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Friday
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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

ATLANTA, GA

WHEN: January 11, at 9:00 a.m.
WHERE: Centers for Disease Control
1600 Clifton Rd., NE.
Auditorium A
Atlanta, GA (Parking available)
RESERVATIONS: 1–800–347–1997

WASHINGTON, DC

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

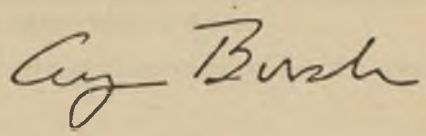
Title 3—

The President

Executive Order 12740 of December 29, 1990

Waiver Under the Trade Act of 1974 With Respect to the Soviet Union

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 402(c)(2) of the Trade Act of 1974 ("the Act") (19 U.S.C. 2432(c)(2)), which continues to apply to the Soviet Union pursuant to section 402(d), and having made the report to the Congress required by section 402(c)(2), I hereby waive the application of subsections (a) and (b) of section 402 of the Act with respect to the Soviet Union.



THE WHITE HOUSE,
December 29, 1990.

Editorial note: For the White House fact sheet and the President's remarks on the waiver of the Jackson-Vanik amendment, both dated December 12, 1990, see the *Weekly Compilation of Presidential Documents* (vol. 55, p. 2023).

[FR Doc. 91-188
Filed 1-2-91; 11:26 am]
Billing code 3195-01-M

Presidential Documents

Memorandum of December 19, 1990

Delegation of Authority Regarding Certification of Countries Exporting Shrimp to the United States

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162), and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in me by section 609(b) of that Act. The authority delegated by this memorandum may be further redelegated within the Department of State.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register.**

THE WHITE HOUSE,
Washington, December 19, 1990.

[FR Doc. 91–189
Filed 1–2–91; 11:55 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 56, No. 3
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1403

Debt Settlement Policies and Procedures

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends 7 CFR part 1403, which sets forth the policies and procedures the Commodity Credit Corporation (CCC) uses to settle debts owed to CCC and other agencies of the United States. The intent of this rule is to set forth special policies and procedures for settlement of debts arising from 1988 and 1989 advance deficiency overpayments, as required by the Food, Agriculture, Conservation and Trade Act of 1990.

DATES: This interim rule is effective January 4, 1991. Comments must be received by February 4, 1991.

ADDRESSES: Comments concerning this rule should be addressed to: Director, Financial Management Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All comments submitted in response to this interim rule will be available for public inspection in room 6094, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annette Race, Debt Management and Contract Procedures Branch, Financial Management Division, ASCS, (202) 447–6614.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "no major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs and 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.

This action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under Departmental Regulation 1512–1. No sunset review date has been set for this regulation because review is ongoing. This action will not increase the Federal paperwork burden for individuals, small businesses, and others and will not have a significant impact on a substantial number of small entities. Therefore, the action is exempt from the provisions of the Regulatory Flexibility Act and no regulatory Flexibility Analysis was prepared.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order 12372 (July 14, 1982) was not used to assure that units of local government are informed on this action.

A final rule was published on December 22, 1989 at 54 FR 52876 to establish under a single heading at 7 CFR part 1403, CCC policies and procedures governing the administrative collection, discharge, and referral of debts. This interim rule amends part 1403 to implement special provisions for settlement and collection of delinquent debts arising out of 1988 and 1989 advance deficiency overpayments, as required by section 107C of the Agricultural Act of 1949. The need for immediate implementation of these special provisions warrants publication of this interim rule without opportunity for public comment. Further, pursuant to 5 U.S.C. 53, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; ad good cause is found for making this interim rule effective upon publication, since this amendment provides affected parties with optional debt repayment provisions which, in some distances, are more advantageous than the provisions currently set forth in 7 CFR part 1403. Comments are solicited for 30 days after publication of this document. A final document discussing comments received and any amendments made will be published in the **Federal Register.**

List of Subjects in 7 CFR Part 1403

Debt settlement policies and procedures.

Accordingly, the regulations at 7 CFR part 1403 are revised to read as follows:

PART 1403—[AMENDED]

1. The authority citation for 7 CFR part 1403 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c; 7 U.S.C. 1445b–2(b).

2. Section 1403.21 is added to read as follows:

§ 1403.21 Collection of 1988 and 1989 Advance Deficiency Overpayments.

(a) The provisions of this section set forth the policies and procedures for collection of 1988 and 1989 advance deficiency overpayments ("overpayments").

(b) The following definition shall be applicable to this section:

Financial hardship means that condition of a producer in which payment of the debt by lump sum would jeopardize the producer's ability to provide food, shelter, and medical care to his immediate family, or to continue the producer's farming operation, as determined by CCC.

(c) This section applies to collection of overpayments from those producers who are suffering financial hardship, as determined by CCC, and who also meet the following conditions, as determined by CCC:

(1) Who received an advance deficiency payment for the 1988 or 1989 crop of a commodity under part 1413 of this title;

(2) Who are required to provide a refund of at least $1,500 of such payment, as a result of the increase in market prices of the commodity;

(3) Who reside in a county, or in a county that is contiguous to a county where CCC has determined that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at

least 30 percent during two of the three crop years 1988, 1989, and 1990 by:

(i) A natural disaster designated by the Secretary of Agriculture;

(ii) A major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(4) Where the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by CCC for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in paragraph (c)(3)) for the crop; and

(5) Who have applied to the County Agricultural Stabilization and Conservation Service Office which issued the advance deficiency payment, no later than May 31, 1991, for a determination of eligibility for the repayment provisions of this section.

(d) CCC shall assess interest on delinquent debts for 1988 or 1989 overpayments as follows:

(1) CCC shall establish a regional annual interest rate for each of 12 geographic regions, corresponding to the extent practicable as determined by CCC, with the 12 geographic districts of the Farm Credit System.

(2) Each regional annual interest rate shall not exceed the average of the interest rates charged by Farm Credit System institutions within the region to high-risk borrowers on 1-year operating loans as determined by CCC based upon information provided to CCC by the Farm Credit System.

(3) Interest shall accrue at the established regional annual interest rate for the region in which the debt arose, beginning the date CCC has determined that the producer has met the conditions specified in paragraph (b) of this section.

(e) CCC shall not offset, in each of the crop years 1990, 1991, and 1992, more than ⅓ of the farm program payments otherwise due a producer, as a result of the producer's delinquency in repaying the overpayment.

(f) CCC shall permit producers to repay the overpayment in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers document to CCC that they have entered into agreements to obtain multiperil crop insurance policies for the 1991 and 1992 crop years.

Signed at Washington, DC on December 27, 1990.

John A. Stevenson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–89 Filed 1–3–91; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Parts 1404 and 1470

Commodity Certificate Payments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Food, Agriculture, Conservation and Trade Act of 1990 (the "1990 Act") approved on November 28, 1990 amended the Agricultural Act of 1949 (the "1949 Act") to provide with respect to Commodity Credit Corporation (CCC) commodity certificates that: (1) For the 180 days after the date of enactment of the 1990 Act "subsequent holders" of expired certificates shall be allowed to exchange the certificate with CCC under the same rules that apply to the "original holder" of the certificate; and (2) interest shall be paid on certain certificates which are held for at least 150 days by an original holder. Accordingly, this interim rule amends 7 CFR part 1470 to make these changes.

In addition, the 1990 Act amended the Soil Conservation and Domestic Allotment Act with respect to the manner in which certain agricultural program payments may be assigned. Accordingly, the regulations at 7 CFR part 1404 are amended to reflect this change.

DATES: *Effective date:* January 4, 1991. Comments must be received on or before February 4, 1991.

ADDRESSES: Send comments to the Office of the Controller, Commodity Credit Corporation, Attention: Mary Lancing, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Mary Lancing, Office of the Controller, Commodity Credit Corporation, P.O. Box 2415, Washington, DC 20013, (202) 447–4850.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy or $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Rice Production Stabilization—10.065; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; as found in the Catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity 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).

As explained below, the amount of the payment which may be received for an expired commodity certificate declines from 85 percent to 50 percent 6 months after the expiration date and 18 months after the expiration date the certificate has no value. Accordingly, in order to provide affected persons the maximum advantage possible under these new statutory provisions, the amendments to 7 CFR part 1470 are effective upon publication in the **Federal Register.**

The amendments to 7 CFR part 1404 are also effective upon publication in the **Federal Register** since these changes are more lenient with respect to the affected parties who are currently making financing arrangements for the production of their 1991 crops.

Public reporting burden for the collection of information contained in this regulation is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information collection has been approved and assigned OMB No. 0650–0131 by the Office of Management and Budget (OMB) for Form CCC–8, Application To Exchange Expired Commodity Certificates For Cash. See

Attachment I for a sample copy of CCC–8.

Background

Beginning in 1986, CCC has issued commodity certificates as payments under numerous CCC programs. These certificates were issued in the same dollar amount as would have been issued had the payment been made in the form of cash. The recipient of the certificate could sell the certificate to a third party who, in turn, could transfer it to yet another person; these third parties are known as "subsequent holders."

Generally, the holder of a certificate could exchange the certificate with CCC for commodities which CCC has determined were equal in value to the face value of the certificate. In certain instances the original holder of the certificate was allowed to exchange the certificate for cash from CCC so long as the certificate had been held for at least 5 months from the date of issuance. The amount of the cash payment varied, depending upon when the certificate was presented to CCC. If the certificate was presented to CCC prior to the expiration date of the certificate, approximately 8 months from the date of issuance, payment was made in an amount equal to the face value of the certificate. If the certificate was presented within 6 months after the expiration date, CCC issued a payment equal to 85 percent of the value of the certificate; if the certificate was presented after that date and prior to 18 months after the expiration date, the payment was 50 percent. After 18 months, CCC would not accept the certificate for payment.

The limitation that only original holders may obtain a cash payment was implemented in order to assure that the purpose of issuing commodity certificates was met, the efficient use of CCC's large commodity inventories. However, section 107E of the 1949 Act provided that if commodity certificates were issued to producers under certain programs, CCC must ensure that the producers received the same return as if the payment had been made in cash. Accordingly, certain producers were given the opportunity to exchange certificates for cash from CCC.

In some instances subsequent holders did not submit their certificates to CCC for commodities by the certificate's expiration date. Section 1122 of the 1990 Act provides that, subject to certain limitations, these subsequent holders who possess expired certificates may submit them to CCC for payment under the same terms and conditions which are applicable to original holders. Generally, these holders may submit expired certificates to CCC for a payment of up to $1,000 so long as the certificate was purchased prior to January 1, 1990. Since section 1122 amends section 107E to provide that the payments to these producers must be under the same terms and conditions as are applicable to original holders, certificates which have been expired longer than 18 months will have no value; certificates which have been expired for no longer than 18 months and for at least 6 months have a value of 50 percent; and certificates which have passed their expiration date by no longer than 6 months have a value of 85 percent.

Accordingly, 7 CFR part 1470 is amended by adding a new § 1470.8 to implement the procedures for submitting these expired certificates and the requirements which are applicable to such certificates. In order to provide affected parties with full benefits of this provision, § 1470.8 provides special rules for persons who have certificates which would have decreased in value from 85 percent to 50 percent and from 50 percent to no value since the enactment of the 1990 Act until publication of this interim rule and implementation of the applicable procedures by CCC.

Section 1122 also provides that certain producers who hold their certificates for at least 150 days and who exchange the certificate for cash will receive interest for this time. Accordingly, a new § 1470.4(i) is added to implement this provision. Section 1470.4(g)(2) is also amended to change a reference to a statutory provision which is applicable to the 1991 through 1995 crops of upland cotton and to make technical changes.

