interest in designation of the river, including the extent to which the administration of the river, including the costs thereof, may be shared by State, local or other agencies and individuals.

(e) Estimated cost of acquiring necessary lands and interests in lands and of administering the area if it is added to the system.

(f) Ability of the agency to manage the river area or segment as a unit of the Wild and Scenic Rivers System.

(g) Historical or existing rights which would be adversely affected as to foreclose, extinguish, curtail, infringe, or constitute a taking which would entitle the owner to just compensation if the area were included in the National Wild and Scenic Rivers System. In the suitability analysis, adequate consideration will be given to rights held by owners, applicants, lessees or claimants.

(h) Other issues and concerns identified in the land use planning process.

The proposed planning criteria include:

1. All proposed actions must comply with laws, executive orders, and regulations.

2. For each proposed action, the resource outputs must be reasonable and achievable with available technology.

3. All proposed actions must recommend resource allocations which are in accordance with the principles of multiple-use and sustained yield.

4. All proposed actions must evaluate and consider long-term benefits to the public in relation to short-term benefits.

5. All proposed actions must provide for the orderly development of leasable minerals while containing environmental impacts to a minimum.

These proposed planning issues and criteria are presented for public comment and are subject to change based upon such public comment. Comments should be received by January 31, 1991. The planning team will seek public involvement throughout the planning process. Public scoping meetings to gather comments on the preliminary issues and criteria are scheduled for:

January 14, 1991, 3–5 p.m., Best Western Ambassador Inn, U.S. Highway 64 North at 21st Street, Guyman, Oklahoma.

January 15, 1991, 5–7 p.m., Northwest Inn, U.S. Highway 270 South & 1st Street, Woodward, Oklahoma.

January 16, 1991, 3–5 p.m., Hilton Inn West, West U.S. Interstate 40 & Meridian Avenue, Oklahoma City, Oklahoma.

January 22, 1991, 5–7 p.m., Ramada Inn, 601 North 2nd Street, Lawton, Oklahoma.

January 23, 1991, 3–5 p.m., Holiday Inn, U.S. Highway 69 Bypass South, McAlester, Oklahoma.

January 24, 1991, 1–4 p.m., BLM's Tulsa District Office, 9522–H, East 47th Place, Tulsa, Oklahoma.

Complete records of all phases of the planning process will be available for public review at the Oklahoma Resource Area Office, 200 NW. 5th Street, room 548, Oklahoma City, Oklahoma 73102.

Draft and final RMP/EIS documents will be available upon request.

Dated: November 27, 1990.

Kathy Eaton,

Acting State Director.

[FR Doc. 90–28299 Filed 11–30–90; 8:45 am]

BILLING CODE 4310–FB–M

INTERSTATE COMMERCE COMMISSION

[Amendment No. 2 to Service Order No. 1510]

D&H Corporation [1]/Canadian Pacific Limited Authorized to Operate Tracks of Delaware and Hudson Railway Company, Debtor (Francis P. Dicello, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension.

SUMMARY: Amendment No. 2 to Service Order No. 1510 extends the order's effectiveness for 90 days as requested by Francis P. Dicello, Trustee in reorganization of the Delaware and Hudson Railway Company (D&H), and D&H Corporation/Canadian Pacific Limited (D&H Corp./CP Rail). Amendment No. 1 to Service Order No. 1510, served August 30, 1990, pursuant to 49 U.S.C. 11123(a), authorized D&H Corp./CP Rail to operate without Federal subsidy or other Federal compensation over tracks of the D&H until 11:59 p.m., November 28, 1990. Amendment No. 1 to Service Order No. 1510 is hereby extended for 90 days.

EFFECTIVE DATE: This order shall become effective at 11:59 p.m., November 28, 1990, and shall remain in effect until 11:59 p.m., February 26, 1991, unless otherwise modified, amended, or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: Bernard Gaillard, (202) 275–7849 or Paul E. Graham, (202) 275–7520. [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Upon application by Francis P. DiCello, Trustee in reorganization of the D&H and D&H Corp./CP Rail, and based upon representations of support by The New York State Department of Transportation (NYSDOT) and the U.S. Department of Transportation, Federal Railroad Administration (FRA), Service Order No. 1510 (55 FR 31906) was entered, pursuant to 49 U.S.C. 11123(a), for an initial period of 30 days. Service Order No. 1510 was extended for 90 days in Amendment No. 1 to Service Order No. 1510 (55 FR 35962), served August 30, 1990. That order expires at 11:59 p.m., November 28, 1990.

The Trustee and D&H Corp./CP Rail, by application of November 23, 1990, request that the Commission extend Service Order No. 1510 until consummation of the transactions approved in Finance Docket No. 31700, served October 17, 1990.

During the pendency of Service Order No. 1510, D&H Corp. has demonstrated that with the support of its parent, CP Rail, it has the necessary financial resources and the managerial and operational capability to provide continued rail service on the D&H lines.

The Commission herein certifies that the emergency which prompted entry of the original order in this proceeding continues and extends the authority for D&H Corp./CP Rail to operate D&H lines for an additional 90 days. This will assure D&H shippers of continued essential rail services, without interruption, during the consummation process of the approval granted in Finance Docket No. 31700. It will also ensure that the Trustee and D&H Corp./CP Rail make every effort to consummate the transaction we have authorized as soon as possible. If for some reason it is impossible for the parties to complete the transaction within the additional 90 days provided, they may come back to us with some explanation as to why they have not been able to consummate.

To purchase a copy of the decision, write to, call or pick up a copy in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359.

Decided: November 27, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–28294 Filed 11–30–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31698]

John W. Greene and William T. McCarthy; Continuance in Control Exemption; Montana Western Railway Co., Inc., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuance in control of Montana Western Railway Co., Inc., BGM Equipment Co., Inc., and Rarus Railway Company, by John W. Greene and William T. McCarthy, subject to standard labor protective conditions.

DATES: This exemption is effective on January 2, 1991. Petitions to reopen must be filed by December 24, 1990.

ADDRESSES: Send pleadings referring to Finance Docket No. 31698 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

and

(2) Petitioner's Representative: Stephen W. McVearry, Weiner, McCaffrey, Brodsky, Kaplan & Levin, 1350 New York Avenue, NW., suite 800, Washington, DC 20005–4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: November 21, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–28293 Filed 11–30–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Act of 1984; Industrial Macromolecular Crystallography Association

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.* ("the Act"), the Industrial Macromolecular Crystallography Association ("IMCA") on October 23, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to IMCA, and its general area of planned activity, are given below.

Members of IMCA are:

Abbott Structural Research, Inc., a corporation of Illinois having a principal place of business at One

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[1] D&H Corporation is a wholly owned subsidiary of Canadian Pacific Limited that was formed to acquire the assets of the Delaware and Hudson Railway Company. That acquisition was approved by the Commission in *Canadian Pacific Ltd.—Pur. & Trackage—D&H Ry. Co.*, 7 I.C.C.2d 95 (1990).

Abbott Park Road, Abbott Park, Illinois 60065–3500;

E.I. Dupont de Nemours and Company, Inc., a corporation of Delaware, having a principal place of business at Wilmington, Delaware 19898;

Eli Lilly and Company, a corporation of Indiana, having a principal place of business at Indianapolis, Indiana 46285;

Merck & Co., Inc., a corporation of New Jersey, having a principal place of business at Rahway, New Jersey 07065;

The Procter and Gamble Distributing Company, a corporation of Ohio, having a principal place of business at 2 Proctor and Gamble Plaza, Cincinnati, Ohio 45202–3314;

E.R. Squibb and Sons, a corporation of Delaware, having a principal place of business at Princeton, New Jersey 08543;

The Upjohn Company, a corporation of Delaware, having a principal place of business at Kalamazoo, Michigan 49001.

The nature of the planned activity is to share the costs of building and operating a synchrotron x-ray beamline for conducting independent, separate, and confidential x-ray crystallography research by individual members on a time sharing basis at the proposed Advanced Photon Source (APS) at Argonne National Laboratory in Lemont, Illinois or at any other suitable facility.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–28231 Filed 11–30–90; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Conservation Chemical Company of Illinois

In accordance with Departmental policy, notice is hereby given that on November 16, 1990, a proposed Consent Decree in *United States* v. *Conservation Chemical Company of Illinois,* was lodged with the United States District Court for the Northern District of Indiana, Hammond Division. The proposed Consent Decree provides for compliance with closure requirements under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, at defendant's facility in Gary, Indiana, and for payment by defendants of $40,000 into the Closure Trust Fund.

The Department of Justice will receive for a period of thirty(30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530, and should refer to *United States* v. *Conservation Chemical Company of Illinois,* D.J. reference #90–11–2–136.

The proposed Consent Decree may be examined at the office of the United States Attorney, Northern District of Indiana, 4th Floor, Federal Building, 507 State Street, Hammond, Indiana 46320, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.00 payable to the Treasurer of the United States.

Richard B. Stewart,

Environment and Natural Resources Division.

[FR Doc. 90–28229 Filed 11–30–90; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; Pinellas County, Florida

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on November 16, 1990, a proposed revised Consent Decree in *United States* v. *Pinellas County, Florida,* Civil Action No. 88–271–CIV–T–17B, was lodged with the United States District Court for the Middle District of Florida. In that action, pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), the United States sought injunctive relief and civil penalties for the County's unpermitted discharges of pollutants into surface waters of the United States from two of its sewage treatment plants, the South Cross Bayou and McKay Creek plants. Under the proposed consent Decree, defendant Pinellas County will pay a civil penalty of $350,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Pinellas County, Florida,* D.J. Ref. No. 90–5–1–1–2938.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Middle District of Florida, 500 Zack Street, suite 400, Tampa, Florida (contact Assistant U.S. Attorney Warren Zimmerman); (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia (contact Assistant Regional Counsel Stedman Southall); and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, Room 1541, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street NW., Suite 600, Washington, DC 20004, telephone (202) 347–2072. Please provide a check in the amount of $3.50 (25 cents per page reproduction charge) payable to Consent Decree Library for a copy of the Decree.

George Van Cleve,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 90–28230 Filed 11–30–90; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL COMMISSION ON CHILDREN

Hearing

Background

The National Commission on Children was created by Public Law 100–203, December 22, 1987 as an amendment to the Social Security Act. The purpose of the law is to establish a nonpartisan Commission directed to study the problems of children in the areas of health, education, social services, income security, and tax policy.

The powers of the Commission are vested in Commissioners consisting of 36 voting members as follows:

1. Twelve members appointed by the President

2. Twelve members appointed by the Speaker of the House of Representatives

3. Twelve members appointed by the President pro tempore of the Senate.

This notice announces a Meeting of the National Commission on Children to be held in Charleston, South Carolina.

Meeting

Time: 8 a.m.–6 p.m. Thursday, December 13, 1990. 8 a.m.–6 p.m. Friday, December 14, 1990.

Place: The Mills House Hotel, 115 Meeting Street, Charleston, South Carolina 29401.

Status: Open to the public.

Agenda: Commission Meeting.

Contact: Jeannine Atalay (202) 254–3800.

Dated: November 26, 1990.

John D. Rockefeller IV,

Chairman, National Commission on Children.

[FR Doc. 90–28257 Filed 11–30–90; 8:45 am]

BILLING CODE 6820–37–M

NUCLEAR REGULATORY COMMISSION

Proposed Availability of Fiscal Year 91 Funds for Financial Assistance (Grants) To Support Research at Educational Institutions and the Exchange of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research, announces proposed availability of Fiscal Year (FY) 91 funds to support a limited number of research grants to educational institutions. These funds may also be used to support professional meetings and conferences for the exchange and transfer of research concepts and findings related to the safety of nuclear power production.

The FY 91 ceiling for research grants to educational institutions is approximately $1,000,000. Of this amount, approximately $500,000 will be available for new grants. Because of this limitation, proposed grant budgets should be restricted to about $50,000 per year, with total project funding not exceeding $100,000 over a two-year period. Proposals for new FY 91 research grants should be submitted between the date of this Notice and March 1, 1991. Proposals received after March 1, 1991 will be considered for FY 91 funding to the extent practicable.

ADDRESSES: Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts and Property Management, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Kimberly Parrott, (301) 492–4297.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1989 (54 FR 50032), the Nuclear Regulatory Commission (NRC) published in the **Federal Register** a notice that announced the proposed availability of FY 90 funds for the NRC Grant Program. The NRC is revising that notice to provide information on their grant program for FY 91.