The regulations at 7 CFR part 1404 set forth the regulations which are applicable to the assignment of CCC and Agricultural Stabilization and Conservation Service (ASCS) payments. Certain conservation and wheat, feed grain, upland cotton and rice program payments have been assignable subject to the restrictions set forth in section 8(g) of the Soil Conservation and Domestic Allotment Act. At the time of its enactment, this subsection was intended to benefit producers by requiring that certain payments be assignable in order to assist producers in obtaining financing for the production of their crops. These restrictions have included several requirements, including the restriction that the assignment could not be to secure any prior indebtedness. However, major changes in agricultural financing have occurred since the enactment of this provision which have restricted the usefulness of this provision. For example, under credit arrangements which are revolving line of credits it is not possible to adequately determine whether the assignment is for a future or prior obligation.

In order to provide increased financing capabilities to producers, section 1146 of the 1990 Act amended section 8(g) to remove these restrictions. As a result these payments can be assigned in the same manner as payments made under the Conservation Reserve Program, the Dairy Termination Program, and the Emergency Livestock Feed Programs. Accordingly, 7 CFR part 1404 is amended to implement these changes.

List of Subjects

7 CFR Part 1404

Assignment of payment.

7 CFR Part 1470

Cotton, Feed grains, Price support programs, Wheat and rice.

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

PART 1404—[AMENDED]

1. The authority citation for part 1404 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 590h(g).

§ 1404.3 [Amended]

2. Section 1404.3 is amended by removing the paragraph designation "(a)" and by removing in its entirety paragraph (b).

§ 1404.4 [Amended]

3. Section 1404.4(a)(2)(ii) is amended by removing the second sentence.

§ 1404.5 [Removed and Reserved]

4. Section 1404.5 is removed and reserved.

PART 1470—[AMENDED]

5. The authority citation for part 1470 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c; 7 U.S.C. 1445d.

§ 1470.4 [Amended]

6. Section 1470.4 is amended by revising paragraph (g)(2) and adding paragraph (i) to read as follows:

§ 1470.4 Commodity certificates.

* * * * *

(g) * * *

(2) *Cotton program payments.* Certificates issued as payments under the 1991 through 1995 upland cotton program, including payments issued in accordance with section 103B(a)(5)(B) of the Agricultural Act of 1949, may be

exchanged for CCC-owned upland cotton only during such times as determined and announced by CCC.

* * * * *

(i) *Interest.* With respect to producers who receive commodity certificates in accordance with the wheat, feed grains, upland cotton and rice price support and production adjustment programs authorized by parts 1413 and 1421 of this title, a producer to whom the certificate is issued who exchanges such a certificate with CCC for cash in accordance with subsection (f) of this section shall receive interest with respect to such certificate for a 150 day period. Such interest shall be the rate of interest determined in accordance with part 1405 of this Title which is in effect on the date the certificate is issued.

7. A new § 1470.8 is added to read as follows:

§ 1470.8 Subsequent holders.

(a) *General.* A person who acquires a commodity certificate from another person shall be considered to be a "subsequent holder" of the certificate. Subsequent holders of certificates who purchased a commodity certificate on or before January 1, 1990 may, after the expiration date specified on the certificate, submit the certificate to CCC for a payment from CCC determined in accordance with paragraph (b) of this section. All certificates must be submitted after January 2, 1991 and on or before May 28, 1991. Certificates submitted after May 28, 1991 shall not be accepted for payment. Certificates shall be considered to be submitted as of the date of the postmark on the envelope containing the certificate. All certificates submitted for payment must be submitted with, and in accordance with, Form CCC–8. All certificates submitted to CCC for payment shall be retained by CCC.

(b) *Payment rates.* (1) Certificates with an expiration date of April 30, 1989 or earlier shall not, in any instance, be eligible for payment by CCC. Certificates which are submitted 18 months after the expiration date specified on the certificate shall not be accepted for payment by CCC.

(2) Persons who submit to CCC, in accordance with this section, certificates with an expiration date of May 31, 1989 or later shall receive a payment equal to 50 percent of the certificate's face value if such certificate is submitted within the period which:

(i) Begins 6 months and one day after the expiration date specified on the certificate and

(ii) Ends 18 months after such expiration date.

(3) Persons who submit to CCC in accordance with this section certificates with an expiration date of May 31, 1989 or later shall receive a payment equal to 85 percent of the certificate's face value if such certificate is submitted within the period which:

(i) Begins the day after the expiration date specified on the certificate and

(ii) Ends 6 months after such expiration date.

(c) *Transitional rules.* In order to provide full benefits under this section to parties whose certificates may decline in value from the date of enactment of section 1122 of the Food, Agriculture, Conservation, and Trade Act of 1990 (November 28, 1990) until the implementation of the provisions of such section, persons who, by January 31, 1991, submit to CCC in accordance with this section certificates with expiration dates of May 31, 1989, June 30, 1989, May 31, 1990, and June 30, 1990, shall receive payments for such certificates as if they had been submitted on November 30, 1990.

(d) *Payment limit.* (1) No person, as defined in § 719.2(r) of this title, shall receive a payment in excess of $1,000, except that any wholly-owned or wholly controlled entity, such as a corporation, shall be considered to be the same person as the person which owns or controls such entity. Any person who adopts or participates in adopting a scheme or device which is designed to evade this limitation or which has the effect of evading this limitation shall be ineligible to receive a payment under this section. Such acts include, but are not limited to:

(i) Concealing information which affects the application of this section;

(ii) Submitting false or erroneous information;

(iii) Creating fictitious entities for the purpose of evading the application of this section.

(2) No payment shall be paid to a person which is in excess of the amount which the person paid for the certificate.

(e) *Application.* In order to receive a payment under this section, a person must:

(1) Submit certificates with an expiration date of May 31, 1989, or later with a completed Form CCC–8 to CCC postmarked by May 28, 1991;

(2) Submit no earlier than January 2, 1991 all certificates and Forms CCC–8 to CCC by mail at the following address: CCC Expired Certificate Exchange, Attn: Claims and Collections Division, P.O. Box 419205, Kansas City, Missouri, 64141–6205;

(3) Submit evidence to CCC which establishes to the satisfaction of CCC:

(i) The date the subsequent holder purchased the certificates;

(ii) The price paid by the subsequent holder for the certificates; and

(iii) If requested by CCC, the name and address of the person from whom the subsequent holder purchased the certificates.

Signed this 27th day of December, 1990 in Washington, DC.

John A. Stevenson

Acting Executive Vice President, Commodity Credit Corporation.

BILLING CODE 3410–05–M

Attachment I

REPRODUCE LOCALLY. *Include form number and date on reproductions.*

Form Approved - OMB No. 0560-0131

CCC-8
(12-20-90)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

APPLICATION TO EXCHANGE EXPIRED COMMODITY CERTIFICATES FOR CASH
(For Subsequent Holders)

NOTE → *The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The Agricultural Act of 1949, as amended, authorizes collection of the following data. Furnishing the data is voluntary; however, without it assistance cannot be provided. The information will be used to determine eligibility for program benefits. This information may be furnished to any agency responsible for enforcing the provisions of the Act. Submitting a false claim or information may subject you to liability under criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-0131), Washington, D.C. 20503.* ***RETURN THIS COMPLETED FORM TO THE CLAIMS AND COLLECTION DIVISION, KCCO.***

SECTION 1 - APPLICATION

A. The Commodity Credit Corporation (CCC) agrees to make payment to the undersigned applicant for the exchange of eligible expired certificates as specified in this application and in the regulations at 7 CFR Part 1470. In order to receive a payment, the undersigned applicant agrees to comply with the provisions of the application and the regulations. The undersigned applicant shall not receive more than $1,000 from CCC for the exchange of expired certificates and agrees to refund to CCC any amount which the undersigned applicant directly, or indirectly, receives from CCC which is in excess of $1,000.

B. CCC agrees to make payment to eligible applicants for the exchange of expired certificates at the following rates:

1. 85 percent of the face value if the certificate is submitted within the first 6 months after the expiration date.

2. 50 percent of the face value if the certificate is submitted within the seventh month through the eighteenth month after the expiration date.

3. Certificates expired longer than 18 months are not eligible for a cash exchange.

However, in order to provide full benefits to eligible applicants whose certificates may decline in value from the date of enactment of Section 1122 of the Food, Agriculture, Conservation, Trade Act of 1990 (November 29, 1990) until the implementation of the provisions of such Act, persons who, by January 31, 1991, submit to CCC certificates with expiration dates of May 31, 1989, June 30, 1989, May 31, 1990, and June 30, 1990, shall receive payments for such certificates as if they had been submitted on November 30, 1990.

SECTION 2 - INSTRUCTIONS AND CERTIFICATE INFORMATION

A. In order for CCC to consider the undersigned applicant's request for payment for the exchange of eligible expired certificates, the applicant must:

1. Complete the requested information in Blocks 1 through 3 and Columns A through D.

2. Mail the original expired certificate(s) and **proof of purchase** of such certificates with this application on or after January 2, 1991 to the return address in Block 4.

B. Applications which are submitted without **proof of purchase** will be returned. All written applications must be postmarked by May 28, 1991. Applications postmarked after May 28, 1991, **will not be accepted.** All expired certificates submitted to CCC for payment shall be retained by CCC. Original holders shall continue to submit their certificates to the issuing ASCS County Office for cash exchange.

1. APPLICANT'S NAME AND ADDRESS

2. APPLICANT'S TAX ID NO.

3. PREVIOUS OWNER'S NAME AND ADDRESS

4. RETURN TO:

CCC Expired Certificate Exchange
Claims and Collections Division, KCCO
Post Office Box 419205
Kansas City, Missouri 64141-6205

CERTIFICATE SERIAL NUMBER — A	CERTIFICATE FACE VALUE — B	PURCHASE DATE (Purchased By 1/1/90) — C	PURCHASE PRICE — D
	$		$
	$		$
	$		$
	$		$
	$		$
	$		$

SECTION 4 - CERTIFICATION

I certify that the above information is true and accurate.

5. SIGNATURE OF APPLICANT

DATE

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

[FR Doc. 91-88 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-05-C

7 CFR Part 1477

Disaster Payment Program for 1989 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Disaster Assistance Act of 1989 (the 1989 Act), provided assistance to eligible producers for losses of 1989 crop production due to damaging weather or related conditions in 1988 or 1989. The Food, Agriculture, Conservation, and trade Act of 1990 (1990 Act) amended the 1989 Act to provide: The total quantity of 1989 sugarcane that producers on a farm actually harvested or could have harvested shall be based on the quantity of recoverable sugar when determining disaster losses; losses of producers of any crop of valencia oranges affected by a freeze in either 1988 or 1989 shall be considered when determining eligibility for program payments and; disaster assistance for producers on the Wind River Indian Reservation, Wyoming, who suffered losses due to lack of water as the result of Indian Tribal water adjudication.

Accordingly, this interim rule amends 7 CFR part 1477 to implement these revised provisions.

DATES: This Interim rule shall become effective on January 4, 1991. However, comments received on or before February 4, 1991 will be considered in development of Final Rule. Submit comments to: Director, Cotton, Grain and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Charles M. Cox, Jr., Program Specialist, Cotton, Grain, and Rice Price Support Division (CGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA) P.O. Box 2415, Washington, DC. Telephone: (202) 382–8757.

SUPPLEMENTARY INFORMATION: This Interim rule has been revised under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major" since the program will have an annual effect on the economy of less than $100 million. Accordingly, a final regulatory impact analysis is not necessary.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation with respect to the Disaster Payment program was completed for the 1989 program. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely effect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Due to the statutory deadlines for these provisions, this interim rule is effective upon publication. However, comments are requested and will be taken into consideration when developing the final rule.

The titles and numbers of federal assistance program assistance program to which this rule applies are: Title—Cotton—10.502; Feed Grains—10.055; Wheat—10.058; Rice—10.065; as found in the Catalog of Federal Domestic Assistance.

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

Background

The 1990 Act amended the 1989 Act to provide that disaster payments for the 1989 sugarcane crop will be based on the quantity of recoverable sugar rather than on the number of tons of sugarcane produced on the farm. Those producers who previously applied for disaster payments will have their payments recomputed and the amount due will be determined not later than February 26, 1991, based on pounds of recoverable sugar. Those producers who previously did not apply for benefits under the 1989 disaster program for sugarcane will have until January 15, 1991, to seek disaster benefits under the 1989 program for sugarcane as amended by the 1990 Act.

Producers of 1989 or 1990 crop of Valencia oranges affected by a 1989 freeze may be eligible for a disaster program payment if the producer on the farm incurred a loss of 50 percent. Those producers who applied previously for a disaster payment will have their payments recomputed not later than February 26, 1991. Producers who did not previously apply for benefits may do so until January 15, 1991.

Producers on the Wind River Indian reservation who were affected by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system on the Wind River reservation, Wyoming, are eligible for disaster payments. This is effective for 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay. These producers may make application for program payment no later than May 27, 1991. However, the total amount of assistance is limited to $250,000.

List of Subject in 7 CFR Part 1477

Disaster payment 1989 crops.

Accordingly, 7 CFR part 1477 is amended as follows:

PART 1477—[AMENDED]

1. The authority citation for 7 CFR part 1477 is revised to read as follows:

Authority: 7 U.S.C. 1421 Note; 15 U.S.C. 714b and 714c; and Sec. 2275 of the Food, Agriculture, Conservation and Trade Act of 1990.

2. Section 1477.1 is revised to read as follows:

§ 1447.1 General statement.

This part sets forth the regulations for the Disaster Payment Programs as provided by the Disaster Assistance Act of 1989 and in section 2275 of the Food, Agriculture, Conservation and Trade Act of 1990. The purpose of the programs is to make disaster payments to eligible producers on a farm who have suffered a loss of production of crops due to damaging weather or related condition in 1988 or 1989.

3. Section 1477.18 is added to read as follows:

§ 1477.18 Computation of sugarcane losses.

(a) Losses of sugarcane shall be computed on the quantity of recoverable sugar, as determined by CCC.

(b) Producers of sugarcane who have losses of production of 1989 sugarcane, as determined under this part, who did not previously file an application for assistance under this part prior to November 28, 1990, must file an application for assistance by January 15, 1991.

4. Section 1477.19 is added to read as follows:

§ 1477.19 Valencia oranges.

(a) Producers of 1989 and 1990 crop valencia oranges affected by a 1989 freeze shall be eligible to receive

assistance under this part in the same manner as producers of the 1989 crop of valencia oranges except that for purposes of § 1477.5(b)(4), the quantity of excludable production shall be 100 percent in lieu of 70 percent.

(b) Producers of valencia oranges who have losses of production of 1990 crop valencia oranges, as determined under this part, who did not previously file for assistance under this part prior to November 28, 1990 must file an application for assistance by January 15, 1991.

5. Section 1477.20 is added to read as follows:

§ 1477.20 Wind River Indian Reservation.

(a) Producers on a farm who suffered losses due to drought induced by lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located in the Wind River Indian Reservation of Wyoming shall be eligible to receive assistance with respect to the 1990 crops of wheat, barley, oats, grass hay and alfalfa under the same terms and conditions for producers of the 1989 crops of such commodities except as follows:

(1) Such producers shall not be required to purchase multiperil crop insurance;

(2) The total amount of assistance made under this section shall be $250,000;

(3) In the event the total of the approved losses determined in accordance with this part exceeds $250,000, CCC shall make payments on a pro rata basis; and

(4) Applications must be filed by May 27, 1991.

Signed at Washington, DC on December 27, 1990.

John A Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91-85 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Parts 91 and 92

[Docket No. 90-113]

Temporary Entry of Cattle From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the regulations regarding importation of cattle to facilitate the temporary entry under United States Customs bond of certain cattle from Mexico that are held temporarily in quarantined feedlots in the United States and then returned to Mexico for slaughter. These cattle are exempt from certain certification and testing requirements normally applied to cattle exported to Mexico from the United States.

EFFECTIVE DATE: February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Sam Richeson, Senior Staff Veterinarian, IEAS, VS, APHIS, USDA, room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8144.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective on March 30, 1990, and published in the **Federal Register** on April 5, 1990 (55 FR 12632-12634, Docket 90-035), we amended the regulations in 9 CFR parts 91 and 92 that restrict the importation of cattle to allow cattle from Mexico to enter the United States for temporary feeding and return to Mexico under specified conditions. The cattle may enter the United States if they enter under United States Customs bond, are moved directly from the port of entry to a quarantined feedlot approved by the United States Department of Agriculture (USDA) and the State in which the quarantined feedlot is located, and leave the feedlot only for direct return to Mexico.

Comments on the interim rule were required to be received on or before June 4, 1990. We received 13 comments prior to this closing date. Two comments opposed the interim rule, four comments supported the rule as written, and seven comments supported the rule but requested minor technical changes to it. The comments that opposed the rule or requested changes are discussed below.

Two State animal health agencies questioned the reliability of the rule's procedures for ensuring that the temporary entry of Mexican cattle does not spread communicable animal disease in the United States.

As discussed in the interim rule, we believe that the restrictions applied to these Mexican cattle reduce their potential for spreading disease to an insignificant level, comparable to the level presented by cattle allowed entry under other regulatory requirements. The cattle are inspected at the border prior to entry, and must meet cattle fever tick certification and dipping requirements at that time. In addition the cattle must meet the certification and testing requirements of § 92.427(c) for tuberculosis and § 92.427(d) for brucellosis. After they enter the United States, the cattle must be moved in sealed trucks or railway cars, must be confined in feedlots to prevent disease transmission, and must be returned to Mexico. We believe these restrictions and the other requirements of the interim rule will prevent the spread of disease by the cattle. Therefore, no change was made in response to this comment.

Seven commenters requested a change to the rule's requirement that cattle imported from Mexico in accordance with the rule must be confined in quarantined feedlots as defined in 9 CFR 78.1. These comments were made by feedlot owners, a State Veterinarian, a cattle feeders association, a cattle growers association, and a member of the United States House of Representatives.

The definition of quarantined feedlot contained in 9 CFR 78.1 is part of the brucellosis control program, and as a Brucellosis Class Free State, Arizona does not maintain any quarantined feedlots. Therefore, these commenters requested that the rule be changed to allow cattle to be confined either at quarantined feedlots as defined in 9 CFR 78.1, or, in Brucellosis Class Free States, in State quarantined feedlots.

We agree that in addition to quarantined feedlots designated in accordance with 9 CFR 78.1, State quarantined feedlots in Brucellosis Class Free States could safely contain cattle imported in accordance with this rule until their return to Mexico. Therefore, we are amending § 92.427(e) to require that the cattle be moved directly from the port of entry to a quarantined feedlot approved in accordance with § 78.1, or, in Brucellosis Class Free States, to a feedlot under State quarantine. We are also adding provisions regarding approval of State quarantined feedlots. Approval will be granted only after a State representative or Area Veterinarian in Charge inspects the confined area and determines that all cattle confined in it will be secure and isolated from contact with all other cattle, and that there is no possibility of communicable animal diseases being mechanically transmitted from the confined area. Such State quarantined feedlots for temporarily imported Mexican cattle must contain only cattle from Mexico imported for temporary feeding and return to Mexico, and these cattle must be confined at the feedlot without opportunity for pasturing or grazing.

These cattle from Mexico can be safely confined in either a feedlot under

State quarantine or a quarantined feedlot under the Federal Brucellosis quarantine, as long as the feedlot is effectively operated and supervised to prevent the possibility of disease transmission. We believe requiring approval by the State animal health official and the Area Veterinarian in Charge for State feedlots used to confine these cattle will ensure that only feedlots that effectively confine the cattle will be used. Additional safety is provided by the requirement that the State quarantined feedlots may contain only cattle temporarily imported from Mexico in accordance with this rule, thus reducing the possibility of disease spread to other animals.

Therefore, based on the rationale set forth in the interim rule and in this document, we are adopting this final rule.

Miscellaneous

In a final rule published in the **Federal Register** on August 2, 1990 (55 FR 31484–31562, Docket No. 90–023), the regulations in 9 CFR part 92 were reorganized and renumbered. One of the effects of this reorganization is that the regulations concerning cattle temporarily imported in bond from Mexico are now located in § 92.427, rather than § 92.35. The numbering in this rule has been changed to reflect this reorganization.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets.

This action establishes a simplified procedure for the temporary importation, feeding, and return to Mexico of Mexican cattle. The primary economic effects of this rule will be in the form of economic benefits to Mexican cattle owners, who will be able to take advantage of feeding in the United States to bring their cattle to full market weight, instead of slaughtering them before they reach full weight. Some economic benefits will also accrue to a small number (under 20) of United States quarantined feedlots, many of which are small entities, that will house and feed the cattle during their stay in the United States. A small secondary benefit may also accrue to United States importers of Mexican beef, by slightly increasing the number of full-weight Mexican cattle available for slaughter.

As an alternative to this action, we considered encouraging the owners of Mexican cattle to import feed for their cattle into Mexico; however, the importation of cattle for feeding in the United States is more economically efficient, because the feed efficiency of cattle is low. At least nine pounds of cattle feed are required to produce one pound of on-hoof beef in cattle, and the expense of importing and distributing sufficient feed for the cattle in question would be greater than the economic benefit achieved through the resulting weight gain.

We anticipate that no more than approximately 10,000 Mexican cattle will be imported this year for temporary feeding and return to Mexico in accordance with this rule. These cattle will be maintained in feedlots until their return to Mexico. The importation of 10,000 additional cattle is expected to have no significant economic impact on businesses or small entities, and will not represent significant competition for feedlot resources. In comparison, the number of cattle imported from Mexico for all purposes in 1989 was 615,087, and the number of cattle raised for slaughter in Texas (the State where most cattle imported in accordance with this rule will be held for temporary feeding) in 1988 was approximately 6,200,000.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this rule will be submitted for approval to the Office of Management and Budget.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 2015, subpart V.)

List of Subjects

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation.

9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and Livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR parts 91 and 92 are amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

§ 91.3 [Amended]

2. In § 91.3, the second sentence of paragraph (a) is amended by adding the phrase ", except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico," immediately following the word "Canada".

§ 91.5 [Amended]

3. In § 91.5, the introductory sentence is amended by adding the phrase ", except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico," immediately following the word "cattle".

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.400, the following definition is added in alphabetical order:

§ 92.400 Definitions.

* * * * *

Moved directly by land. Moved by rail, truck, or other land vehicle without unloading and without stopping except for refueling, or for traffic conditions such as traffic lights or stop signs.

* * * * *

3. In § 92.427, paragraphs (e)(1)(i) through (e)(1)(iii) are revised to read as follows:

§ 92.427 Cattle from Mexico.