Scope and Purpose of This Announcement

Pursuant to section 31.a. and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC's Office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit entities, state and local governments, and professional societies through providing funds for expansion, exchange and transfer of knowledge, ideas, and concepts directed toward the NRC safety research program. The program includes, but is not limited to, support of professional meetings and conferences. In addition, the NRC has a limited amount for research grants to educational institutions (see topics below). The FY 91 ceiling for these grants is approximately $1,000,000 with approximately $500,000 of this amount available for new grants.

The purpose of this program is to stimulate research to provide a technological base for the safety assessment of system and subsystem technologies used in nuclear power applications. The results of this program will be to increase public understanding relating to nuclear safety, to pool the funds of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety. In addition, each grant to an educational institution should contain elements which will potentially benefit the graduate research program of the institution, *e.g.*, graduate student training.

The NRC encourages educational institutions to submit research grant proposals in the following areas:

1. Development of steady state and transient pump models to estimate code applications.

2. Advantages and disadvantages of cooling water addition to a degraded core.

3. Behavior of hot hydrogen while exiting a break in the primary pressure boundary.

4. Modeling and experimentation on two-phase flow, interfacial relations, and heat transfer in reactor coolant systems.

5. Evaluation of severe accident phenomena including: High temperature chemistry of fission product and reactor fuel and structural materials, advanced modeling of the behavior of fluids, combustible gases and molten core materials in reactor primary systems during severe accidents.

6. Advanced demographic models or statistical methods to predict population density and distribution around future power reactor sites.

7. Interaction of reactor materials at very high temperature (*e.g.*, core/concrete, core debris/vessel component interactions).

8. Evaluation of the risk reduction effectiveness of human factors requirements in nuclear power plant operations and maintenance.

9. Methods for applying the growing pool of human performance data to nuclear power plant safety requirements.

10. Development of methods for Risk and Reliability Analysis of closed loop control systems, including advanced digital based control system.

11. Develop and codify pragmatic, statistically valid, methods for updating severe accident frequency and consequence analysis to reflect results of new operational, experimental, and calculation data.

12. Develop merit of methods and procedures for establishing the degree to which Probabilistic Risk Assessment (PRA) results compare with operational data and experience.

13. Development of methods to analyze and understand the aging effects, including irradiation damage effects, improved examination and testing methods for determining the condition of structures and components, and methods to assess residual lifetime of structures and components.

14. Development of nondestructive testing methods for in-situ evaluation of material properties and property degradation due to aging, such as fracture toughness and fatigue.

15. Development of methods for assuring component structural reliability and realistic methods to define the probabilities of radioactive release due to earthquakes.

16. Development of methods for assuring integrity of the primary system, *i.e.*, pressure vessels, piping, steam generator tubing, such as advanced nondestructive testing techniques, continuous monitoring techniques and fracture analysis procedures.

17. Development of methods to establish and validate decommissioning criteria and effects of water chemistry on the primary system integrity.

18. Development and/or validation of models to explain the tectonics of the Central and Eastern United States (east of 106 degrees W).

19. Development, and/or validation of models to predict the propagation of seismic ground motions in the Central

and Eastern United States or in a shallow soil column.

20. Investigations/studies including field observations of the paleo-seismicity of the Central and Eastern United States.

21. Development of rapid bioassay analysis techniques for application to accidental internal exposure situation.

22. Natural analog studies of long-term stability of waste forms for low- and high-level nuclear waste.

23. Studies of volcanism in the Basin and Range.

24. Simplified modeling of thermohydrologic phenomena in high-level waste geological repositories.

25. Investigations of coupled tectonic-hydrological processes.

26. Development of a continuum approach for modeling unsaturated fractured rock.

27. Development of improved instrumentation or techniques for measuring activities, radiation dose, and dose rates, especially from small radioactive particles.

28. Development of methods for contamination prevention, measurement, and control; and improved radiological air sampling methodology.

29. Investigation of the types, sensitivity, and linearity of various biological effects of radiation that could be used as biological dosimeters.

30. Research on the metabolism of radionuclides and their compounds relative to the calculation of internal dose.

31. Investigation of the efficacy of radioactive protective agents.

Eligible Applicants

Educational institutions, nonprofit entities, State and local governments, and professional societies are eligible to apply for a grant under this announcement.

Factors Generally Indicating Support Through Grants

The NRC's benefit from the results of grants should be no greater than for other interested parties, *i.e.*, the public must be the primary beneficiary of the work performed. Surveys, studies, or research which provide specific information or data necessary for the NRC to exercise its regulatory or research mission responsibilities will not be funded by a grant. Applicants requesting support for work which has a direct regulatory application should submit their requests as an unsolicited proposal for consideration as a contract rather than a grant.

1. The primary purpose of NRC grants is to support the development of knowledge or understanding of the subject or phenomena under study.

2. The exact course of the work and its outcome are usually not defined precisely, and specific points in time for achievement of significant results need not be specified.

3. The NRC desires that the nature of the proposed investigation be such that the recipient will bear prime responsibility for the conduct of the research and exercise judgment and original thought toward attaining the scientific goals within broad parameters of the proposed research areas and the resources provided.

4. Meaningful technical reports (as distinguished from Semi-Annual Status Reports) can be prepared only as new findings are made, rather than on a predetermined time schedule.

5. Simplicity and economy in execution and administration are mutually desirable.

Proposal Format

Proposals should be concise and provide a thorough understanding of the proposed project. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A-102 (Revised), Paragraph 6.c. Nonprofit organizations, universities, and professional societies shall submit proposals utilizing the standard forms stipulated in OMB Circular A-110, (Attachment M).

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exception.

1. *Cover page.* The Cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of proposal—To include the term "research," "study," "conference," "symposium," "workshop," or other similar designation to assist in the identification of the project;

Location and Dates for Conferences, Symposium, Workshop, etc.;

Names of Principal Researchers or Participants;

Total Cost of Proposal; (Identify Cost by Fiscal Year)

Period of Proposal;

Organization or Institution and Department;

Required Signatures:

Principal Participants:

Name:_____
Date:_____
Address:_____
Telephone No.:_____

Required Organization Approval:

Name:_____
Date:_____
Address:_____
Telephone No.:_____

Organization Financial Officer:

Name:_____
Date:_____
Address:_____
Telephone No.:_____

2. *Project description.* Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding. Applicants must identify other possible sources of financial support for a particular project, and list those sources from which financial support has been or will be requested.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project descriptions:

(a) *Project goals and objectives.* The project's objectives must be clearly and unambiguously stated. The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) *Project outline.* The proposal should show the project format and agenda, including a list of principal areas or topics to be addressed.

(c) *Project benefits.* The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) *Project management.* The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) *Project costs.* Nonprofit organizations shall adhere to the cost principles set forth in OMB Circular A-122. Educational institutions shall adhere to the cost principles set forth in OMB Circular A-21, and state and local governments shall adhere to the cost principles set forth in OMB Circular A-87.

The proposal must provide a detailed schedule of project costs, identifying in particular—

(1) *Salaries*—in proportion to the time or effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/Subsistence in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—*e.g.*, supplies or registration fees;

Note.—Due to organizations, federations or societies, exclusive or registration fees, are not allowed as a charge.

(6) Indirect Costs (attached negotiated agreement/cost allocation plan); and

(7) *Supporting documentation.* The supporting documentation should contain any additional information that will strengthen the proposal.

Proposal Submission and Deadline

This notice is valid for Federal Government Fiscal Year 91 (October 1, 1990 to September 30, 1991). Potential grantees are advised, however, that due to the limited funding available for new research grants to educational institutions, such proposals received after March 1, 1991, will be considered for FY 91 funding to the extent practicable.

Funds

For Fiscal Year 91, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, anticipates making a total of approximately $1,000,000.00 available for funding research grants to educational institutions. Of this amount, approximately $500,000.00 will be available for new research grants in FY91. Because of this limitation, proposed grant budgets should be restricted to about $50,000 per year, with total project funding not exceeding $100,000 over a period of two years.

Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

Evaluation Criteria

The award of NRC grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

Evaluation of proposals for research projects will employ the following criteria. No level of importance is implied by the order in which these criteria are listed.

1. Adequacy of the research design.
2. Scientific significance of proposal.
3. Technical adequacy of the investigators and their institutional base.
4. Relevance to a research area(s) described above.
5. Reasonableness of estimated cost in relation to the work to be performed and anticipated result.
6. Potential benefit of the project to the overall benefit of the institution's graduate research program.

Evaluation of proposals for professional meetings, conferences, symposia, etc., will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge.
2. Clarity of statement of objectives, methods, and anticipated results.
3. Range of issues covered by the meeting agenda.
4. Qualifications and experience of project speakers.
5. Reasonableness of estimated cost in relation to anticipated results.

Disposition of Proposals

Notification of award will be made by the Grants Officer, and organizations whose proposals are unsuccessful will be so advised.

Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to (Grant application packages, Standard Form 424, must be requested in writing): U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts and Property Management, Mail Stop P–1042, Office of Administration, Washington, DC 20555.

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts and Property Management, Office of Administration, Mail Stop P–1042, 7920 Norfolk Avenue, Bethesda, MD 20814.

Note: Upon delivery of the application to the NRC guard desk (at the above address), the guard should be requested to telephone the Division of Contracts and Property Management (Extension 24297) for a pick-up of the application.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Bethesda, MD this 23rd day of November 1990.

For the U.S. Nuclear Regulatory Commission.

Mary Mace,

Grants Officer, Contract Negotiation Branch No. 2, Division of Contracts and Property Management, Office of Administration.

[FR Doc. 90–28219 Filed 11–30–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–277 and 50–278]

Philadelphia Electric Co., et al.; Withdrawal of Application for Amendment to Facility Operating License

In the matter of: Philadelphia Electric, Public Service Electric and Gas, Delmarva Power and Light, and Atlantic City Electric Companies.

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Philadelphia Electric Company, et al. (the licensee) to withdraw its January 21, 1987 application for proposed amendment to Facility Operating Licenses DPR–44 and DPR–56 for the Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, located in York County, Pennsylvania.

The proposed amendment would have revised the facility Technical Specifications pertaining to the filing of semi-annual effluent reports and a reporting requirement for loss of shutdown margin events. The application requested changes to the reporting requirements of the Peach Bottom technical specifications and requested a related exemption from 10 CFR 50.36a to permit a 30 day extension for the filing of semi-annual effluent reports.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 1, 1987 (52 FR 24556). However, by letter dated October 16, 1990, the licensee withdrew the proposed change. Licensee efforts, subsequent to the filing of the 1987 submittal, resulted in streamlined processes for collecting data, obtaining sample analyses results, and preparing the semi-annual effluent report. The licensee concluded that a 30 day extension to the reporting requirement was no longer necessary.

For further details with respect to this action, see the application for amendment dated January 21, 1987, and the licensee's letter dated October 16, 1990, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the State Library of Pennsylvania, Government Publications Section, Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 21st day of November 1990.

For the Nuclear Regulatory Commission.

Gene Y. Suh,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–28282 Filed 11–30–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology

The President's Council of Advisors on Science and Technology (PCAST) will meet on December 13–14, 1990. The meeting will begin at 9 a.m. in the Conference room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda

1. Briefing to the Council on the current activities of Office of Science and Technology Policy, and the private sector.

2. Briefing to the Council on current federal activities and policies in science and technology.

3. Discussion of issues and topics for potential working group panels.

4. Discussion of composition of working groups.

Portions of the December 13–14 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of materials that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and Information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

Persons wishing to attend the open portion of the meeting should contact Ms. Sally Sherman (202) 395–3902, prior to 3 p.m. on December 12, 1990. Ms. Sherman is also available to provide specific information regarding time, place and agenda for the open session.

Dated: November 28, 1990.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90–28295 Filed 11–30–90; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–28641; File No. SR–MCC–90–06 and File No. SR–MSTC–90–06]

Self-Regulatory Organizations; the Midwest Clearing Corp. and the Midwest Securities Trust Corp.; Order Approving Proposed Rule Changes Relating to Penalty Fees for a Participant's Failure to Provide Requested Financial Information

I. Introduction

On August 24, 1990, the Midwest Clearing Corporation ("MCC") and the Midwest Securities Trust Corporation ("MSTC") filed proposed rule changes (File Nos. SR–MCC–90–06 and SR–MSTC–90–06, respectively) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] On September 21, 1990, MCC and MSTC amended their filings to provide for Commission review pursuant to section 19(b)(2) rather than section 19(b)(3)(A) of the Act.[2] Notices of the amended proposals were published in the **Federal Register** on October 11, 1990, to solicit comments from interested persons.[3] No comments were received. As discussed below, this order approves the proposals.

II. Description of the Proposals

The proposals establish penalty fees for a participant's failure to provide MCC or MSTC with requested financial information.