* * * * *

(e) * * *

(1) * * *

(i) Are moved directly by land from the port of entry to a quarantined feedlot approved in accordance with § 78.1 of this chapter; or, in a Brucellosis Class Free State, to a State quarantined feedlot for temporarily imported Mexican cattle approved by the State animal health official and the Area Veterinarian in Charge. Approval will be granted only after a State representative or the Area Veterinarian in Charge inspects the feedlot and determines that cattle confined in it will be secure and isolated from contact with all other cattle, and that there is no possibility of communicable animal diseases being mechanically transmitted from the confined area. The State quarantined feedlot shall contain only cattle from Mexico imported for temporary feeding and return to Mexico, with no provision for pasturing or grazing.

(ii) Are removed from the feedlot only to be moved directly to a Mexican port of entry for return to Mexico for slaughter; and

(iii) Are moved directly by land from the port of entry to the feedlot, and from the feedlot to the Mexican port of entry, only in trucks or railway cars sealed with a seal applied by a United States Department of Agriculture inspector.

* * * * *

Done in Washington, DC, this 27th day of December 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-37 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 89F-0450]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(isobutene)/maleic anhydride, diethanolamine reaction product as a surfactant for dispersions of polyacrylamide retention and drainage aids used in the manufacture of paper and paperboard intended to contact aqueous and fatty foods. This action is in response to a petition filed by ICI Americas, Inc.

DATES: Effective January 4, 1991; written objections and requests for a hearing by February 4, 1991.

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

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 17, 1989 (54 FR 47828), FDA announced that a food additive petition (FAP OB4178) had been filed by ICI Americas, Inc., Concord Pike and Murphy Rd., Wilmington, DE 19897, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of poly(isobutene)/maleic anhydride, diethanolamine reaction product as a surfactant in the preparation of polyacrylamide retention and drainage aids used in the manufacture of paper and paperboard intended to contact aqueous and fatty foods.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that 21 CFR 176.170(a)(5) should be amended as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before February 4, 1991, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

2. Section 176.170 is amended in paragraph (a)(5) by alphabetically adding a new entry to the table to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Poly(isobutene)/maleic anhydride adduct, diethanolamine reaction product. The mole ratio of poly(isobutene)/maleic anydride adduct to diethanolamine is 1:1.	For use only as a surfactant for dispersions of polyacrylamide retention and drainage aids employed prior to the sheet formation operation in the manufacture of paper and paperboard.
* * * * *	

* * * * *

Dated: December 26, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-102 Filed 1-3-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Virginia Regulatory Program; Ownership and Control Data; Improvidently Issued Permits

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing approval of a proposed amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment defines the term "ownership and control;" details additional requirements concerning the reporting of violations, ownership and control data, and the effect of that information on various permitting decisions; and provides criteria and procedures for the identification and rescission of improvidently issued permits. The proposed amendment also changes the definition of "operator." The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, and to clarify and correct inconsistencies in Virginia's rules.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Drawer 1216, Powell Valley Square Shopping Center, Room 220, Route 23, Big Stone Gap, Virginia 24219; Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed Virginia program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval, can be found in the December 15, 1981, **Federal Register** (46 FR 61085). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Submission of Amendment

By letter dated June 29, 1990 (Administrative Record No. VA-752), Virginia submitted amendment No. VA-0003 in response to May 11, 1989, and November 17, 1989, letters from OSM (Administrative Record Nos. VA-726 and VA-743) in accordance with 30 CFR part 732 and in response to a required amendment under 30 CFR 946.16(a) (55 FR 3738, February 5, 1990). The May 11, 1989, Part 732 letter (Administrative Record No. VA-726) requires certain provisions of the State program to be updated for consistency with Federal regulations relating to ownership and control and permit rescission criteria and procedures promulgated through April 28, 1989. Virginia proposes to amend the following sections of the Virginia Regulations (VR): Section 480-03-19.700.5, Definitions; section 480-03.19.773.15 (b)(1), (b)(1)(ii), (b)(2), (b)(3), and (e), Review of Permit Applications; section 480-03-19.773.17 (h), (h)(1), and (h)(2), Permit Conditions; section 480-03-19.778.13, 778.13 (b), (b) (1-3), (c), (c) (1-5), (d), (d)(1), (d)(2), (j), and (k), Identification of Interests; section 480-03-19.778.14, 778.14 (c), (c)(1), and (d), Violation Information; section 480-03-19.843.11(g), Cessation Orders; and section 480-03-19.843.13 (Revised Title), Suspension or Revocation of Permits: Pattern of Violations.

Virginia proposes to add: section 480-03-19.773.20, Improvidently Issued Permits: General Procedures; and section 480-03-19.773.21, Improvidently Issued Permits: Rescission Procedures.

OSM announced receipt of the proposed amendment in the August 7, 1990, **Federal Register** (55 FR 32100) and in the same notice opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on September 6, 1990.

By letter dated October 18, 1990 (Administrative Record No. VA-776), Virginia submitted additional information to both support and modify its proposed amendment. The additional information was submitted in response to an issue letter dated September 24, 1990, from OSM (Administrative Record No. VA-767). OSM announced receipt of the revisions to the previously proposed amendment in the November 19, 1990, **Federal Register** (55 FR 48136) and in the same notice, reopened the public comment period. The comment period closed on December 4, 1990.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Virginia program.

1. VR 480-03-19.700.5 Definitions

Virginia proposes to revise the definition for "operator" and add a new definition for the phrases "owned or controlled" and "owns or controls." The language of these definitions is identical to the Federal definitions at 30 CFR 701.5 and 773.5. Therefore, the Director finds the proposed definitions to be no less effective than the corresponding Federal definitions.

2. VR 480-03-19.773.15 Review of Permit Applications

(a) *Review of violations.* Virginia proposes to revise subsection .15(b)(1) to prohibit the unconditional issuance of a permit when the applicant or person controlled by the applicant is currently in violation of State or Federal environmental laws or regulations. By letter of clarification dated October 18, 1990, Virginia stated that it interprets this rule as applying to unabated enforcement actions and delinquent civil penalties incurred under any State or Federal program, not just those actions and penalties issued by OSM or Virginia (Administrative Record No. VA-776). Paragraph (b)(1)(ii) would establish a 30-day time limit for submittal of proof that

a violation has been or is being corrected. Paragraph (b)(2) would specify that any permit issued when an applicant is in the process of correcting or appealing a violation shall be conditional. Paragraph (b)(3) would extend the prohibition on permit issuance to anyone who owns or controls the applicant and provide for an adjudicatory hearing. Since the proposal is identical to 30 CFR 773.15(b), the Director finds it to be no less effective than the Federal rule.

(b) *Final compliance review.* Virginia proposes to add subsection .15(e) to require the regulatory authority to reconsider its permit approval based on a review of any new violation and compliance information. The new subsection (e) as originally proposed by Virginia contained a reference error. The reference to section 480–03–19.778.13(i) should be section 480–03–19.778.13(j). By letter of clarification dated November 29, 1990 (Administrative Record No. VA–786), Virginia has acknowledged the reference error and has agreed to insure that the correct reference is contained in the final Virginia rule. The proposed language is identical to 30 CFR 773.15(e). Therefore, the Director finds the proposal to be no less effective than the Federal rule.

3. VR 480–03–19.773.17 Permit Conditions

Virginia proposes to add subsection .17(h) to require a permittee to notify the regulatory authority of any changes in ownership and control information within 30 days after a cessation order is issued. Virginia has revised its original proposal by referring to cessation orders issued by OSM under 30 CFR 843.11 as well as cessation orders issued under VR 480–03–19.843.11. Since the proposed language is identical to 30 CFR 773.17(i), the Director finds the proposal to be no less effective than the Federal rule.

4. VR 480–03–19.778.13 Identification of Interests

Virginia is revising this subsection to require additional identification information. Paragraph (b) would require the employer identification number of the applicant, the applicant's resident agent and the person who will pay the abandoned mine land reclamation fee. Paragraph (c) is revised to require certain information of each person who owns or controls the applicant. Paragraph (d) would add certain information requirements pertaining to surface coal mining and reclamation operations owned or controlled by the applicant, or any person who owns or controls the applicant. Paragraph (j) would require an applicant to update, correct or indicate no change in its ownership and control information after an application is approved, but before the permit is issued. Paragraph (k) would require the applicant to submit the required information in any format prescribed by OSM. The language of the proposed changes is identical to the language contained in 30 CFR 778.13 (b), (c), (d), (i) and (j). Therefore, the Director finds the proposal to be no less effective than the Federal rule.

5. VR 480–03–19.778.14 Violation Information

Virginia is revising this subsection to expand the list of required permit information. Paragraph (c)(1) would require an owner's or applicant's history of violation notices including State and Federal identification numbers. Paragraph (d) specifies that the applicant shall update, correct or indicate no change in information supplied under this section after the application is approved, but before the permit is issued. Since the proposed language is identical to 30 CFR 778.14 (c), (c)(1) and (d), the Director finds the proposal to be no less effective than the Federal rule.

6. VR 480–03–19.843.11 Cessation Orders

Virginia proposes to add paragraph (g) to require the regulatory authority to notify all identified owners or controllers within 60 days of the issuance of a cessation order. The proposal is substantively the same as 30 CFR 843.11(g) and, therefore, the Director finds it to be no less effective than the Federal rule.

7. VR 480–03–19.773.20 Improvidently Issued Permits: General Procedures

(a) *Permit review.* Virginia is adding paragraph (a) to this section to specify that the regulatory authority will review a permit whenever it has reason to believe a permit has been improvidently issued. If so, the regulatory authority shall comply with paragraph (c) of this section. The language of this proposal is substantively the same as 30 CFR 773.20(a). Therefore, the Director finds it to be no less effective than the Federal rule.

(b) *Review criteria.* Virginia is adding paragraph (b) to establish criteria for determining when a permit has been improvidently issued. In the letter of clarification submitted on October 18, 1990, Virginia stated that it will adhere to the violations review criteria that are set forth in the preamble to 30 CFR 773.20(b) to the extent they do not conflict with the criteria in effect in Virginia at the time the permit was issued (Administrative Record No. VA–776). Since the language of this proposal is substantively the same as 30 CFR 773.20(b), the Director finds it to be no less effective than the Federal rule.

(c) *Remedial measures.* By adding paragraph (c), Virginia specifies certain remedial measures the regulatory authority shall use if it determines a permit has been improvidently issued. Since the proposal has substantively the same language as 30 CFR 773.20(c), the Director finds it to be no less effective than the Federal rule.

8. VR 480–03–19.773.21 Improvidently Issued Permits: Rescission Procedures

Virginia proposes to add a new section that specifies the procedures to be followed in rescinding improvidently issued permits. These procedures relate to automatic suspension and rescission, cessation of operations and right to appeal. Since the language of the proposal is identical to 30 CFR 773.21, the Director finds the proposed rule to be no less effective than the Federal rule.

9. VR 480–03–19.843.13 Suspension or Revocation of Permits: Pattern of Violations

Virginia proposes to change the title of this section to make it identical to the title of 30 CFR 843.13. Therefore, the Director finds it to be no less effective than the Federal rule.

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the August 7, 1990, **Federal Register** ended September 7, 1990. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony. Following Virginia's submission of revisions and clarifications on October 18, 1990 (Administrative Record No. VA–776), the Director reopened the public comment period in the November 19, 1990, **Federal Register** (55 FR 48136). No public comments were received by the close of the comment period on December 4, 1990.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations of 30 CFR 732.17(h), comments were solicited from various Federal agencies with an actual or potential interest in the Virginia program. The U.S. Department

of Agriculture, Soil Conservation Service and Forest Service, the U.S. Department of Labor and the U.S. Environmental Protection Agency (EPA) responded, but provided no substantial comments on the proposed amendment.