Under MCC's and MSTC's participants' agreements and rules, including MCC Article VIII, Rule 1, section 3, and MSTC Article V, Rule 1, section 3, an MCC or MSTC participant is required to provide MCC or MSTC information with respect to the Participant's business and transactions as MCC or MSTC may require. MCC and MSTC have historically interpreted their rules to require broker-dealer participants to provide copies of applicable Form X–17A–5 FOCUS Reports and Annual Audited Reports, and bank Participants to provide copies of Consolidated Reports of Condition and Income (CALL Reports) on a timely basis, as noted below:

Reports	Date due
Form X–17A–5, FOCUS I.	10 business days after month-end.
Form X–17A–5, FOCUS II.	17 business days after quarter-end.
Consolidated Reports of Condition and Income (CALL REPORTS).	45 calendar days after quarter-end.
Form X–17A–5, ANNUAL AUDITED REPORT.	60 calendar days after fiscal year-end.

MCC and MSTC will impose the following penalty fees for a participant's failure timely to provide these reports:

Days late	Amount
1 to 30	$100
31 to 60	200
61 to 90	400

III. MCC's and MSTC's Rationale for the Proposal

MCC and MSTC believe the proposed rule change is consistent with section 17A(b)(3)(F) of the Act because the proposed rule changes are designed to promote the prompt and accurate clearance and settlement of securities transactions and reduce clearing agency risk by encouraging Participants to provide MCC and MSTC with financial information on a timely basis.

IV. Discussion

The Commission believes that MCC's and MSTC's proposed rule changes are consistent with the Act, and in particular, with section 17A. Specifically, the proposals are consistent with section 17A(b)(3) (A) and (F) of the Act,[4] which provide that the clearing agency be organized and its rules be designed to promote, among other things, the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from Jeffrey E. Lewis, Associate Counsel, MCC/MSTC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission, dated September 20, 1990.

[3] See Securities Exchange Act Release No. 28502 (October 11, 1990) 55 FR 41404 (MCC), and Securities Exchange Act Release No. 28501 (October 11, 1990) 55 FR 41405 (MSTC).

[4] 15 U.S.C. 78q–1(b)(3) (A) and (F).

The Commission believes that the proposal is designed appropriately to encourage participants to file certain financial reports on a timely basis. This will facilitate MCC and MSTC's ability to monitor the financial condition of their members to minimize the risk of participant defaults consistent with their obligations under sections 17A(b)(3)(A) and 19(g) [5] of the Act. Additionally, the proposals are consistent with section 17A(b)(3)(D) of the Act,[6] which provides that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants, in that the penalties provided for in the proposal are charges imposed equitably, in accordance with how late the reports are filed, and thus encourage prompt filing.

The proposals also are consistent with section 17A(b)(3)(G) of the Act,[7] which provides that the rules of a clearing agency must provide that its participants be appropriately disciplined for violation of any provision of the rules of the clearing agency by, among other things, fine, or any other fitting sanction. The Commission believes that the penalties set forth in the proposals fines are appropriate disciplinary measures for a participant's violation of a reporting rule.

The proposed penalties constitute disciplinary sanctions under the Act and thus must be imposed in a manner consistent with section 17A(b)(3)(H) of the Act,[8] which, (1) requires that a clearing agency provide a "fair procedure" [9] for the disciplining of its participants, and (2) incorporates by reference section 17A(b)(5) of the Act,[10] which requires that a clearing agency grant an accused party specific due process rights, including a statement of charges, notice of the charges, an opportunity for a hearing on the record. While the proposals do not explicitly provide for an opportunity for a hearing on the record, MCC and MSTC Rules expressly provide procedures for review of the decision to impose a penalty and the fairness of that penalty. Specifically, MCC Article X, Rule 3, and MSTC Article VII, Rule 3 provide participants an opportunity for a hearing if the participant, within ten days after an imposition of a sanction, requests that the matter be reviewed by the Board of Directors.[11] In light of these rules, the Commission believes that MCC's and MSTC's appeal process will provide penalized Participants with fair opportunity to be heard.

[5] 15 U.S.C. 78s(g).

[6] 15 U.S.C. 78q-1(b)(3)(D).

[7] 15 U.S.C. 78q-1(b)(3)(G).

[8] 15 U.S.C. 78q-1(b)(3)(H).

[9] The term "fair procedure" as used in section 17A(b)(3)(H) of the Act means that any SRO disciplinary action must be conducted under rules that provide a fair and orderly procedure, including the obligation that an SRO bring specific charges, give notice to the accused, and provide an opportunity for a hearing. See S. REP No. 75, 94th Cong., 1st Sess. 25, 96 & 124 (1975).

[10] 15 U.S.C. 78q-1(b)(5).

[11] The penalty will be stayed during the pendency of the review. The Board of Directors will or may hear the appeal and will render a decision. The decision rendered by the Board of Directors will be deemed final and a copy of that decision will be sent to the Commission.

[12] 15 U.S.C. 78s(b)(2).

V. Conclusion

For the reasons stated above, the Commission finds that MCC's and MSTC proposal is consistent with the Act and, in particular, section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that MCC and MSTC's proposed rule changes (SR-MCC-90-06 and SR-MSTC-90-06) be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 21, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28247 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issues and to Withdraw Unlisted Trading Privileges in Over-the-Counter Issues

November 27, 1990.

On November 9, 1990, the Midwest Stock Exchange, Inc. submitted an application for unlisted trading privileges (UTP) pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under section 12(b) of the Act:

File No.	Symbol	Issuer
7-6389	ACAD	Autodesk Incorporated, No par value.
7-6390	BORL	Borland International, $.01 par value.
7-6391	QNIM	Quantum Corporation, $.01 par value.

The MSE also applied to withdraw UTP pursuant to section 12(f)(4) of the Act on the following issues:

File No.	Symbol	Issuer
7-6392	COMM	Cellular Communications, $.01 par value.
7-6393	CNNR	Conner Peripherals, No par value.
7-6394	TWRX	Software Toolworks, $.01 par value.

In the case of Quantum Corporation, a replacement issue is being requested due the listing of Cellular Communications on the Midwest Stock Exchange. In the case of Autodesk Incorporated, a replacement issue is being requested due to its future listing on the New York Stock Exchange, thus rendering it ineligible for continued inclusion in the pilot program. In the case of Borland International, a replacement issue is being requested as a result of extremely low volume.

In addition, upon the approval of this application, the securities will be assigned to a Specialist/Odd Lot Dealer, pursuant to the rules of the Exchange.

Comments

Interested persons are invited to submit, on or before December 17, 1990, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grant of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension of UTP in OTC securities, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a National Market System.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28250 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28646; File No. SR-NYSE-90-48]

Self-Regulatory Organizations; Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Restrictions on "Stopping Stock"

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends NYSE Rule 116.30 to permit a specialist, upon request, to grant a stop in a minimum variation market for any order of 2,000 shares or less, up to a total of 5,000 shares for all stopped orders, without obtaining prior Floor Official approval. A Floor Official would be able to authorize a greater order size or aggregate share threshold. The NYSE proposes to implement the amendments as a one-year pilot program.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*—Rule 116.30 currently permits a specialist to "stop" stock, *i.e.*, to guarantee that he will buy or sell stock at a specified price, provided that, among other conditions, he is asked to grant a stop, and the quotation spread when the stop is given is at least twice the minimum variation of trading.

The Exchange is proposing to amend Rule 116.30 to permit a specialist, upon request, to grant a stop in a minimum variation market, as to both systematized and manual orders, as to any order of 2,000 shares or less, up to an aggregate of 5,000 shares of all orders that are stopped, without obtaining prior Floor Official approval. A Floor Official would be authorized to approve a specified larger order-size threshold, or a specified larger aggregate size as to all orders that may be stopped in a minimum variation market.

The Exchange does not expect that specialists would routinely grant a stop in a minimum variation market, or that Floor Officials would routinely authorize them to exceed the parameters specified in the proposed rule change. In an appropriate case, however, particularly where there is a large imbalance on one side of the market, it would appear to be beneficial for an order to receive a stop in a minimum variation market.

For example, assume the market in XYZ stock is quoted 30 to 30⅛, with 1,000 shares bid for and 20,000 shares offered. If the specialist receives a market order to buy 2,000 shares he could simply execute the order against the prevailing offer, with the buyer paying a price of 30⅛. In this situation, however, the large imbalance on the offer side of the market suggests that subsequent transactions will be on the bid side of the market. If the entering broker requests a stop, the specialist would be permitted to grant the stop at 30⅛ and add the order to the bid of 30. The customer would be guaranteed a price of no higher than 30⅛, and would have a reasonable opportunity to receive a price of 30. The specialist would be permitted to grant a stop to orders of more than 2,000 shares only if he obtains prior Floor Official approval.

The Exchange intends to implement the proposed rule change as a one-year pilot program. To monitor compliance with the proposed rule change during the pilot, computer programs using existing information from the Exchange's system order database and transaction and quotation files will identify situations where the quotation is the minimum variation and the size of the order(s) stopped exceeds the rule's parameters, *i.e.*, individual orders up to 2,000 shares or an aggregate of 5,000 shares. Floor Official records will then be checked to see that approval was obtained to exceed the limits. Where Floor Officials establish new order size or aggregate share size parameters, subsequent stops will be reviewed against these parameters.

The Exchange also will review executions of stopped orders to determine the percentage of time such orders are executed at the stop price, and the percentage of time such orders receive a price that is better than the stop price.

In addition, the Exchange will develop programs to review market depth in a stock when a stop is granted in a minimum variation market. Such programs will compare the size of the stopped order to the existing quote size and quote size imbalance, if any.

Prior to the expiration of the pilot, the Exchange will report its findings to the Commission. Based on such findings, the Exchange may determine at that time to seek permanent approval of the rule change, or may propose such modifications as appear to be appropriate based on experience during the pilot.

2. *Statutory Basis*—The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The amendments to Rule 116.30 are consistent with these objectives in that they permit specialists to grant stops, subject to appropriate limitations, in minimum variation markets, thereby enabling them to offer the possibility of price improvement to customers whose orders are granted stops.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] The NYSE originally submitted to the Commission certain amendments to Rule 116.30 in File No. SR-NYSE-90-10. *See* Securities Exchange Act Release No. 27939 (April 24, 1990), 55 FR 18207 (May 1, 1990). File No. SR-NYSE-90-10, which consists of a number of proposed amendments to the NYSE's Rules recommended by the NYSE's Market Regulation Review Committee, currently is under review by the Commission. In conjunction with its filing of File No. SR-NYSE-90-48, the NYSE submitted to the Commission Amendment No. 1 to File No. SR-NYSE-90-10 in order to delete its proposed amendments to Rule 116.30 from that file. See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Mary Revell, Branch Chief, Commission, dated October 2, 1990. The Exchange has revised and resubmitted its proposed amendments to Rule 116.30 in File No. SR-NYSE-90-48.

C. Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-48 and should be submitted by December 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 26, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28248 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28643; File No. SR-Phlx-90-34]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Increasing the Number of Issues Eligible for Automatic Execution and the Types of Orders Eligible for Delivery Under AUTOM

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1990, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to increase the number of issues eligible for the automatic execution ("AUTO-EX") feature of the Exchange's Automated Options Market ("AUTOM") system, a pilot program, from twelve (12), plus all multiply traded options, to all Phlx equity options (currently 159). The AUTOM system provides electronic delivery of small options orders to the Phlx trading floor, as well as an automatic execution feature for certain options series. Additionally, the Phlx proposes to permit delivery and manual execution of good until cancelled ("GTC") and cabinet (accommodation transactions) orders directly to the specialist through the Autom system and extend the pilot program until December 31, 1991.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On March 31, 1988, the Commission approved SR-Phlx-88-10, a proposed rule change establishing AUTOM on a pilot basis for market orders of up to five contracts for all exercise prices in the near month covering twelve Phlx equity options until June 30, 1988.[1] On June 30, 1988, the Commission approved SR-Phlx-88-22, authorizing an expansion of AUTOM to 37 Phlx equity options and extending the pilot through December 31, 1988.[2] On December 13, 1988, the Commission approved SR-Phlx-88-33 making all orders in all exercise prices and months in 37 options eligible for AUTOM and increasing the eligible order size to ten contracts.[3] At the same time, the Commission approved an extension of the pilot until December 31, 1989. On January 9, 1990, the Commission approved SR-Phlx-89-03, which added the Auto-Ex feature to Autom and extended the pilot program until June 30, 1990.[4] In addition, the eligibility of day orders for delivery through the system was approved. On July 26, 1990, the Commission approved SR-Phlx-90-16, extending the pilot program until December 31, 1990.[5] Most recently, the Commission approved SR-Phlx-90-18, increasing the eligible order size for the order routing feature of AUTOM from ten (10) to one hundred (100) contracts.[6]

The current proposal would increase from 12, plus multiply-traded options, to 159 the number of issues eligible for the automatic execution feature of AUTOM, increase the types of orders eligible for delivery and manual execution to include GTC and cabinet orders and extend the pilot program until December 31, 1991. The Exchange believes that increasing the number of issues eligible for automatic execution and the types of orders eligible for delivery and manual execution will increase overall AUTOM order flow. The Exchange represents that the AUTOM system is capable of processing significantly increased order flows in terms of disc capacity. The Exchange believes that, by increasing

[1] See Securities Exchange Act Release No. 25540, March 31, 1988, 53 FR 11390, April 6, 1988.

[2] See Securities Exchange Act Release No. 25868, June 30, 1988, 53 FR 25563, July 7, 1988.

[3] See Securities Exchange Act Release No. 26354, December 13, 1988, 53 FR 51185, December 20, 1988.

[4] See Securities Exchange Act Release No. 27599, January 9, 1990, 55 FR 1751, January 18, 1990.

[5] See Securities Exchange Act Release No. 28265, July 26, 1990, 55 FR 31274, August 1, 1990.

[6] See Securities Exchange Act Release No. 28516, October 3, 1990, 55 FR 41408, October 11, 1990.

the potential for order flow, this proposal will extend AUTOM's benefits to additional firms and customers. The Exchange, thus, believes that the proposed rule change is consistent with sections 11A(a)(1) (B) and (C)(i) of the Act in that the purpose of the development and implementation of AUTOM is to improve the efficiency of the execution of transactions in Phlx equity options through the use of new data processing and communications techniques. The Exchange also believes that the proposal is consistent with section 11A(a)(1)(C)(ii) of the Act in that it fosters fair competition among exchange markets in that other options exchanges currently have in place Commission approved options execution systems on pilot and permanent bases. In addition, the Phlx believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: November 26, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28249 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28647; File No. SR-PTC-90-07]

Self-Regulatory Organizations; Participants Trust Co.; Filing of Proposed Rule Change Relating to the Elimination of Prorated Charges to Participants for Principal and Interest Advances

November 26, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1990, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-PTC-90-07) as described in Items I, II, and III below, which items have been prepared by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Article III, rule 2, section 2(f) of the rules of PTC, providing for the proration among benefitted participants of the cost of financing principal and interest advances, is deleted and current section 2(g) is renumbered 2(f). Below is the text of the proposed rule change. (Brackets indicate deletions, italics indicate additions.)

Article III, Rule 2, Principal and Interest Payments

Sec. 2. Financing of Payments

(a) If the Corporation, using only its own funds and/or Available Deposits, has made a principal and interest advance, the Corporation shall be entitled to retain the subject principal and interest payment when received from the issuer(s) or paying agent(s) to the extent of the principal and interest advance, applying so much of such payment as is necessary to repay any loans secured by the securities portion of Participants' Mandatory Deposits to the Participants Fund and restore the cash portion of Participants' Mandatory Deposits.

(b) If the Corporation, using only proceeds of a loan or loans made by one or more third-party lenders to the Corporation secured by subject principal and interest payments to fund one or more principal and interest advances (the loan made by each such third-party lender being hereinafter referred to as a "third-party loan"), has made a principal and interest advance, the Corporation shall be entitled to retain, as agent for the sole benefit of such third-party lender(s), the subject principal and interest payments when received from the issuer(s) or paying agent(s) to the extent of the principal and interest advances and interest thereon made with the proceeds of such third-party loan(s).

(c) If the Corporation, using combination of (i) Its own funds or Available Deposits and (ii) the proceeds of one or more third-party loans, has made a principal and interest advance, the Corporation shall (A) Until each such third-party loan has been repaid in full, be entitled to retain, as agent for the sole benefit of the third-party lender(s) making such third-party loan(s), the subject principal and interest payment when received from the issuer(s) or paying agent(s) to the extent of the principal and interest advance made with the proceeds of such third-party loan(s) and interest thereon and (B) after each such third-party loan and interest thereon has been repaid in full, be entitled to retain, for the Corporation's own benefit (subject to any obligation to repay any loans secured by the securities portion of Participants' Mandatory Deposits to the Participants Fund and restore the cash portion of Participants' Mandatory Deposits) the subject principal and interest payment when received from the issuers(s) or

[7] 17 CFR 200.30-3(a)(12) (1989).

paying agent(s) to the extent of the remainder of the principal and interest advance. If the Corporation, using a combination of its own funds or Available Deposits and the proceeds of one or more third-party loan(s), has made principal and interest advances on any Business Day to more than one Participant or Limited Purpose Participant, the principal and interest advance to each Participant or Limited Purpose Participant shall be deemed to have been made pro rata with the Corporation's own funds or Available Deposits and the proceeds of such third-party loan(s), with each Participant or Limited Purpose Participant being deemed to have received a pro rata portion of the proceeds of each third-party loan.

(d) The availability of third-party loans may be conditioned upon Participants' or Limited Purpose Participants' compliance with such conditions as the third-party lender(s) may impose. Without limiting the generality of the foregoing, each Participant and Limited Purpose Participant agrees (i) To make full and prompt payment when due of the principal and interest on all third-party loans to the Corporation, plus all expenses incurred by third-party lender(s) in enforcing such payment obligations, the proceeds of which third-party loans are used, in whole or in part, to fund one or more principal and interest advances to such Participant or Limited Purpose Participant, with the right of recovery against such Participant or Limited Purpose Participant, in connection with principal and interest advances made to such Participant or Limited Purpose Participant on any Business Day, being limited to its pro rata share of (A) Such principal and interest advances made by the Corporation to Participants and Limited Purpose Participants on such Business Day using the proceeds of third-party loans made by third-party lender(s), less (B) the amount of all subject principal and interest payments relating to such principal and interest advances received and retained by such third-party lender(s) plus (C) interest on such third-party loans and all expenses incurred by such third-party lender(s) in enforcing such payment obligations and (ii) to assign to such third-party lender(s), or any agent of such third-party lender(s), all rights of such Participant or Limited Purpose Participant in and to all subject principal and interest payments relating to all principal and interest advances made by the Corporation to such Participant or Limited Purpose Participant using, in whole or in part, the proceeds of third-party loans made by such third-party lender(s). If a Participant or Limited Purpose Participant, or the Corporation on behalf of any Participant or Limited Purpose Participant, has granted or transferred to any other Participant or third party a security interest or other limited interest in any Securities with respect to which a third-party lender has been assigned subject principal and interest payments, any interest such other Participant or third party or the Corporation might otherwise have in the subject principal and interest payments shall be subordinated to any interest in the subject principal and interest payments assigned to such third-party lender. Each Participant and Limited Purpose Participant hereby (i) Irrevocably appoints the Corporation as such Participant's or Limited Purpose Participant's attorney-in-fact, with full authority in the place and stead of such Participant or Limited Purpose Participant and in the name of such Participant or Limited Purpose Participant or otherwise, from time to time in the Corporation's discretion, to take any action and to execute any document required by any third-party lender to effect the payment obligations and assignment(s) referenced in the immediately preceding sentence of this section 2(d), including without limitation, financing statements, and (ii) agrees to be bound by the terms and provisions of any such document as may from time to time be executed by the Corporation, including any such document executed by the Corporation prior to such Participant's or Limited Purpose Participant's becoming a Participant or Limited Purpose Participant.

(e) If the Corporation has made principal and interest advances on any Business Day using the proceeds of more than one third-party loan, each third party lender, as a condition of its loan, must agree that, should it receive repayment of more than its pro rata share of loan proceeds deemed to have been advanced to any Participant or Limited Purpose Participant, plus interest, it will hold such excess payment in trust for the benefit of the other third-party lenders which made third-party loans on such Business Day and surrender such excess payment to such other third-party lenders as their respective interests may appear. Such agreement will be deemed to have been made for the benefit of, and be enforceable by, such other third-party lenders.

(f) [Any financing costs related to principal and interest advances funded with the Corporation's own funds, Available Deposits and/or the proceeds of third-party loans shall be charged to Participants and Limited Purpose Participants in proportion to their Record Date positions in the Securities with respect to which the principal and interest advances were made, as adjusted pursuant to section 1 of this rule 2. As used in this section 2(f), the term "financing costs" shall mean, (i) To the extent the Corporation has borrowed funds from third-party lenders (whether secured by the securities portion of Participants' Mandatory Deposits to the Participants Fund or by subject principal and interest payments), the cost of such borrowing charged by such third-party lenders and (ii) to the extent the Corporation has advanced its own funds, interest at the highest rate that would have been charged to the Corporation by its third-party lenders if they had made a loan under credit agreements with Corporation then in effect. To the extent the corporation has used the cash portion of Participants' or Limited Purpose Participants' Mandatory Deposits to the Participants Fund to fund principal and interest advances, the Corporation shall pay such Participants and Limited Purpose Participants, from interest collected from Participants and Limited Purpose Participants receiving principal and interest advances, interest at the rate specified in section 5 of rule 2 of article V.

(g)] If for any reason the Corporation or a third-party lender, or any agency for a third-party lender, to which a Participant or Limited Purpose Participant has assigned, pursuant to the terms of section 2(d), its rights in and to subject principal and interest payments does not promptly receive the subject principal and interest payments from the issuer(s) or paying agent(s) or is not entitled to retain them when received, such Participant of Limited Purpose Participant agrees that it shall, upon demand by the Corporation or such third-party lender, as the case may be, promptly pay the Corporation or such third-party lender an amount equal to such Participant's or Limited Purpose Participant's pro rata share of the product of (i) The subject principal and interest payments multiplied by (ii) the percentage of the principal and interest advance funded by the Corporation or such third-party lender, as the case may be. In the event the Corporation or such third-party lender is so paid, all rights to the subject principal and interest

payments shall revert to the Participant or Limited Purpose Participant.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PTC has determined that the cost of financing principal and interest advances can be adequately covered by investing collected principal and interest payments upon receipt; the purpose of the proposed rule change is to reduce fees and costs to participants.

The basis for this proposed rule change under the Act is the requirement under section 17A(b)(3)(D) that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not perceive that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PTC consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–90–07 and should be submitted by December 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–28286 Filed 11–30–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17870; 812–7575]

Axe-Houghton Funds, Inc., et al.; Application

November 26, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Axe-Houghton Funds, Inc. ("Axe-Houghton Funds"), Chancellor Funds, Inc. ("Chancellor Funds"), other open-end investment companies which may become members of the USF&G group of investment companies (as defined in Rule 11a–3 under the 1940 Act) (collectively, the "Funds"), and USF&G Investment Services, Inc. ("Investment Services").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and Rules 22c–1 and 22d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order permitting them to assess a contingent deferred sales load ("CDSL") and to waive the CDSL on certain redemptions of shares of the Funds.

FILING DATE: The application was filed on August 13, 1990, and amended on November 7, 1990. An additional amendment, the substance of which is set forth in this notice, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 20, 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, 275 Commerce Drive, Fort Washington, Pennsylvania 19034.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Axe-Houghton Funds and Chancellor Funds are Maryland corporations and open-end management investment companies registered under the 1940 Act. Axe-Houghton Funds presently offers shares in five separate series: Axe-Houghton Income Fund, Axe-Houghton Fund B, Axe-Houghton Insured Tax-Exempt Fund, Axe Core International ADR Fund, and Axe-Houghton Growth Fund.

Chancellor Funds offers shares in two series: Chancellor Growth and Income Fund and Chancellor Fixed Income Reserve Fund.

2. Investment Services is a registered broker-dealer and a wholly-owned

subsidiary of USF&G Financial Services Corporation which, in turn, is a wholly-owned subsidiary of USF&G Corporation, a holding company engaged in the insurance business and the sale of financial services through its subsidiaries. Investment Services serves as the distributor of shares of the Funds.

3. Purchases of Fund shares of less than $1 million are generally subject to a front-end sales load which decreases from a maximum amount as the size of a purchase increases. The front-end sales load is waived for the following classes of purchasers regardless of the size of the purchase: (a) Current or retired directors of the Funds, employees or retired employees of USF&G Corporation and its affiliates, (b) registered representatives or full-time employees of financial service firms which have a dealer agreement with Investment Services and certain family members thereof, (c) certain employee benefit plan trusts and custodial accounts and tax-exempt investors (other than an Individual Retirement Account ("IRA")), (d) accounts managed by affiliates of USF&G Corporation, and (e) USF&G Corporation, its affiliated companies and their employee benefit plans.