V. Director's Decision

Based on the above findings, the Director is approving the proposed program amendment submitted by Virginia on June 29, 1990, with revisions and clarifications dated October 18, 1990, and November 29, 1990. The Federal regulations at 30 CFR part 946 codifying decisions concerning the Virginia program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to conform their programs to the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, the Federal regulations at 30 CFR 732.17(a) require that any alteration of an approved State program be submitted to OSM as a program amendment. Thus, any changes to the program are not enforceable by the State until approved by OSM. The Federal regulations at 30 CFR 732.17(g) also clearly prohibit any unilateral changes to approved State program. In its oversight of the Virginia program, OSM will recognize only those statutes, regulations or other program directives approved in 30 CFR 946.15, and will require the enforcement of only such approved provisions by the State.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 720(d) of SMCRA (30 U.S.C. 1291(d)), no environmental impact statement need be prepared on this ruling.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements, rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: December 21, 1990.

Carl C. Close,

Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 946—VIRGINIA

1. The authority citation for part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 946.15, a new paragraph (dd) is added to read as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(dd) The amendment submitted to OSM on June 29, 1990, and revised on October 18, 1990, and November 29, 1990, is approved effective January 4, 1991. The amendment consists of the following modifications to the Virginia regulations (VR 480–03–19):

700.5 Definitions.
773.15 Review of Permit Applications.
773.17 Permit Conditions.
773.20 Improvidently Issued Permits: Rescission Procedures.
773.21 Improvidently Issued Permits: Pattern of Violations.
778.13 Identification of Interests.
778.14 Violation Information.
843.11 Cessation Orders.
843.13 Suspension or Revocation of Permits—Pattern of Violations

The modifications made to Virginia Regulations (VR 480–03–19) 773.15 and 773.20 have been clarified by the State in a policy statement dated October 18, 1990 (Administrative Record No. VA–776).

3. In § 946.16, paragraph (a) is removed and reserved to read as follows:

§ 946.16 Required regulatory program amendments.

* * * * *

(a) [Reserved]

* * * * *

[FR Doc. 91–81 Filed 1–3–91; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 589

Compliance With Court Orders by Personnel and Command Sponsored Family Members

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces an amendment to 32 CFR part 589 previously published in the **Federal Register**, 55 FR 47042, on 8 November 1990. These changes are directed by the Department of Defense, Office of the General Counsel and are intended to correct spelling and/or word changes and to clarify policy.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Librado Rivas, Office of the Deputy Chief of Staff for Personnel, ATTN: DAPE–MPE–DR, Washington, DC 20310–0300, telephone: (703) 697–1012/2403.

SUPPLEMENTARY INFORMATION: This part will appear as chapter 11 of the consolidated Army Regulation 614–XX (number to be determined at a later date), and implements Department of Defense Directive 5525.9, Compliance of DOD Members, Employees, and Family Members Outside the United States With Court Orders. Consolidated AR 614–XX prescribes policies pertaining to permanent change of station (PCS) moves, overseas tour lengths, unit

deployment, volunteers, deletions and deferment from overseas assignment instructions, curtailments, extensions, consecutive overseas tours, eligibility for overseas service, and stabilization of tour lengths for military personnel.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1990 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 589

Army, Court, Personnel.

Accordingly, 32 CFR part 589 is amended as follows:

PART 589—COMPLIANCE WITH COURT ORDERS BY PERSONNEL AND COMMAND SPONSORED FAMILY MEMBERS

1. The authority for part 589 is continues to read as follows:

Authority: Public Law 100.456 and 10 U.S.C. 814.

2. Section 589.4 is amended by revising paragraphs (a)(1), (b)(4), (b)(5) (f) and (g) and adding paragraph (b)(6) to read as follows:

§ 589.4 General.

(a) * * *

(1) For soldiers and members or their family, to the soldier's unit commander of Office, Deputy Chief of Staff for Personnel (ODCSPER), ATTN: DAPE–MP (703–695–2497); and

* * * * *

(b) * * *

* * * * * *

(4) If one, the matter cannot be resolved, and two, it appears that noncompliance with the request to return the soldier, or to take other action involving a family member or DA or NAF employee is warranted by all the facts and circumstances of the particular case, and three, the court order does not pertain to any felony or to a contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the custody of a parent or another person awarded custody by court order, the matter will be forwarded, for soldiers or their family members to the soldier's general court martial convening authority or, for army civilian or NAF employees or their family members, to the first general officer or civilian equivalent in the employee's chain of command, for a determination as to whether the request should be complied with. In those cases in which it is determined that noncompliance with the request is warranted, copies of that determination will be forwarded directly to the appropriate office noted in § 589.3(3) and to HQDA, DAJA–CL, pursuant to Chapter 6, AR 190–9.

(5) If one, the matter cannot be resolved, and two, it appears that noncompliance with the request to return the soldier, or to take other action involving a family member of DA or NAF employee, is warranted by all the facts and circumstances of the particular case, and three, the court order pertains to any felony or to a contempt involving the unlawful or contemptuous removal of a child from the jurisidiction of a court or the custody of a parent or another person awarded custody by court order, a request for exception to policy will be forwarded directly to the appropriate office listed in § 589.3(b)(3) with an information copy to HQDA, DAJA–AL, within 30 days unless a delay has been approved by ASA(M&RA). The offices listed in § 589.3(b)(3) must forward the request for an exception promptly through ASA(M&RA) to ASD(FM&P) for decision, copy furnished to General Counsel, DOD.

(6) All actions, whether to invoke the DOD Directive or not, must be reported promptly to ASD(FM&P) and General Counsel, Department of Defense. See also DOD Directive 5525.9, paragraph E.3.c.

* * * * *

(f) If the request is based upon a valid court order pertaining to a family member of a soldier or Army civilian or NAF employee, the family member will be strongly encouraged to comply with the court order if denial of the request as outlined in this part is not warranted. Unless the family member can show legitimate cause for non-compliance with the order, considering all of the facts and circumstances, failure to comply may be basis for withdrawal of command sponsorship.

(g) Failure of the requesting party to provide travel expenses for military personnel as specified in this section, is grounds to be recommended denial of the request for assistance. The request must still be forwarded through DAPE–MP and ASA(M&RA) to ASD(FM&P) for decision, copy furnished to General Counsel, Department of Defense.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 91–112 Filed 1–3–91; 8:45 am]

BILLING CODE 3710–08–M

Department of the Air Force

32 CFR Part 953

Fraud and Violations of Public Trust in Contract, Acquisition, and Other Matters

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, chapter VII of the CFR by removing part 953, Fraud and Violations of Public Trust in Contract, Acquisition, and Other Matters. This rule is removed since the source document, AFR 124–8, was rescinded because it contained information contained in other Air Force regulations.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Patsy J. Conner, Air Force Federal Register Liaison Officer, SAF/AAIA, Pentagon, Washington, DC 20330–1000, telephone (202–614–3431).

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 953

Fraud, Government procurement, Investigations.

Authority: 10 U.S.C. 8013.

PART 953—[REMOVED]

Accordingly, 32 CFR chapter VII, is amended by removing part 953.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–110 Filed 1–3–91; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

Temporary Subsistence Management Regulations for Public Lands in Alaska

CFR Correction

In title 36 of the Code of Federal Regulations, part 200 to End, revised as of July 1, 1990, § 242.24(f)(10)(xii) through (f)(11)(xiv) was inadvertently duplicated. The text of paragraph (f)(10)(xii) in the second column, on page 230, and ending with paragraph (f)(10)(xiv), column one, on page 232, should be removed.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 87-389; FCC 90-404]

Revision of Rules Regarding the Operation of Radio Frequency Devices Without an Individual License; LPB et al. Joint Petition for Partial Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In response to petitions filed by LPB Inc., LocRad Inc., Burden Associates, and the Intercollegiate Broadcasting System, Inc., the Commission is amending its rules to relax the radio frequency (RF) field strength emission limits for low power AM communications systems, *e.g.* carrier current and "leaky cable" radio systems operating int he AM radio band. The rules originally adopted in this proceeding effectively decreased the field strength limits that apply to the use of the lower AM broadcast frequencies by these systems. The changes adopted herein will relax the limits to the former levels, thereby allowing the continued operation of economical low power AM communications systems. The Commission finds that this change will not pose a significant threat of interference to authorized communications users.

EFFECTIVE DATE: February 14, 1991.

FOR FURTHER INFORMATION CONTACT: George Harenberg, Technical Standards Branch, Office of Engineering and Technology (202) 653-7314.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum, Opinion and Order (MO&O)* in Gen. Docket No. 87-389, FCC 90-404, adopted on November 26, 1990 and released on December 28, 1990.

The full text of this *MO&O* 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 Services (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Summary of Notice

1. In the *First Report and Order (R&O)* in GEN Docket No. 87-389, 54 FR 17710, April 25, 1989, the Commission applied new, and in some areas slightly more stringent, field strength limits for three types of low power communications systems that operate on frequencies in the AM band: (1) Carrier current systems; (2) leaky cable systems; and (3) campus radio stations. These systems allow low power, one-way communications using standard AM radio receivers. Campus radio stations have operated successfully for years using carrier current systems, and motorist advisory stations, such as those serving amusement parks, are now using leaky cable systems.

2. LPB Inc., LocRad Inc., Burden Associates, and the Intercollegiate Broadcasting System, Inc., (herein "joint petitioners"). The joint petitioners market and operate low carrier current and "leaky cable" systems that transmit one-way messages and programming for reception on standard AM broadcast band receivers. They are concerned that the new emission limits for AM carrier current systems are more stringent for lower frequencies in the AM band than the former limits. The joint petitioners argue that the new, lower limits are unnecessarily restrictive and request that the previous emission limits be reinstituted for these systems.

3. Carrier current and leaky cable systems operate on a different physical principle than other wireless radio frequency communication systems. Such systems rely on the induction (or magnetic) field, which is present only in the immediate vicinity of a transmission line or cable carrying RF energy, to provide communications to receivers. Induction fields rapidly decrease in strength as distance from the transmission line is increased. Radiation fields, which are more typically used for radio communications, decrease much more slowly. Although induction fields are stronger than radiation fields at locations very near carrier current and leaky cable systems, radiation fields are stronger, and therefore more likely to cause interference, at greater distances.

4. Under the Commission's previous rules, carrier current systems were measured at approximately the distance at which the radiation field begins to exceed the induction field. Under the new field strength limits, measurements of carrier current systems operating on the lower frequencies of the AM band were required to be made at substantially shorter distances; *i.e.*, distances where the induction field is stronger than the radiation field. This effectively decreased the allowable field strength at lower frequencies. While the Commission did increase the field strength limits to compensate for the shorter measurement distance, it apparently did not sufficiently allow for the higher field strength of the induction field in areas very near to carrier current systems. The new field strength limits adopted in the *R&O*, therefore, significantly restricted the use of new carrier current systems. However, carrier current systems have been operated for decades under the former field strength limits without causing interference problems for AM broadcasters. Those levels were sufficient to avoid interference in the past and the Commission believes they remain appropriate for future use. Accordingly, the Commission will allow carrier current systems operating in the AM band to comply with either the new limits or those which were contained in the former rules, respecified in the International Systems of Units. While this change will lessen the uniformity of part 15 emissions standards, the Commission believes the benefits of applying the former standards in this case outweigh the advantages of uniformity.

5. The Commission previously treated leaky cable systems in a manner similar to typical radio transmitters because, like radio transmitters, leaky cable systems operators could control where their antennas (leaky cables) were placed. However, because leaky cable systems operate more like carrier current systems, relying primarily on the induction field, the Commission is granting the request to subject leaky cable systems operating in the AM broadcast band to the same field strength limits and equipment authorization requirements as carrier current systems.