4. Applicants propose to impose a CDSL on redemptions of Fund shares acquired through purchases of $1 million or more which, but for the amount of the purchase, would have been subject to the front-end sales load. The CDSL would be payable only if such shares are redeemed within 12 months of their purchase, at the rate of 1% of the lesser of the net asset value of the shares redeemed (exclusive of reinvested dividends and capital gains distributions) or the net asset value of such shares at the time of purchase. Shares held for more than 12 months would not be subject to a CDSL.

5. Applicants propose to waive the CDSL for redemptions made for the purpose of paying benefits pursuant to tax-qualified retirement plans. Such payments would include (a) distributions from certain tax-qualified retirement plans due to death, disability, or retirement of a participant, (b) distributions from an Internal Revenue Code ("Code") section 403(b)(7) custodial account or an IRA due to death, disability, or attainment of age 59½, (c) returns of excess contributions to an IRA or a Code section 401(k) plan, and (d) distributions by other employee benefit plans to pay benefits. In accordance with Rule 11a–3 under the 1940 Act, Applicants will not assess a CDSL on Fund shares being exchanged for other Fund shares.

6. Shareholders investing $1 million or more may participate in an automatic withdrawal plan (the "Withdrawal Plan") offered to all shareholders. The Withdrawal Plan allows shareholders to elect to make monthly withdrawals of $50 or more from a shareholder account of at least $5,000.[1] Applicants propose waiving the CDSL on amounts withdrawn pursuant to the Withdrawal Plan that would otherwise be subject to the CDSL (*i.e.*, after the withdrawal has been attributed first to amounts available from dividends, capital gains, increases in per share net asset value, or shares held for more than 12 months). Consequently, no CDSL will be imposed on redemptions made within the confines of the Withdrawal Plan.

Applicants' Legal Conclusions

7. Applicants believe that the proposed CDSL is fair and fully consistent with the exemptive standards under section 6(c). In addition, Applicants contend that the CDSL waiver on redemptions in connection with withdrawals pursuant to a withdrawal plan is appropriate on fairness considerations. Over time, the aggregate amounts redeemed without charge should not exceed amounts that could have been redeemed directly without charge. Applicants submit that there would be no difference in treatment between shareholders electing to participate in the withdrawal plan and those not participating. Applicants further argue that the waiver on redemptions in connection with distributions from certain tax-qualified retirement plan is appropriate for public policy reasons because it is consistent with provisions granting favored tax treatment to accumulations under such plans and imposing taxes on early distributions.

Applicants' Condition

If the requested order is granted, Applicants expressly consent to the following condition:

Applicants will comply with the provisions of proposed Rule 6c–10 under the 1940 Act, as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–28251 Filed 11–30–90; 8:45 am]

BILLING CODE 8010–01–M

[1] Shares in any of the Funds may be combined to calculate the $5,000 value.

[Rel. No. IC–17872; 811–4730]

National Growth Fund; Application for Deregistration

November 27, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: National Growth Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on August 2, 1990 and amended on November 19, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 21, 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. Applicant, 600 Third Avenue, New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Massachusetts business trust. Applicant was organized in 1986 to assume the assets and operations of the Growth Series of National Securities Funds, a New York business trust established in 1940.

2. On July 1, 1986, applicant registered under the 1940 Act and filed a registration statement on Form N–1A

under the Securities Act of 1933 to register an indefinite number of its shares of beneficial interest. The registration statement became effective on August 29, 1986.

3. On March 9, 1989, applicant's board of trustees authorized a reorganization, pursuant to which all of the assets and liabilities of applicant would be transferred to National Aggressive Growth Fund, Inc. ("Aggressive Growth"), a New York corporation and diversified open-end management investment company. An Agreement and Plan of Reorganization (the "Plan") was entered into as of October 2, 1989. Applicant's shareholders approved the Plan at a special meeting held on November 28, 1989.

4. Pursuant to the Plan, at a closing held on December 1, 1989, applicant transferred to Aggressive Growth all of its assets and liabilities in exchange for shares of Aggressive Growth having an aggregate net asset value equal to the aggregate net asset value of applicant. Applicant distributed pro rata to its shareholders of record as of December 1, 1989 the shares received from Aggressive Growth. No brokerage commissions were paid in connection with the reorganization.

5. Following the reorganization, applicant's registration as a Massachusetts business trust was terminated.

6. All of the expenses incurred in connection with applicant's reorganization and liquidation have been borne by applicant's investment adviser, National Securities & Research Corporation.

7. As of the date of the application, applicant had no assets, liabilities, or shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. All of applicant's required N-SAR filings have been made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28252 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17873; 811-5325]

National Precious Metals Fund, Inc.; Application for Deregistration

November 27, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: National Precious Metals Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on August 2, 1990 and amended on November 19, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 21, 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. Applicant, 600 Third Avenue, New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504-2284, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On September 5, 1987, applicant registered under the 1940 Act and filed a registration statement on Form N-1A under the Securities Act of 1933 to register an indefinite number of its shares of beneficial interest. The registration statement became effective on December 28, 1987, and an initial public offering was commenced immediately thereafter.

2. On March 9, 1989, applicant's board of trustees authorized a reorganization, pursuant to which all of the assets and liabilities of applicant would be transferred to Blanchard Precious Metals Fund, Inc. ("Blanchard"), a Maryland corporation and non-diversified open-end management investment company. An Agreement and Plan of Reorganization (the "Plan") was entered into as of September 28, 1989. Applicant's shareholders approved the Plan at a special meeting held on February 21, 1990.

3. Pursuant to the Plan, at a closing held on February 27, 1989, applicant transferred to Blanchard all of its assets and liabilities in exchange for shares of Blanchard having an aggregate net asset value equal to the aggregate net asset value of applicant. Applicant distributed pro rata to its shareholders of record as of February 23, 1989 the shares received from Blanchard. No brokerage commissions were paid in connection with the reorganization.

4. Applicant intends to file a certification of dissolution pursuant to Maryland corporation law.

5. All of the expenses incurred in connection with applicant's reorganization and liquidation have been borne by applicant's investment adviser, National Securities & Research Corporation.

6. Applicant was organized in September 1987. Total organizational expenses were $25,000, which expenses were borne by the Fund and amortized on a straight line basis over five years. All unamortized expenses as of the effective date of the reorganization ($14,216) were reimbursed to the applicant.

7. As of the date of the application, applicant had no assets, liabilities, or shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. All of applicant's required N-SAR filings have been made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28253 Filed 11-30-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17874; 811-4729]

National Preferred Fund; Application for Deregistration

November 27, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: National Preferred Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on August 2, 1990 and amended on November 19, 1990

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 21, 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. Applicant, 600 Third Avenue, New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTRY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Massachusetts business trust. Applicant was organized in 1986 to assume the assets and operations of the Preferred Series of National Securities Funds, a New York business trust established in 1940.

2. On July 1, 1986, applicant registered under the 1940 Act and filed a registration statement on Form N–1A under the Securities Act of 1933 to register an indefinite number of its shares of beneficial interest. The registration statement became effective on August 29, 1986.

3. On September 14, 1989, applicant's board of trustees authorized a reorganization, pursuant to which all of the assets and liabilities of applicant would be transferred to National Total Income Fund ("Total Income"), a Massachusetts business trust and diversified open-end management investment company. An Agreement and Plan of Reorganization (the "Plan") was entered into as of November 1, 1989. Applicant's shareholders approved the Plan at a special meeting held on December 6, 1989.

4. Pursuant to the Plan, at a closing held on December 15, 1989, applicant transferred to Total Income all of its assets and liabilities in exchange for shares of Total Income having an aggregate net asset value equal to the aggregate net asset value of applicant. Applicant distributed pro rata to its shareholders of record as of December 15, 1989 the shares received from Total Income. No brokerage commissions were paid in connection with the reorganization.

5. Following the reorganization, applicant's registration as a Massachusetts business trust was terminated.

6. All of the expenses incurred in connection with applicant's reorganization and liquidation have been borne by applicant's investment adviser, National Securities & Research Corporation.

7. As of the date of the application, applicant had no assets, liabilities, or shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. All of applicant's required N–SAR filings have been made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–28254 Filed 11–30–90; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 17869; International Series Rel. No. 196; 812–7629]

The Over-the-Counter Securities Group, Inc.; Application

November 26, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: The Over-the-Counter Securities Group, Inc.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and Rule 12d3–1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to purchase, on behalf of certain of its series, the securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3–1.

FILING DATE: The application was filed on November 14, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 20, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, suite 228, 275 Commerce Drive, Ft. Washington, PA 19034–1537.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272–3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management series investment company registered under the Act. Applicant sees relief with respect to two of its series, the European Emerging Companies Fund series ("EEC Fund") and the European Growth Fund series ("EG Fund"), and any additional series that applicant may create in the future.

2. USF&G Review Management Corp. ("Review Management") acts as applicant's investment adviser with respect to the EEC Fund and will begin acting in the same capacity with respect to the EG Fund upon commencement of

that fund's operations on or about January 1, 1991. Rockefeller & Co., Inc. acts as sub-investment adviser of the EEC Fund. Asset Managers Advisors of Dresdner Bank-Gesellschaft Fur Vermogensanlageberatung mbH will act as sub-investment adviser of the EG Fund upon commencement of that fund's operations.

3. Applicant seeks to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

4. Applicant seeks relief from section 12(d)(3) of the Act and Rule 12d3–1 thereunder to invest in securities of foreign securities companies to the extent permitted in the proposed amendments to Rule 12d3–1. *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). Proposed amended Rule 12d3–1 would, among other things, facilitate the acquisition by applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended Rule 12d3–1.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3–1 provides that "any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." While margin securities are securities that are principally traded in the United States, certain equity securities issued outside the United States can now qualify as margin securities under recent amendments to Regulation T. Any foreign equity security meeting specified qualification requirements will be eligible as a margin security provided it appears on a list of "foreign margin stocks" to be published quarterly by the Board of Governors of the Federal Reserve System. Until such lists are available, however, most securities issued outside the United States will not be margin securities for purposes of Rule 12d3–1. Accordingly, applicants seek an exemption from the "margin security" requirements of Rule 12d3–1.

2. Proposed amended Rule 12d3–1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion of the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief requested:

Applicant will comply with the proposed amendments to Rule 12d3–1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)) as they are currently proposed, or as the may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–28255 Filed 11–30–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17878; 812–7459]

Application for Exemption; SEI Liquid Asset Trust, et al.

November 27, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: SEI Liquid Asset Trust, SEI Tax Exempt Trust, SEI Cash+Plus Trust, SEI Index Funds, SEI Institutional Managed Trust, SEI International Trust, The Capitol Mutual Funds, Key Investment Funds, Inc. (the "Trusts"), SEI Financial Management Corporation ("SFM"), SEI Financial Services Company ("SFS"), and all other registered investment companies managed or distributed in the future by SFM, SFS, or their affiliates as defined in section 2(a)(3) of the 1940 Act (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 18(f), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seeks an order amending a prior order (Investment Company Act Release No. 17169, October 17, 1989) permitting the issuance and sale of two classes of shares representing interests in each of several investment portfolios. The amended order would permit the issuance and sale of five classes of shares representing interests in some or all of the Trusts' investment portfolios, which classes would be identical in all respects except for differences related to distribution and class expenses, dividend payments, voting rights, and class designation.

FILING DATE: The application was filed on January 12, 1990, and amended on August 2, 1990, October 9, 1990, and October 30, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m on December 21, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: Key Investment Funds, Inc., SFS, or SFM, 680 East Swedesfort Road, Wayne, Pennsylvania 19087; Other Trusts, c/o CT Corporation, 2 Oliver Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. The Trusts are registered investment companies sponsored by SFM, a registered investment adviser, which also serves as each Trust's manager and unitholder servicing agent. In this capacity, SFM receives a management fee from each Trust. Separate fees are paid by each Trust to

independent investment advisers. Each Trust is authorized to issue multiple classes of units of beneficial interest or shares of stock ("Shares") representing interests in separate investment portfolios.

2. Under a prior exemptive order,[1] Applicants are authorized to issue two classes of Shares as further described below. All Shares currently are offered only to or through financial institutions, such as banks or broker-dealers, for the investment of their own funds or their customer's funds. These financial institutions typically act in a fiduciary, agency, or custodial capacity. A fiduciary account is generally one in which a financial institution has discretionary investment authority, while an agency account permits the financial institution to invest only upon the instruction of another party. The primary role of the financial institution in a custodial account is as the custodian of assets. However, under limited circumstances involving independent investment management services provided by SFM, some officers, trustees and employees of Applicants can purchase Trust Shares directly. Applicants anticipate that the aggregate investments by officers, trustees and employees will constitute less than one percent of the total assets of such class or portfolio. Applicants also may offer Shares of some or all classes to retail investors with a sales load due to the higher distribution costs associated with retail distribution activities. SFS, a registered broker-dealer and an affiliate of SFM, serves as the principal distributor of each Trust.

3. One currently authorized class of Shares of each Trust ("Class A") has adopted or will adopt a rule 12b–1 distribution plan providing for the payment of distribution expenses as approved annually and reviewed quarterly by the board of trustees/directors. These expenses are limited to (a) The cost of preparing, producing and delivering prospectuses, shareholder reports, sales literature, and other materials for distribution to potential shareholders, (b) the costs of complying with state and federal securities laws pertaining to the distribution of Shares, (c) advertising, and (d) expenses incurred in connection with the promotion and sale of the Shares, including SFS's expenses for travel, communication, compensation and benefits of sales personnel (collectively, "Distribution Expenses"). Each Class A rule 12b–1 distribution plan limits the annual distribution budget to .30% of the average daily net assets of that class.

4. The second class of shares authorized by the prior order ("Class B") is identical to Class A, except that each Trust's Class B shareholders have adopted or will adopt a modified Rule 12b–1 distribution plan. The Class B rule 12b–1 plan differs from the Class A rule 12b–1 plan by the imposition of an additional distribution fee of .30% of Class B's average daily net assets. SFS is authorized to pay part or all of these additional fees as service payments ("Service Payments") to financial institutions which enter into servicing agreements with SFS ("Servicing Agreements"). Under the Servicing Agreements, the institution would provide distribution-related services, such as establishing and maintaining customer accounts and records; aggregating and processing purchase and redemption requests from customers; placing net purchase and redemption orders with SFS; automatically investing customer account cash balances; providing periodic statements to customers; arranging bank wires; answering customer inquiries concerning their investments; assisting customers in changing dividend options, account designations, and addresses; performing sub-accounting functions; processing dividend payments from a Trust on behalf of customers; and forwarding shareholder communications from a Trust (such as proxies, shareholder reports, and dividend, distribution, and tax notices) (collectively, "Account Administration Services").

5. Applicants request a modification of the prior order to (a) Add a third class of Shares which would have no rule 12b–1 plan ("Class C"), (b) modify Class B and create two additional classes ("Class D" and "Class E"), each of which would be identical except for differing maximum additional distribution fees for Service Payments to financial institutions and for any incremental expenses allocated on a class basis as described herein; and (c) allocate incremental transfer agency fees directly attributable to a particular class of Shares to such class.[2] Each class will represent interests in the same portfolio and have identical investment objectives, policies, and limitations, and advisory/management fees and related expense caps.

6. The proposed Class C Shares will not be subject to a rule 12b–1 plan. Class C Shares will be offered primarily to institutions satisfying certain minimum investment requirements and/or which act as an investment adviser to the portfolio in which they are investing. Such an arrangement results in few, if any, distribution costs to SFS which may be willing to bear these costs because they would be small in relation to the net assets of the class. While Applicants may impose a front-end sales load on this class, the class would not have any other distribution arrangement, such as a rule 12b–1 plan.

7. The proposed Class B, Class D, and Class E Shares will be identical to Class A Shares, except that each class will adopt a modified rule 12b–1 distribution plan which may provide for the reimbursement of Distribution Expenses and will provide for an additional distribution fee payable to SFS with varying maximum levels. Class B, Class D, and Class E Shares would pay an additional distribution fee not to exceed the following percentages of each class, respective average daily net assets: Class B—.30%, Class D—.50%, and Class E—.75%. SFS would use all or part of such fee for Service Payments or for its own distribution activities under the rule 12b–1 plans.

8. The variations in the maximum Service Payments assessed on Class B, Class D, and Class E Shares result from differing charges by financial institutions for providing Account Administration Services to their customer accounts. These differences are due to a number of factors, including the precise nature of the Account Administrative Services being provided, the relationship between those services and others provided by the institution, the institution's overall pricing structure, and competition in the institutional fund business. By establishing three classes with differing maximum distribution fees, customers will pay a fee more closely related to the actual amount charged by such financial institution. By contrast, if a Trust had only one class under which Service Payments were made, customers of an institution receiving relatively low Service Payments would effectively subsidize larger Service Payments to other institutions.

9. SFM will provide Account Administration Services directly to Class A and Class C shareholders and

[1] Investment Company Act Rel. No. 17169 (Oct. 17, 1989).

[2] Allocation of incremental transfer agency fees is subject to (a) The Trusts' receipt and the continuing effectiveness of a ruling of the Internal Revenue Service to the effect that the assessment of transfer agency fees to a portfolio's classes does not result in dividends or distributions constituting "preferential dividends" under the Internal Revenue Code of 1986, or (b) the Trusts' receipt and the continuing availability of an opinion of counsel to the same effect.

to institutional shareholders of Class B, Class D, or Class E who invest for their own account. SFM will not directly provide such services to other beneficial owners of Class B, Class D and Class E shares because they will receive Account Administration Services from the financial institution pursuant to the Servicing Agreements.

10. Applicants presently do not plan to implement a sales load, but are contemplating doing so in connection with direct sales of classes of any non-money market portfolio to retail investors. Imposition of contingent deferred sales loads would require additional exemptive relief from the SEC. Applicants presently have no specific plans to implement exchange privileges; but, if implemented, Shares of a class of portfolio would be exchanged only for Shares of the same class of another portfolio.

11. The proposed multiple class structure will enable each portfolio to reflect more precisely the different distribution costs and related administrative expenses incurred in connection with different types of investors. The sale of Class A Shares, for example, is more appropriate for financial institutions investing for their own account or for few large fiduciary, agency, or custodial accounts which do not incur substantial additional costs. In contrast, Class B, Class D, and Class E Shares may be more appropriate for financial institutions which (a) Purchase Shares in their fiduciary, agency, or custodial capacity and/or (b) incur substantial additional costs by providing distribution-related services to many small customer accounts. The proposed class structure allows these customers to pay a distribution fee more closely linked to the actual Service Payment received by financial institutions for their Account Administration Services. Class C Shares are more appropriate for investors that cause SFS to incur few, if any, distribution costs. Furthermore, any future sales of any class to retail investors would, in addition to a sales load, entail higher transfer agency fees, making allocation of such costs to the relevant classes appropriate.

12. Under the proposed arrangement, each Share in a particular portfolio, regardless of class, would represent an equal pro rata interest in such portfolio and would have identical voting, dividend and liquidation rights, preferences, powers, restrictions, limitations, qualifications, designations, and terms and conditions, except for (a) Rule 12b–1 fees, related voting rights and dividend differences resulting solely from the different rule 12b–1 fees, (b) the impact of any incremental transfer agency fees directly attributable to a particular class and any other expense attributable to a particular class and specifically approved by the SEC pursuant to an amended exemptive order ("Class Expense"), and (c) exchange privileges, if offered. In addition, each class of Shares will bear pro rata with every other class all portfolio expenses, except Class Expenses and Rule 12b–1 fees, such as fees payable to the manager, investment adviser, trustees, transfer agent, custodian, auditors, legal counsel; taxes; and, registration and other operating expenses. Any limitations on these expenses will apply uniformly to all classes of a portfolio; provided, however, that the additional distribution payments made by Class B, Class D, and Class E shareholders and any incremental transfer agency fees will not be included in determining whether applicable expense limits are met.

13. For each money market portfolio, the rule 12b–1 charges for Class A, Class B, Class D, and Class E will be deducted only from the net income of each respective class and SFS will waive the distribution fee to the extent that it exceeds the net income, thereby maintaining the same net asset value per share between the classes. However, the net asset value per share may vary between the classes in the non-money market portfolios that do not declare dividends on a daily basis. Dividends payable to shareholders in the various classes of any portfolio will reflect differences due to differing distribution fees and Class Expenses. The methodology and procedures used to calculate the net asset value of every class of a portfolio will be identical.

Applicants' Legal Conclusions

14. Applicants request an amended exemptive order under section 6(c) to permit the modification of Class B and the issuance and sale of Classes C, D, and E Shares to the extent that such issuance and sale might be deemed to result in a "senior security" within the meaning of section 18(g) of the 1940 Act, be prohibited by section 18(f)(1), and violate the equal voting provisions of section 18(i).

15. Applicants assert that the requested relief does not present the concerns which Section 18 was designed to address nor does it present any legal or policy issues different from those addressed by the prior order. The proposed arrangement does not involve borrowings, affect any Trust's existing assets or reserves, or increase the speculative character of any Shares in a portfolio. The proposed capital structure will not induce any group of shareholders to invest in risky securities to the detriment of any other group of shareholders because the investment risks will be borne equally by all shareholders.

16. Applicants state that mutuality of risk will be preserved with respect to all Shares in a portfolio because (a) All Shares will be redeemable at any time, and (b) no class of Shares will have any distribution or liquidation preferences with respect to particular assets and no class will be protected by any special reserve or other account.

17. Applicants also state that insiders will not be able to manipulate expenses and profits among the classes of Shares because no Trust or portfolio is organized in a pyramid fashion and all classes will have equal voting rights with other classes within the same portfolio, except that Class A, Class B, Class D, and Class E Shares will have exclusive voting rights regarding their respective rule 12b–1 plans. The danger that a complex capital structure may shift control to those without equity or other investment is not present.

18. Applicants argue that the proposed arrangement raises no valuation concerns because all classes of Shares have pro rata interests in the same pool of assets. Moreover, Applicants will implement steps to ensure that the respective performance data of a portfolio's classes are fairly disclosed in the relevant prospectus and shareholder reports.

19. Applicants assert that the proposed arrangement facilitates the distribution of Trust securities and expands the scope and depth of administrative services without assuming excessive organizational, legal, administrative, accounting and bookkeeping costs, or unnecessary investment risks. It also would permit each Trust to save organizational and other continuing costs associated with establishing a separate portfolio for each class of Shares. Moreover, all shareholders, regardless of class, may benefit to the extent that (a) The pro rata operating expenses per Share are lower due to economies of scale and spreading fixed costs over a larger asset base, and (b) a larger pool of assets better enables the investment adviser to achieve investment objectives, including portfolio diversification.

20. Applicants submit that allocation of rule 12b–1 plan expenses and voting rights in the manner described is equitable and would not discriminate against any group of shareholders. Investors purchasing Shares in a

particular class and receiving the services provided under that rule 12b–1 plan would bear the costs associated with those services, but would also enjoy exclusive shareholder voting rights with respect to matters affecting such plan.

Conditions of Relief

If the requested relief is granted, Applicants agree to the following conditions:

1. Each class of Shares will represent interests in the same portfolio of investments of a Trust and be identical in all respects, except as set forth below. The only differences between classes of Shares of the same portfolio will relate solely to: (a) The impact of the disproportionate payments under the respective rule 12b–1 plans and related Servicing Agreements, any incremental transfer agency fees directly attributable to a particular class of Shares, and any other Class Expenses, (b) the fact that the classes have exclusive voting rights with respect to their respective rule 12b–1 plans, (c) exchange privileges, if offered, and (d) the designation of each class of Shares.

2. The trustees or directors of the Trusts, including a majority of the independent trustees or directors, will approve the offering of different classes of Shares (the "Multi-Class System"). The minutes of the meetings of the trustees or directors of the Trusts regarding their deliberations with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the trustees' or directors' determination that the proposed Multi-Class System is in the best interests of both the Trusts and their shareholders and such minutes will be available for inspection by the SEC and will be preserved for a period of not less than six years, the first two years in an easily accessible place.

3. On an ongoing basis, the trustees or directors of the Trusts, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor each portfolio for the existence of any material conflicts between the interests of the various classes of Shares. The trustees or directors, including a majority of the independent trustees or directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The investment advisers and the distributor of the Trusts will be responsible for reporting any potential or existing conflicts to the trustees or directors. If a conflict arises, SFM or SFS, at their own cost, will remedy such conflict up to and including establishing new and separate registered management investment companies or portfolios.

4. The rule 12b–1 plans will be approved and reviewed by the trustees or directors of the Trusts in accordance with the requirements and procedures set forth in rule 12b–1, both currently and as that rule may be amended in the future. Each rule 12b–1 plan to permit the assessment of a rule 12b–1 fee will be submitted to the publish shareholders of that class of Shares for approval at the next meeting of shareholders after the initial issuance of the class of Shares. Such meeting is to be held within one year from the date that Shares of such class are initially issued. Any other portfolio relying in the future on the order granted on the application will hold a meeting of shareholders within one year of the first date that more than one class of Shares is issued and outstanding and will submit its rule 12b–1 plan for the separate approvals of the public holders of each class of Shares at such meeting; provided that the approval of a particular class of shareholders shall not be necessary if the existing rule 12b–1 plan has already been submitted for the approval of the public shareholders of such class.