6. The rule changes will also resolve the difficulties that campus radio stations operating on lower band AM frequencies face in providing service beyond the boundaries of the institution under the new rules. In general, the rules

adopted in the *R&O* were intended to permit campus radio stations greater flexibility and freedom in designing their operations. Consistent with this intent, campus radio stations will now be able to use both carrier current and leaky cable systems at the signal levels specified for carrier current systems under the previous rules to serve off-campus locations such as privately-owned residence halls.

7. In accordance with the above discussion and pursuant to the authority contained in sections 4(i), 301, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, *it is ordered*, That the Joint Petition filed by LPB Inc., LocRad Inc., Burden Associates, and the Intercollegiate Broadcasting System, Inc., is granted to the extent indicated herein. In addition, *it is further ordered*, That part 15 of the Commission's Rules and Regulations is amended as set forth in appendix B below. These rules and regulations are effective February 14, 1991.

List of Subjects in 47 CFR Part 15

Communications equipment, Radio.

Rule Changes

Title 47 of the Code of Federal Regulations, part 15, is amended as follows:

PART 15—[AMENDED]

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

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Section 15.109 is amended by revising paragraph (e) to read as follows:

§ 15.109 Radiated emission limits.

* * * * *

(e) Carrier current systems used as unintentional radiators or other unintentional radiators that are designed to conduct their radio frequency emissions via connecting wires or cables and that operate in the frequency range of 9 kHz to 30 MHz, including devices that deliver the radio frequency energy to transducers, such as ultrasonic devices not covered under part 18 of this Chapter, shall comply with the radiated emission limits for intentional radiators provided in § 15.209 for the frequency range of 9 kHz to 30 MHz. As an alternative, carrier current systems used as unintentional radiators and operating in the frequency range of 525 kHz to 1705 kHz may comply with the radiated emission limits provided in § 15.221(a). At frequencies above 30 MHz, the provisions of paragraph (a) of this section apply.

* * * * *

3. Section 15.207 is amended by revising paragraph (b) to read as follows:

§ 15.207 Conducted limits.

* * * * *

(b) The limit in paragraph (a) shall not apply to intentional radiators operated as carrier current systems in the frequency range of 450 kHz to 30 MHz. Such systems are subject to radiated emission limits as provided in § 15.205 and §§ 15.209, 15.221, 15.223, 15.225 or § 15.227, as appropriate.

* * * * *

4. Section 15.221 is revised to read as follows:

§ 15.221 Operation in the band 525–1705 kHz.

(a) Carrier current systems and transmitters employing a leaky coaxial cable as the radiating antenna may operate in the band 525–1705 kHz provided the field strength levels of the radiated emissions do not exceed 15 uV/m, as measured at a distance of 47,715 (frequency in kHz) meters (equivalent to Lambda/2Pi) from the electric power line or the coaxial cable, respectively. The field strength levels of emissions outside this band shall not exceed the general radiated emission limits in § 15.209.

(b) As an alternative to the provisions in paragraph (a) of this section, intentional radiators used for the operation of an AM broadcast station on a college or university campus or on the campus of any other education institution may comply with the following:

(1) On the campus, the field strength of emissions appearing outside of this frequency band shall not exceed the general radiated emission limits shown in § 15.209 as measured from the radiating source. There is no limit on the field strength of emissions appearing within this frequency band, except that the provisions of § 15.5 continue to comply.

(2) At the perimeter of the campus, the field strength of any emissions, including those within the frequency band 525–1705 kHz, shall not exceed the general radiated emission in § 15.209.

(3) The conducted limits specified in § 15.207 apply to the radio frequency voltage on the public utility power lines outside of the campus. Due to the large number of radio frequency devices which may be used on the campus, contributing to the conducted emissions, as an alternative to measuring conducted emissions outside of the campus, it is acceptable to demonstrate compliance with this provision by measuring each individual intentional radiator employed in the system at the point where it connects to the AC power lines.

(c) A grant of equipment authorization is not required for intentional radiators operated under the provisions of this Section. In lieu thereof, the intentional radiator shall be verified for compliance with the regulations in accordance with subpart J of Part 2 of this chapter. This data shall be kept on file at the location of the studio, office or control room associated with the transmitting equipment. In some cases, this may correspond to the location of the transmitting equipment.

(d) For the band 535–1705 kHz, the frequency of operation shall be chosen such that operation is not within the protected field strength contours of licensed AM stations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91–67 Filed 1–3–91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–263, FCC 90–411]

Broadcast Service; Abuse of the Commission's Licensing Processes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this *Report and Order (Report)*, adopts rules which limit payments that may be received by competing applicants for construction permits for new broadcast stations or modifications to facilities of existing stations (hereinafter comparative new proceedings). The Commission limits such payments to legitimate and prudent out-of-pocket expenses up until the first day of the trial phase of the hearing and prohibits any payments at all thereafter. This action is needed to eliminate abuse of the Commission's processes and to expedite new broadcast service to the public.

EFFECTIVE DATE: March 21, 1991.

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

SUPPLEMENTARY INFORMATION: Public reporting burden for the collection of information in § 73.3525(a) of the Commission's Rules, 47 CFR 73.3525(a)

is estimated to average 8 hours per response. The burden for § 73.3525(b) is estimated to average 1 hour per response. Each of these estimates includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management of Budget, Paperwork Reduction Project, Washington, DC 20503.

This is a synopsis of the Commission's "Report and Order" in MM Docket No. 90–263, adopted December 13, 1990, and released December 21, 1991.

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

Synopsis of Report and Order

1. Through this decision, the Commission adopts rules limiting payments that may be received by competing applicants in comparative new cases, to legitimate and prudent out-of-pocket expenses up until the first day of the trial phase of the hearing. These rules prohibit any payments at all thereafter. This action is taken as part of the Commission's continuing effort to eliminate abuse of the Commission's licensing processes.

2. The Notice of Proposed Rule Making (Notice) in this proceeding (55 FR 28918, July 16, 1990) invited comment on whether to limit the payments that can be made to settle cases involving competing applicants in the comparative new context, thus eliminating profit motivation as a factor in such proceedings, and minimizing the potential for abuse of the licensing process. The Commission now finds that limiting settlement payments will serve to discourage sham applications, reduce or eliminate "profiteering" on Commission processes and expedite hearings by reducing the number of non-*bona fide* applicants. Moreover, forbidding payments once the trial stage of a case has begun will encourage earlier settlements, accelerating the resolution of proceedings and easing the burden on litigants. Finally, the disclosure requirements adopted in this decision will enable the Commission to enforce compliance with payment limitations.

3. The Commission decides that applicants settling before the trial phase of the hearing commences may recover their legitimate and prudent out-of-pocket expenses. This policy will encourage *bona fide* applicants to apply, as they will be able to recoup expenses up until the point at which they can make a realistic assessment of their probabilities of success. Once discovery is complete, the parties possess enough factual information to make a reasoned judgment on the probable outcome of applications. Moreover, it is at this post-discovery point that the new voluntary settlement conference procedure provided for in the "Report and Order" in General Docket No. 90–264 (FCC 90–410, adopted December 13, 1990, released December 21, 1990) will become available to the competing parties. The settlement conference will provide a means for applicants to obtain an impartial assessment of their relative chances of prevailing over their competitors. Based on this information, applicants should be able to make an informed decision either to settle for expenses, or to continue with the comparative process.

4. In the interest of expediting the delivery of new service to the public, the Commission wishes to encourage settlement as soon as possible after this point. Prohibiting payments made in exchange for dismissing applications will accomplish this result. The Commission further finds that the start of the trial phase of the hearing is the logical point for such a prohibition to apply, because this is a date certain of which all the parties have notice, and because this is the stage where applicants begin to incur significant additional expenses in the litigation of a case. Thus, parties traditionally attempt to settle at this point. Therefore, the Commission will prohibit all payments to settling parties after the trial phase of the hearing commences.

5. The Commission also considered whether to reduce the amount of permissible recovery (to, for example, 50 percent) as of the date certain in the proceeding. It found, however, that precluding settlement payments altogether after a point certain in the process will provide the greatest incentive toward early settlements, and will therefore expedite the overall hearing process.

6. Another option considered but rejected, would limit settlement payments to out-of-pocket expenses throughout the comparative new process. However, the Commission concludes that prohibiting all recovery after the trial phase starts will more effectively deter frivolous filings and encourage early settlements. The Commission also does not adopt proposals to ban nearly or completely any payments at any stage in a comparative new case, out of concern that such a proposal might deter good faith applicants. Finally, the Commission considered allowing recovery above expenses, but found that such a policy might encourage abuse and discourage less wealthy, yet *bona fide* applicants.

7. Contrary to the decision in "Texas Television, Inc." (FCC 83.95, Mimeo 95003, March 9, 1983), which the Commission hereby reverses, the Commission now finds that section 311(c) of the Communications Act, as amended, 47 U.S.C. 311(c) permits limits on settlement payments in comparative new proceedings.

8. Because it is important to implement these reform measures promptly, the Commission elects not to apply the new rules both to new and pending applicants. At the same time, some accommodation must be made for existing applicants who have relied on our previous policies. The Paperwork Reduction Act requires a delay in the effective date of the new rules to obtain approval of the Office of Management and Budget. This brief grace period should provide reasonable protection to parties that relied on existing rules, while not interfering with the goals of encouraging early settlements and prompt implementation of reform measures. Accordingly, the new rules will become effective on March 21, 1991.

9. The Commission amends § 73.3525 of the Rules, to add a requirement that parties seeking approval of the settlement prior to the commencement of the trial phase of the comparative new proceeding also submit: (1) Certifications that they have not received or will not receive any money or other consideration in excess of their legitimate and prudent expenses; (2) the exact nature and amount of any consideration paid or promised; (3) an itemized accounting of the expenses for which they seek reimbursement; and (4) the terms of any oral agreement relating to the dismissal or amendment of the application in question. Any applicant seeking to dismiss or withdraw after the commencement of the trial phase must certify that it has received no consideration in exchange for such dismissal or withdrawal. The time periods for oppositions to proposed settlements will remain the same as

under the former rules. This factor, together with the manner in which the Commission intends to implement these procedures should ensure expeditious approval of settlements that are in the public interest.

10. Because of the intervening change in the language of section 311, the Commission does not adopt wholesale the administrative interpretation of reimbursable expenses used prior to the 1982 amendment to that statute. For example, the Commission finds that expenses incurred in preparing and negotiating a settlement are recoverable. The Commission also believes that it will be beneficial to provide some additional guidance to the staff and interested parties in three areas. First, the Commission clarifies that itemizations of professional expenses may be submitted in statement form. Second, as a general matter, principals of applicants are not entitled to reimbursement for services performed on behalf of the applicant. Third, settling parties are required either to submit any ancillary agreements they have made, such as consulting agreements, or to certify that these do not exist.

Final Regulatory Analysis Statement

I. Need and Purpose of This Action

11. This action is taken as part of the Commission's continuing effort to eliminate abuse of its processes. It is additionally intended to expedite the comparative licensing process by reducing the volume of applications filed and by removing profit as a factor in settlement agreements, and to facilitate the provision of new service to the public.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

12. No comments were received relating to the Initial Regulatory Flexibility Analysis.

III. Significant Alternatives Considered and Rejected

13. The Commission considered prohibiting all or nearly all settlement payments at any stage in a comparative new case. However, such a stringent restriction might deter good faith applicants.

14. A second option considered would have permitted recovery of expenses up to a point certain in the proceeding and thereafter recover only a portion (e.g., 50 percent) of expenses. The Commission found that precluding all settlement payments after a point certain in the proceeding would provide the greatest incentive toward early settlement and would therefore expedite the overall hearing process.

15. A third option considered and rejected would have allowed the recovery of expenses throughout a comparative new proceeding. The Commission decided that prohibiting all recovery after the trial phase starts will more effectively deter frivolous filings, encourage early settlements, and conserve applicants' and Commission resources.

16. Finally, the Commission considered allowing settlement payments to reimburse some set figure above expenses. This option would not sufficiently deter sham applications and might prevent *bona fide* applicants with limited financial resources from filing.

17. The Secretary shall send a copy of this "Report and Order", including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981)).

18. Accordingly, *it is ordered*, That pursuant to the authority contained in sections 4, 303, and 311 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, and 311, part 73 of the Commission's Rules, 47 U.S.C. Part 73, is amended as set forth below, effective March 21, 1991, subject to Office of Management and Budget approval.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Amendatory Text

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

PART 73—[AMENDED]

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

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

2. Section 73.3525 is amended by revising introductory paragraph (a), removing the final word "and" in paragraph (a)(1), substituting a semicolon for the period at the end of paragraph (a)(2), adding new paragraphs (a)(3), (a)(4), (a)(5), (a)(6), redesignating existing paragraphs (b) through (h) as paragraphs (c) through (i), adding new paragraph (b), and adding new paragraphs (j), (k), and (l) to read as follows:

§ 73.3525 Agreements for removing application conflicts.

(a) Except as provided in § 73.2523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station, prior to the commencement of the trial phase of the proceeding, enter into an agreement to procure the removal of a conflict among applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

(1) The reasons why it is considered that such agreement is in the public interest;

(2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;

(3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant;

(4) The exact nature and amount of any consideration paid or promised;

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

(6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

(b) If a competing applicant seeks to dismiss or withdraw its application after commencement of the trial phase of the proceeding, it must submit to the Commission a request for approval of the dismissal or withdrawal of its application, a copy of any written agreement related to the dismissal or withdrawal of its application, and an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has received or will receive any money or other consideration in exchange for dismissing or withdrawing its application;

(2) A statement that its application was not filed for the purpose of reaching or carrying out an agreement with any other applicant regarding the dismissal or withdrawal of its application; and

(3) The terms of any oral agreement relating to the dismissal or withdrawal of its application. In addition, within 5 days of the applicant's request for approval, each remaining competing applicant must submit an affidavit setting forth:

(4) A certification that neither the remaining applicant nor its principals has paid or will pay any money or other consideration to the withdrawing applicant in exchange for the dismissal or withdrawal of the application; and

(5) The terms of any oral agreement relating to the dismissal or withdrawal of the application.

* * * * *

(j) For purposes of this section, "legitimate and prudent expenses" are those expenses reasonably incurred by a petitioner in preparing, filing, prosecuting, and settling its petition and for which reimbursement is being sought.

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

(l) For purposes of this section, an "ancillary agreement" means any agreement relating to the dismissal of an application or settling of a proceeding, including any agreement on the part of an applicant or principal of an applicant to render consulting services to another party or principal of another party in the proceeding.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-66 Filed 1-3-91; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 516 and 552

[APD 2800.12A, CHGE 17]

General Services Administration Acquisition Regulation; Placing Orders Electronically

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is revised to add section 516.505 to prescribe a Placement of Orders clause with two alternates for use by the Federal Supply Service in contracts awarded under the stock and special order program and under the schedule program, and to add section 552.216-73 to provide the text of the Placement of Orders clause and alternates. The intended effect is to provide a mechanism for placing orders against contracts using Electronic Data Interchange (EDI).

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Paul L. Linfield, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the **Federal Register** on June 20, 1990, (GSAR Notice No. 5-301, 55 FR 25141). No public comments were received. Comments from various GSA Offices have been considered and where appropriate incorporated in the final rule.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This exemption applies to this rule.

C. Regulatory Flexibility Act.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the GSA certifies that this rule will not have a significant impact on a substantial number or small entities, since the placement of orders electronically must be agreeable to the contractor.

D. Paperwork Reduction Act

This rule contains an information collection requirement that has been approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and assigned control number 3090-0248. The title of the collection is 48 CFR 552.216-73 Placement of Orders. The clause provides for the placement of delivery orders electronically. However, before orders can be placed electronically, the Contractor must enter into one or more Trading Partner Agreements (TPA) with Federal agencies that will be placing orders electronically. The TPA identifies the third party provider(s) through which electronic orders will be placed, the transaction sets to be used, security procedures, and provides guidelines for implementation. This information collection requirement does not impose a burden because the information exchanged through the TPA is the same as that exchanged in the normal course of business in the private sector when using EDI. No greater burden is imposed by this rule. Comments on the information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503.

List of Subjects in 48 CFR Parts 516 and 552.

Government procurement.

1. The authority citation for 48 CFR parts 516 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 516—TYPES OF CONTRACTS

2. Subpart 516.5 is added to read as follows:

Subpart 516.5—Indefinite-Delivery Contracts

516.505 Contract clauses.

The contracting officer shall insert the clause at 552.216-73, Placement of Orders, in solicitations and contracts for stock or special order program items when the contract authorizes agencies other than GSA to issue delivery orders. If GSA alone will issue delivery orders use, Alternate I. If a Federal Supply Schedule contract (single or multiple award) is contemplated, use Alternate II.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 552.216-73 is added to read as follows:

552.216-73 Placement of Orders.

As prescribed in 516.505, insert the following clause:

Placement of Orders (Dec. 1990)

(a) Orders will be placed by: [Contracting Officer insert names of Federal agencies].

(b) When mutually agreeable to the ordering agency and the contractor, delivery orders may be placed electronically using American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) procedures.

(c) When EDI procedures are to be used to place delivery orders, the Contractor shall enter into one or more Trading Partner Agreements (TPA) with each Federal agency placing orders electronically in order to ensure mutual understanding by the parties of certain electronic transaction conventions and to recognize the rights and responsibilities of the parties as they apply to this method of placing delivery orders. The TPA shall identify, among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation.

(d) The Contractor shall be responsible for providing its own hardware and software necessary to transmit and receive data electronically under the framework of the TPA. Additionally, each party to the TPA shall be responsible for the costs associated with its use of third party provider services.

(e) Nothing in the TPA will invalidate any part of this contract between the Contractor and the General Services Administration. All terms and conditions of this contract that otherwise would be applicable to a mailed delivery order shall apply to the electronic order.

(f) The basic content and format of the TPA will be provided by: General Services Administration, Systems Inventory and Operations Management Center (FCS), Washington, DC 20406, Telephone: [Contracting Officer insert FAX: appropriate telephone numbers].

(End of Clause)

Alternate I (Dec. 1990). As prescribed in 516.505, substitute the following paragraphs (a), (b), and (c) for paragraphs (a), (b), and (c) of the basic clause:

(a) All orders under this contract will be placed by the General Services Administration (GSA). The Contractor is not authorized to accept orders from any other agency. Violation of this restriction may result in termination of the contract pursuant to the default clause of this contract.

(b) When mutually agreeable to GSA and the Contractor, delivery orders may be placed electronically using American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) procedures.

(c) When EDI procedures are to be used to place delivery orders, the Contractor shall enter into a Trading Partner Agreement (TPA) with GSA. The TPA shall identify, among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation.

Alternate II (Dec. 1990). As prescribed in 516.505, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) Delivery orders under this contract may be placed by either the using Federal agencies or GSA.

Dated: December 19, 1990.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91-116 Filed 1-3-91; 8:45 am]

BILLING CODE 6820-61-M

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48 CFR Part 552

[Acquisition Circular AC-90-2]

General Services Administration Acquisition Regulation; Deviation to FAR Buy American Act—Trade Agreements Act—Balance of Payments Program; Correction

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary rule with request for comments; correction.

SUMMARY: This document corrects a temporary rule previously published in the Federal Register on Thursday, November 1, 1990 (55 FR 46068).

FOR FURTHER INFORMATION CONTACT: Edward J. McAndrew, Office of GSA Acquisition Policy, (202) 501-1224.

552.225-9 [Corrected]

On page 46069, in the third column, section 552.225-9, in the clause Trade Agreements Act (OCT 1990) (Deviation FAR 52.225-9), in paragraph (a) of the clause, in the definition "U.S. made end product", line seven, insert the word "substantially" before the word "transformed."

Dated: December 21, 1990.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91-115 Filed 1-3-91; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204 and 695

[Docket No. 900821-0332]

RIN 0648-AD31

Vessels of the United States Fishing in Colombian Treaty Waters

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

ACTION: Final rule and notice of OMB control numbers.

SUMMARY: NOAA is implementing regulations to govern fishing by vessels of the United States in certain waters of the Caribbean Sea covered by a treaty between the United States and the Government of Colombia (GOC). These regulations require owners and operators of vessels fishing in treaty waters to (1) obtain certificates and permits; (2) report by radio entry into and departure from treaty waters; and (3) report catch and effort information. In addition, these regulations (1) prohibit the use in treaty waters of factory vessels, monofilament gillnets, tanks, and air hoses; (2) close the treaty waters of Quida Sueno to the harvest or possession of conch year round; (3) close the treaty waters of Serrana and Roncador to the harvest or possession of conch from July 1 through September 30 each year; (4) establish a minimum size limit for conch; (5) prohibit the removal of eggs from, or the retention of, berried spiny and smoothtail lobsters; and (6) establish a minimum size limit for spiny and smoothtail lobsters. The intended effects of this rule are to (1) implement the conservation and management measures applicable to treaty waters agreed to in consultations between the United States and the GOC; and (2) establish a means to obtain catch and effort data for treaty waters sufficient to monitor the necessity for and appropriateness of any further proposed management measures, thus protecting the interests of owners and operators of vessels of the United States who desire to fish in treaty waters. This rule also informs the public of the approval by the Office of Management and Budget (OMB) of two new information collection requests (ICRs) contained in this rule and publishes the OMB control numbers for those ICRs.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: W. Perry Allen, 813-893-3722.

SUPPLEMENTARY INFORMATION: In 1972, the United States and the GOC signed the Treaty Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Status of Quita Sueno, Roncador and Serrana (treaty). Under the terms of the treaty, which entered into force in 1981, vessels of the United States may fish in the waters of Quita Sueno, Roncador, and Serrana (treaty waters), but are subject to reasonable conservation measures applied by the GOC, provided that such measures are nondiscriminatory and no more restrictive than those applied to Colombian or other fishermen.

In October 1989, the two parties to the treaty held consultations that resulted in two fishery agreements, the "Agreed Minutes" and a "Joint Statement" (Agreements), which, together, listed conservation measures to be applied to treaty waters. The measures contained in the Agreements and regulations to implement them, were discussed in the proposed rule (55 FR 38365, September 18, 1990) and are not repeated here.

NOAA proposed additional measures that were discussed in the proposed rule, namely, to (1) require biodegradable panels on any nonwooden traps used in treaty waters; (2) prohibit the use of poisons or explosives, other than explosives in powerheads, to take aquatic biological resources in treaty waters; (3) prohibit the possession of any dynamite or similar explosive substance aboard a vessel in treaty waters; (4) extend the ban on possession of and removal of eggs from berried spiny and smoothtail lobsters to other species of lobster that may be harvested from treaty waters; and (5) require that a vessel prominently display its official number. Implementation of these additional measures is conditioned on an exchange

of letters between the United States and the GOC. Such an exchange has not yet occurred. Accordingly, the additional measures are not implemented now.