5. Each Servicing Agreement entered into by SFS pursuant to a rule 12b–1 plan will contain a representation by the financial institution that any compensation payable to the financial institution in connection with its investment of its customers' assets in a portfolio (a) Will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the financial institution.

6. Every Servicing Agreement will provide that, in the event an issue pertaining to the rule 12b–1 plan is submitted for shareholder approval, the financial institution will vote any Shares held for its own account in the same proportion as the vote of those Shares held for its customers' accounts.

7. The trustees or directors will receive quarterly and annual statements concerning the amounts expended under the rule 12b–1 plans and the related Servicing Agreements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of Shares will be used to justify an distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class of Shares will not be presented to the trustees or directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees or directors in the exercise of their fiduciary duties.

8. Dividends paid by each Trust with respect to a class of Shares of a portfolio will be calculated in the same manner, at the same time, on the same day, and will be in the same amount as dividends paid by the Trust with respect to each other class of Shares in the same portfolio, except that distribution payments made by a class under its rule 12b–1 Plan, any incremental transfer agency fees directly attributable to a particular class, and any other Class Expenses will be borne exclusively by that class.

9. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Trusts that the calculations and allocations are being made properly. The reports of the Experts shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following request by the Trusts (which the Trusts agree to provide) will be available for inspection by the SEC staff upon written request to the Trust for such work papers by a senior member of the Division of Investment Management limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Regional Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purposes" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing

standards as may be adopted by the AICPA from time to time.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of Shares and the proper allocation of expenses among the classes of Shares and this representation has been concurred with by the Expert in the initial report referred to in condition 9 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 9 above. Applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

11. The prospectus of a Trust or of each class of a portfolio will include a statement to the effect that a salesperson or any other person entitled to receive compensation for selling or servicing the Shares may receive different compensation with respect to one particular class of Shares over another in the portfolio.

12. The distributor of the Trusts will adopt compliance standards as to when each class of Shares may appropriately be sold to particular investors. Applicants will require all broker-dealers selling Shares of the Trusts to agree to conform to such standards.

13. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees or directors of the Trusts with respect to the Multi-Class System will be set forth in guidelines which will be furnished to the trustees or directors.

14. Each Trust will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads and exchange privileges applicable to each class of Shares in every prospectus, regardless of whether all classes of Shares are offered through each prospectus. Each Trust will disclose the respective expenses and performance data applicable to all classes of Shares in every shareholder report. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of Shares, it will also disclose the respective expenses and/or performance data applicable to all classes of Shares. The information provided by Applicants for publication in any newspaper or similar listing of a Trust's net asset value or public offering price will present each class of Shares separately.

15. Applicants acknowledge that the grant of the requested exemptive order will not imply SEC approval, authorization of or acquiescence in any particular level of payments that the Trusts may make to institutions pursuant to any rule 12b–1 plan in reliance on this exemptive order.

16. Each money market portfolio will have more than one class outstanding only when and for so long as it declares its dividends on a daily basis, accrues its payments under the rule 12b–1 plans and for any Class Expenses daily, and has received undertakings from the persons that are entitled to receive payments under the rule 12b–1 plans and for Class Expenses waiving such portion of any payments to the extent necessary to assure that payments required to be accrued by any class of Shares on any day do not exceed the income to be accrued to such class on that day. In this manner, the net asset value per share for all shares in such portfolio will remain the same.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–28287 Filed 11–30–90; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF SPECIAL COUNSEL

Senior Executive Service; Performance Review Board; Membership

November 26, 1990.

On or before November 26, 1990, the following persons will be added as members of the Performance Review Board:

H. Rae Scott
Ben B. Hayes
Charles R. Gillum
William E. Reukauf

Dated: November 27, 1990.

Mary F. Wieseman,

Special Counsel.

[FR Doc. 90–28234 Filed 11–30–90; 8:45 am]

BILLING CODE 7405–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of extension of public comment period for draft sentencing guidelines for organizational defendants.

SUMMARY: The Commission is considering amendments to the sentencing guidelines, policy statements, and commentary that would govern the sentencing of organizations in federal courts. The Commission may report the proposed guidelines, policy statements, and commentary published in the Wednesday, November 5, 1990, edition of the **Federal Register** (Vol. 55, No. 214, pg. 46600) to the Congress on or before May 1, 1991. The deadline for receipt of written comment—originally set for December 10, 1990—is extended until January 10, 1991.

DATES: Public comment on the draft guidelines for organizational defendants published in the Wednesday, November 5, 1990, edition of the **Federal Register** (Vol. 55, No. 214, pg. 46600) should be received by the Commission no later than January 10, 1991.

ADDRESSES: Comment should be sent to: United States Sentencing Commission, 1331 Pennsylvania Ave., NW., suite 1400, Washington, DC 20004. Attn: Communications Director.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, Telephone: (202) 626–8500.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 90–28232 Filed 11–30–90; 8:45 am]

BILLING CODE 2210–40–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if

applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required to asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before January 2, 1991.

Dated: November 26, 1990.

By direction of the Secretary.

Frank E. Lalley,

Director, Office of Information Resources Policies.

Extension

1. Veterans Benefits Administration
2. Application for Release from Personal Liability to the Government on a Home Loan
3. VA Form 26–6381
4. The form is completed by veterans who are selling their VA-guaranteed homes by assumption rather than requiring the purchasers to obtain their own financing to pay off the loan. The information is used by VA to determine assumption approval.
5. On occasion
6. Individuals or households; Businesses or other for-profit
7. 5,000 responses
8. ⅛ hour
9. Not applicable

[FR Doc. 90–28261 Filed 11–30–90; 8:45 am]

BILLING CODE 8320–01–M

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Under the provisions of U.S.C. 4314c(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA's) Performance Review Boards which was published in the **Federal Register** (54 FR 49392, dated November 30, 1989).

EFFECTIVE DATE: November 15, 1990.

FOR FURTHER INFORMATION CONTACT: K. Joyce Edwards, Office of Personnel and Labor Relations (053A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3423.

VA Performance Review Board (PRB)

Ronald E. Ray, Assistant Secretary for Human Resources and Administration (Chairperson).
Harold F. Gracey, Chief of Staff, Veterans Benefits Administration.
Edward G. Lewis, Assistant Secretary for Information Resources Management.
Richard Pell, Jr., Director, Operations and Policy Staff.
Chris Sale, Executive Officer to Assistant Secretary for Finance and Planning.
Jo Ann K. Webb, Director, National Cemetery System.
Charles V. Yarbrough, Associate Chief Medical Director for Administration.

Veterans Benefits Administration PRB

Harold F. Gracey, Chief of Staff (Chairperson).
Raymond H. Avent, Director, Eastern Area.
Grady W. Horton, Director, Education Service.
Richard Pell, Jr., Director, Operations and Policy Staff.
Rhoda R. Mancher, Assistant Chief Benefits Director for Information Resources Management.

Veterans Health Services and Research Administration PRB

Dewey Robbiano, Jr., M.D., Deputy Chief Medical Director (CMD) (Chairperson).
Galen Barbour, M.D., Associate CMD for Quality Management.
Donald E. Burnette, Regional Director, Eastern Region.
Clark R. Doughty, Regional Director, Western Region.
John T. Farrar, M.D., Associate Deputy CMD.
John R. Fears, Associate CMD for Resource Management.
Joseph G. Gray, Associate CMD for External Relations.
C. Wayne Hawkins, Associate CMD for Operations.
Lewis Mantel, M.D., Medical Inspector.
Richard P. Miller, Regional Director, Southern Region.
Richard Pell, Jr., Director, Operations and Policy Staff.
Osualdo Ramiraz, M.D., Chief of Staff, VA Medical Center, Hampton.
Elizabeth Rogers, M.D., Chief of Staff, VA Medical Center, Baltimore.
Leonard C. Rogers, Deputy Associate CMD for Operations.
Dennis H. Smith, Executive Assistant to CMD.
Charles V. Yarbrough, Associate CMD for Administration.
Albert Zamberlan, Regional Director, Central Region.

Officer of Inspector General PRB

Milton McDonald, Deputy Assistant Inspector General for Audits, Department of State (Chairperson).
William T. Merriman, Director, Audit Planning and Technical Support, Department of Defense.
H. Rae Scott, Assistant General for Investigations, Department of Transportation.

Dated: November 23, 1990.

Edward J. Derwinski,

Secretary.

[FR Doc. 90–28221 Filed 11–30–90; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 55, No. 232
Monday, December 3, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Western Pacific Precious Corals

Correction

In notice document 90-25918 appearing on page 46236 in the issue of Friday, November 2, 1990, make the following correction:

In the second column, in the third line from the bottom, after "Analysis", insert "nor a Regulatory Flexibility Analysis".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 89N-0525]

Status of Certain Over-the-Counter Drug Category II and III Active Ingredients

Correction

In rule document 90-26287 beginning on page 46914 in the issue of Wednesday, November 7, 1990, make the following corrections:

1. On page 46917, in the second column in the last paragraph, in the second line, "hearing" should read "heading".

2. On page 46918, in the table in the second column, under category 7, "Alkyl Isoquinolinium" was misspelled.

3. On page 46919, in the table in column one, under category 18, the first entry should read, "Allantoin (wound healing claims only)", and the second, "Sulfur"

§ 310.545 [Corrected]

4. On page 46920, in § 310.545(a)(7), "Povidone-iodine" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. 76N-0358]

New Animal Drug Applications; Approval of Supplemental Applications

Correction

In rule document 90-25830 beginning on page 46045 in the issue of Thursday, November 1, 1990 make the following corrections:

1. On page 46048, in the third column in the sixth and eighth lines "effectiveness" was misspelled. Also, in the paragraph designated "1.", under section IV in the eighth line, "than" should read "that".

§ 514.106 [Corrected]

2. On page 46052, in the third column, in § 514.106(b)(2)(iii), in the first line "does" should read "dose".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 422

RIN 0960-AC34

Social Security Number Cards

Correction

In rule document 90-26134 beginning on page 46661 in the issue of Tuesday, November 6, 1990, make the following corrections:

1. On page 46662, in the second column, in the second *Response* paragraph, in the fourth line, delete "not".

2. On page 46663, in the second column, in the second *Comment* paragraph, in the last line, "expected" should read "excepted".

3. On the same page in the third column, in the fourth *Response* paragraph, in the sixth line "because" was misspelled.

BILLING CODE 1505-01-D

federal register

Monday
December 3, 1990

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Progress Reports; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Progress Reports

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Progress Reports in order to update Bureau procedures and to incorporate references relating to changes in the policies of the U.S. Parole Commission. The intended effect of this amendment is to provide for the continued efficient operation of the Bureau of Prisons.

EFFECTIVE DATE: December 3, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 741, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Progress Reports. A final rule on this subject was published in the Federal Register, January 3, 1984 (49 FR 190). For ease of review, the entire rule is being republished. A summary of the specific changes follows.

In § 524.41, paragraph (a) is revised to specify that a progress report is prepared for an inmate's initial parole hearing. Paragraph (a) previously had specified that a progress report was prepared only if the staff summary (classification report) was more than 90 days old. This procedural change has no adverse impact on inmates. In § 524.41(c), the Pre-Release Record Review is to be prepared for and mailed to the Regional Parole Commissioner at least eight months (instead of six months) prior to the inmate's presumptive parole date. This expedited processing has no adverse impact on inmates. In § 524.41(d), "community treatment center (CTC)" is revised to read "community-based program such as a community corrections center (CCC)" to reflect a nomenclature change.

Section 524.42 is clarified to specify that the most current report is to include a summary of important information from all previous progress reports. In addition, two editorial changes are made in the first sentence: "inmate central file" is revised as "inmate's central file", and "the inmate" is revised as "that inmate". There is no change in the intent of this section.

In § 524.43, paragraph (g) is reworded, but its intent is unchanged. Paragraphs (i) and (j) are revised to include reference to the earning and disallowance of good conduct time. This change is required by the implementation of the Comprehensive Crime Control Act. In paragraph (k), the word "Projected" is used in place of "Tentative"; the intent of this paragraph is unchanged. Paragraph (l) is amended by adding the phrase "(if applicable)" to reflect procedural requirements. Paragraph (n), which required information concerning the inmate's co-defendants, is removed. This change has no adverse impact on inmates. Paragraphs (o) through (r) are redesignated as (n) through (q). Newly redesignated paragraph (n) is amended to refer to "all prior progress reports" in order to reflect newly revised § 524.42. In newly redesignated paragraph (p), paragraph (p)(7) is amended to remove the word "and", paragraph (p)(8) is redesignated as (p)(9), and a new paragraph (p)(8) is added to include reference to the inmate's financial responsibility. In paragraph (q)(2), the acronym "CTCs" is revised as "CCC" to reflect a nomenclature change. Paragraph (s) is removed to reflect Bureau procedure; this change has no adverse impact on inmates.

Because these amendments involve procedural matters and impose no additional restrictions on inmates, the Bureau finds good cause for exemption from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 524

Prisoners.

Patrick R. Kane,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter B of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In 28 CFR part 254, subpart E, consisting of §§ 524.40 through 524.44, is revised to read as follows:

Subpart E—Progress Reports

Sec.

Subpart E—Progress Reports

§ 524.40 Purpose and scope.

The Bureau of Prisons maintains current information on each inmate through progress reports completed by staff. The progress report summarizes information relating to the inmate's adjustment during confinement, program participation, and readiness for release.

§ 524.41 Types of progress reports.

The Bureau of Prisons prepares the following types of progress reports.

(a) Initial hearing—prepared for an inmate's initial parole hearing.

(b) Statutory interim/two-thirds review—prepared for a parole hearing conducted 18 or 24 months following a hearing at which no effective parole date was established, or for a two-thirds review (see 28 CFR 2.53).

(c) Pre-release record review—prepared for and mailed to the Regional Parole Commissioner at least eight months prior to the inmate's presumptive parole date.

(d) Transfer report—prepared on an inmate recommended for transfer to another institution or to a community-based program such as a community corrections center (CCC), and whose progress has not been summarized within the previous three months.

(e) Other—prepared for any reason other than those previously stated in this section. The reason (e.g., court request, clemency review) is specified in the report.

§ 524.42 Retention of reports.

Staff shall maintain in the inmate's central file a copy of each progress report prepared on that inmate. The most current report is to include a summary of important information from all previous progress reports.

§ 524.43 Content of progress reports.

Staff shall include the following information in each progress report prepared on an inmate:

(a) Committed name;

(b) Registration number;

(c) Age;

(d) Present security and custody level;

(e) Offense(s) for which committed;

(f) Sentence;

(g) Date sentence began;

(h) Time served to date, including jail time credit;

(i) Good conduct time/Extra good time earned;

(j) Good time withheld or forfeited; disallowed good conduct time;

(k) Projected release date;

(l) Most recent Parole Commission action, including any special requests or requirements (if applicable);

(m) Detainers and pending charges on file;

(n) Summary of the most significant information (program achievements, major disciplinary actions, etc.) from all prior progress reports;

(o) Summary of significant new information;

(p) Institutional adjustment; this ordinarily includes information on the inmate's:

(1) Program plan;

(2) Work assignments;

(3) Educational/vocational participation;

(4) Relationship with staff;

(5) Incident reports;

(6) Community program involvement, if any;

(7) Institutional movement;

(8) Financial responsibility; and

(9) Physical and mental health, including any significant mental or physical health problems, and any corrective action taken.

(q) Release planning:

(1) Where appropriate, staff shall request that the inmate provide a specific release plan;

(2) Staff shall identify available release resources (including CCC) and any particular problem that may be present in release planning.

§ 524.44 Inmate's access to progress reports.

Upon request, an inmate may read and receive a copy of any progress report prepared on that inmate after October 15, 1974. Staff shall request the inmate sign and date the original. If the inmate refuses to sign the progress report, staff witnessing the refusal shall document this refusal on the original of the form.

[FR Doc. 90–28302 Filed 11–30–90; 8:45 am]
BILLING CODE 4410–05–M

Reader Aids

Federal Register

Vol. 55, No. 232

Monday, December 3, 1990

INFORMATION AND ASSISTANCE

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Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

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General information	523-5230

Other Services

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Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Last List November 29, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20202 (phone, 202-275-3030).

S. 2830/Pub. L. 101-624

Food, Agriculture, Conservation, and Trade Act of 1990. (Nov. 28, 1990; 104 Stat. 3359; 720 pages) Price: $21.00

S. 566/Pub. L. 101-625

Cranston-Gonzalez National Affordable Housing Act. (Nov. 28, 1990; 104 Stat. 4079; 347 pages) Price: $10.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
1–699	15.00	Jan. 1, 1990
700–1199	13.00	Jan. 1, 1990
1200–End, 6 (6 Reserved)	17.00	Jan. 1, 1990
7 Parts:		
0–26	15.00	Jan. 1, 1990
27–45	12.00	Jan. 1, 1990
46–51	17.00	Jan. 1, 1990
52	24.00	Jan. 1, 1990
53–209	19.00	Jan. 1, 1990
210–299	25.00	Jan. 1, 1990
300–399	12.00	Jan. 1, 1990
400–699	20.00	Jan. 1, 1990
700–899	22.00	Jan. 1, 1990
900–999	29.00	Jan. 1, 1990
1000–1059	16.00	Jan. 1, 1990
1060–1119	13.00	Jan. 1, 1990
1120–1199	10.00	Jan. 1, 1990
1200–1499	18.00	Jan. 1, 1990
1500–1899	11.00	Jan. 1, 1990
1900–1939	11.00	Jan. 1, 1990
1940–1949	21.00	Jan. 1, 1990
1950–1999	24.00	Jan. 1, 1990
2000–End	9.50	Jan. 1, 1990
8	14.00	Jan. 1, 1990
9 Parts:		
1–199	20.00	Jan. 1, 1990
200–End	18.00	Jan. 1, 1990
10 Parts:		
0–50	21.00	Jan. 1, 1990
51–199	17.00	Jan. 1, 1990
200–399	13.00	[2] Jan. 1, 1987
400–499	21.00	Jan. 1, 1990
500–End	26.00	Jan. 1, 1990
11	11.00	Jan. 1, 1990
12 Parts:		
1–199	12.00	Jan. 1, 1990
200–219	12.00	Jan. 1, 1990
220–299	21.00	Jan. 1, 1990
300–499	19.00	Jan. 1, 1990
500–599	17.00	Jan. 1, 1990
600–End	17.00	Jan. 1, 1990
13	25.00	Jan. 1, 1990
14 Parts:		
1–59	25.00	Jan. 1, 1990
60–139	24.00	Jan. 1, 1990
140–199	10.00	Jan. 1, 1990
200–1199	21.00	Jan. 1, 1990
1200–End	13.00	Jan. 1, 1990
15 Parts:		
0–299	11.00	Jan. 1, 1990
300–799	22.00	Jan. 1, 1990
800–End	15.00	Jan. 1, 1990
16 Parts:		
0–149	6.00	Jan. 1, 1990
150–999	14.00	Jan. 1, 1990
1000–End	20.00	Jan. 1, 1990
17 Parts:		
1–199	15.00	Apr. 1, 1990
200–239	16.00	Apr. 1, 1990
240–End	23.00	Apr. 1, 1990
18 Parts:		
1–149	16.00	Apr. 1, 1990
150–279	16.00	Apr. 1, 1990
280–399	14.00	Apr. 1, 1990
400–End	9.50	Apr. 1, 1990
19 Parts:		
1–199	28.00	Apr. 1, 1990
200–End	9.50	Apr. 1, 1990
20 Parts:		
1–399	14.00	Apr. 1, 1990
400–499	25.00	Apr. 1, 1990
500–End	28.00	Apr. 1, 1990
21 Parts:		
1–99	13.00	Apr. 1, 1990
100–169	15.00	Apr. 1, 1990
170–199	17.00	Apr. 1, 1990
200–299	5.50	Apr. 1, 1990
300–499	29.00	Apr. 1, 1990
500–599	21.00	Apr. 1, 1990
600–799	8.00	Apr. 1, 1990
800–1299	18.00	Apr. 1, 1990
1300–End	9.00	Apr. 1, 1990
22 Parts:		
1–299	24.00	Apr. 1, 1990
300–End	18.00	Apr. 1, 1990
23	17.00	Apr. 1, 1990
24 Parts:		
0–199	20.00	Apr. 1, 1990
200–499	30.00	Apr. 1, 1990
500–699	13.00	Apr. 1, 1990
700–1699	24.00	Apr. 1, 1990
1700–End	13.00	Apr. 1, 1990
25	25.00	Apr. 1, 1990
26 Parts:		
§§ 1.0-1–1.60	15.00	Apr. 1, 1990
§§ 1.61–1.169	28.00	Apr. 1, 1990
§§ 1.170–1.300	18.00	Apr. 1, 1990
§§ 1.301–1.400	17.00	Apr. 1, 1990
§§ 1.401–1.500	29.00	Apr. 1, 1990
§§ 1.501–1.640	16.00	[3] Apr. 1, 1989
§§ 1.641–1.850	19.00	Apr. 1, 1990
§§ 1.851–1.907	20.00	Apr. 1, 1990
§§ 1.908–1.1000	22.00	Apr. 1, 1990
§§ 1.1001–1.1400	18.00	Apr. 1,1990
§§ 1.1401–End	24.00	Apr. 1, 1990
2–29	21.00	Apr. 1, 1990
30–39	15.00	Apr. 1, 1990
40–49	13.00	[3] Apr. 1, 1989
50–299	16.00	[3] Apr. 1, 1989
300–499	17.00	Apr. 1, 1990
500–599	6.00	Apr. 1, 1990
600–End	6.50	Apr. 1, 1990
27 Parts:		
1–199	24.00	Apr. 1, 1990
200–End	14.00	Apr. 1, 1990
28	28.00	July 1, 1990

Title	Price	Revision Date
29 Parts:		
0–99	18.00	July 1, 1990
100–499	8.00	July 1, 1990
500–899	26.00	July 1, 1990
900–1899	12.00	July 1, 1990
1900–1910 (§§ 1901.1 to 1910.441)	24.00	July 1, 1989
*1910 (§§ 1910.1000 to end)	14.00	July 1, 1990
1911–1925	9.00	[4] July 1, 1989
1926	12.00	July 1, 1990
1927–End	25.00	July 1, 1990
30 Parts:		
0–199	22.00	July 1, 1990
200–699	14.00	July 1, 1990
700–End	21.00	July 1, 1990
31 Parts:		
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

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[4] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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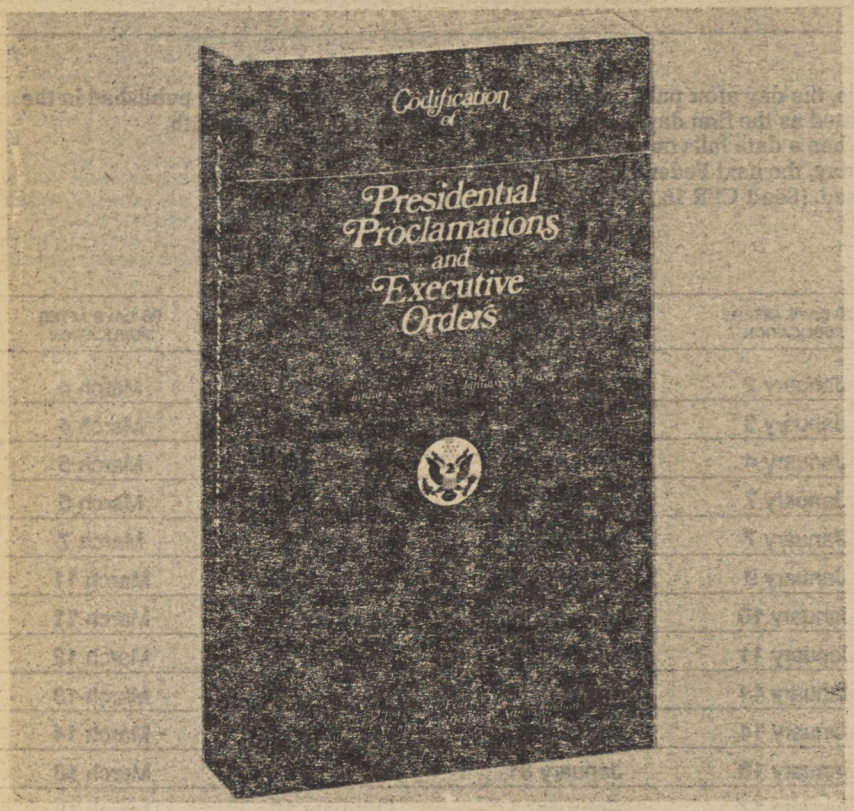

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