No comments were received on the proposed rule and it is adopted as final with the deletion of the additional measures discussed above and with two minor changes. In the definition of "Science and Research Director", the location of that office is revised to the Southeast Fisheries Science Center to conform with current usage. In § 695.4(j), a sentence is added to specify the consequences of failing to report within 30 days a change in permit application information, namely, the permit is void.

Classification

The Secretary of Commerce determined that this rule is authorized by the Magnuson Fishery Conservation and Management Act and is necessary to implement the Agreements between the United States and the GOC.

Because these regulations are issued with respect to a foreign affairs function of the Untied States, this action is exempt from the provisions of E.O. 12291.

This rule is exempt from the requirements of the Regulatory Flexibility Act for preparation of a regulatory flexibility analysis because no general notice of proposed rulemaking for this rule is required by law.

The Director, Southeast Region, NMFS, prepared an environmental assessment (EA) for this rule. Based on the EA, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), found that there will be no significant impact on the human environment as a result of this rule and that an environmental impact statement is not required.

This rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

This rule contains two new ICRs subject to the Paperwork Reduction Act. The ICRs are (1) an annual vessel permitting system and (2) a catch and effort reporting system. These ICRs have been approved by OMB and OMB control numbers 0648–0249 and 0648–0248 apply, respectively. The public reporting burdens for these ICRs are estimated to average 15 and 18 minutes, respectively, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments on these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648–0248).

A consultation conducted in accordance with section 7 of the Endangered Species Act concluded that this action would not adversely affect the populations of endangered or threatened species such as sea turtles.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This action is not subject to section 553 of the Administrative Procedure Act because it is a foreign affairs function of the United States. An effective date of January 1, 1991, is required under the Agreements.

List of Subjects

50 CFR Part 204

Reporting and recordkeeping requirements.

50 CFR Part 695

Fisheries, Fishing, Reporting and recordkeeping requirements, Republic of Colombia, Treaties.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, title 50 of the Code of Federal Regulations is amended as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 204.1 [Amended]

2. In § 204.1(b), the table is amended by adding in the left column in numerical order "§ 695.4(b)" and "§ 695.5(b)" and in the right column in corresponding positions the control numbers "–0249" and "–0248", respectively.

3. Part 695 is added to read as follows:

PART 695—VESSELS OF THE UNITED STATES FISHING IN COLUMBIAN TREATY WATERS

Subpart A—General Provisions

Sec.

Subpart B—Management Measures

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

Subpart A—General Provisions

§ 695.1 Purpose and scope.

(a) The purpose of this part is to implement in certain waters of the Caribbean Sea fishery conservation and management measures as provided in fishery agreements pursuant to the Treaty Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Status of Quita Sueno, Roncador and Serrana (TIAS 10120).

(b) This part governs fishing by vessels of the United States in treaty waters.

§ 695.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Conch means *Strombus gigas.*

Lobster means one or both of the following:

(a) *Smoothtail lobster, Panulirus laevicauda.*

(b) *Spiny lobster, Panulirus argus.*

Regional Director means the Regional Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, telephone 813–893–3141, or a designee.

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305–361–5761, or a designee.

Treaty waters means the waters of one or more of the following:

(a) *Quita Sueno*, enclosed by latitudes 13°55′N. and 14°43′N. between longitudes 80°55′W and 81°28′W.

(b) *Serrana*, enclosed by arcs 12 nautical miles from the low water line of the cays and islands in the general area of 14°22′N. latitude, 80°20′W. longitude.

(c) *Roncador*, enclosed by arcs 12 nautical miles from the low water line of Roncador Cay, in approximate position 13°35′N. latitude, 80°05′W. longitude.

§ 695.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapte

and paragraph (b) of this section. Particular note should be made to the reference in § 620.3 to the applicability of title 46, U.S.C., under which a Certificate of Documentation is invalid when the vessel is placed under the command of a person who is not a citizen of the United States.

(b) Minimum size limitations for certain species, such as reef fish in the Gulf of Mexico, may apply to vessels transiting the EEZ with such species aboard.

§ 695.4 Certificates and permits.

(a) *Applicability.* An owner of a vessel of the United States that fishes in treaty waters is required to obtain an annual certificate issued by the Republic of Colombia and an annual vessel permit issued by the Regional Director.

(b) *Application for certificate/permit.* (1) An application for a permit must be submitted and signed by the vessel's owner. An application may be submitted at any time but should be submitted to the Regional Director not less than 90 days in advance of its need. Applications for the ensuing calendar year should be submitted to the Regional Director by October 1.

(2) An applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or state registration certificate;

(ii) The vessel's name, official number, gross tonnage, length, home port, and radio call sign;

(iii) Name, mailing address including zip code, telephone number, date of birth, and social security number of the owner or, if the owner is a corporation or partnership, the responsible corporate officer or general partner;

(iv) Principal port of landing of fish taken from treaty waters;

(v) Type of fishing to be conducted in treaty waters; and

(vi) Any other information concerning the vessel, fishing gear, or fishing area requested by the Regional Director.

(c) *Issuance.* (1) The Regional Director will request a certificate from the Republic of Colombia if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 695.5 during the year immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 695.5 during the year immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(3) The Regional Director will issue a permit as soon as the certificate is received from the Republic of Colombia.

(d) *Duration.* A certificate and permit are valid for the calendar year for which they are issued unless the permit is revoked, suspended, or modified under subpart D of 15 CFR part 904.

(e) *Transfer.* A certificate and permit issued under this section are not transferable or assignable. They are valid only for the fishing vessel and owner for which they are issued.

(f) *Display.* A certificate and permit issued under this section must be carried aboard the fishing vessel while it is in treaty waters. The operator of a fishing vessel must present the certificate and permit for inspection upon request of an authorized officer or an enforcement officer of the Republic of Colombia.

(g) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(h) *Alteration.* A certificate or permit that is altered, erased, or mutilated is invalid.

(i) *Replacement.* A replacement certificate or permit may be issued upon request. Such request must clearly state the reason for a replacement certificate or permit.

(j) *Change in application information.* The owner of a vessel with a permit must notify the Regional Director within 30 days after any change in the application information required by paragraph (b)(2) of this section. The permit is void if any change in the information is not reported within 30 days.

§ 695.5 Recordkeeping and reporting.

(a) *Arrival and departure reports.* The operator of each vessel of the United States for which a certificate and permit have been issued under § 695.4 must report by radio to the Port Captain, San Andres Island, voice radio call sign "Capitania de San Andres," the vessel's arrival in and departure from treaty waters. Radio reports must be made on 6222.0 Khz or 8276.5 Khz between 8:00 a.m. and 12:00 noon, local time (1300–1700, Greenwich mean time) Monday through Friday.

(b) *Catch and effort reports.* Each vessel of the United States must report its catch and effort on each trip into treaty waters to the Science and Research Director on a form available from the Science and Research Director. These forms must be submitted to the Science and Research Director so as to be received no later than seven days after the end of each fishing trip.

§ 695.6 Vessel identification. [Reserved]

§ 695.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish in treaty waters without the certificate and permit aboard, or fail to display the certificate and permit, as specified in § 695.4 (a) and (f).

(b) Falsify information specified in § 695.4(b)(2) on an application for a vessel permit.

(c) Fail to notify the Regional Director of a change in application information, as specified in § 695.4(j).

(d) Fail to report a vessel's arrival in and departure from treaty waters, as required by § 695.5(a).

(e) Falsify or fail to provide information required to be submitted or reported, as required by § 695.5(b).

(f) [Reserved]

(g) Fail to comply immediately with instructions and signals issued by an enforcement officer of the Republic of Colombia, as specified in § 695.8.

(h) Operate a factory vessel in treaty waters, as specified in § 695.21(a).

(i) Use a monofilament gillnet in treaty waters, as specified in § 695.21(b).

(j) Use autonomous or semi-autonomous diving equipment in treaty waters, as specified in § 695.21(c).

(k)–(l) [Reserved]

(m) Possess conch smaller than the minimum size limit, as specified in § 695.22(a).

(n) Fish for or possess conch in the closed area or during the closed season, as specified in § 695.22 (b) and (c).

(o) Retain on board a berried lobster or strip eggs from or otherwise molest a berried lobster, as specified in § 695.23(a).

(p) Possess a lobster smaller than the minimum size, as specified in § 695.23(b).

(q) Fail to return immediately to the water unharmed a berried or undersized lobster, as specified in § 695.23 (a) and (b).

(r) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

§ 695.8 Facilitation of enforcement.

(a) The provisions of § 620.8 of this chapter and paragraph (b) of this section apply to vessels of the United States fishing in treaty waters.

(b) The operator of, or any other person aboard, any vessel of the United

States fishing in treaty waters must immediately comply with instructions and signals issued by an enforcement officer of the Republic of Colombia to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing this part.

§ 695.9 Penalties.

Any person committing or fishing vessel used in the commission of a violation of the Magnuson Act or any regulation issued under the Magnuson Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson Act, to part 620 of this chapter, to 15 CFR part 904 (Civil Procedures), and to other applicable law. In addition, Colombian authorities may require a vessel involved in a violation of this part to leave treaty waters.

Subpart B—Management Measures

§ 695.20 Fishing year.

The fishing year for fishing in treaty waters begins on January 1 and ends on December 31.

§ 695.21 Vessel and gear restrictions.

(a) *Factory vessels.* No factory vessel, that is, a vessel that processes, transforms, and packages aquatic biological resources on board, may operate in treaty waters.

(b) *Monofilament gillnets.* A monofilament gillnet made from nylon or similar synthetic material may not be used in treaty waters.

(c) *Tanks and air hoses.* Autonomous or semiautonomous diving equipment (tanks or air hoses) may not be used to take aquatic biological resources in treaty waters.

(d) *Trap requirements.* [Reserved]

(e) *Poisons and explosives.* [Reserved]

§ 695.22 Conch harvest limitations.

(a) *Size limit.* The minimum size limit for possession of conch in or from treaty waters is 7.94 ounces (225 grams) for an uncleaned meat and 3.53 ounces (100 grams) for a cleaned meat.

(b) *Closed area.* The treaty waters of Quita Sueno are closed to the harvest or possession of conch.

(c) *Closed season.* During the period of July 1 through September 30 of each year the treaty waters of Serrana and Roncador are closed to the harvest or possession of conch.

§ 695.23 Lobster harvest limitations.

(a) *Berried lobsters.* A berried (egg-bearing) lobster in treaty waters may not be retained on board. A berried lobster must be returned immediately to the water unharmed. A berried lobster may not be stripped, scraped, shaved, clipped, or in any other manner molested to remove the eggs.

(b) *Size limit.* The minimum size limit for possession of lobster in or from treaty waters is 5.5 inches (13.97 centimeters), tail length. Tail length means the measurement, with the tail in a straight, flat position, from the anterior upper edge of the first abdominal (tail) segment to the tip of the closed tail. A lobster smaller than the minimum size limit must be returned immediately to the water unharmed.

Appendix—Application for Permit/Certificate, Catch Report Form for Colombian Treaty Waters and Instructions

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

BILLING CODE 3510-22-M

APPLICATION FOR PERMIT/CERTIFICATE
TO FISH IN COLOMBIAN TREATY WATERS

Print clearly the information requested below. If already filled in, make corrections as necessary.

If this is an initial application or there are changes in the vessel's characteristics or documentation, attach a copy of the vessel's certificate of documentation or state registration certificate.

Sign and date the form and mail it with the copy of the documentation/registration certificate, if required, to:

Southeast Region, NMFS (F/SER22)
9450 Koger Boulevard
St. Petersburg, FL 33702

OFFICIAL NO. (Documentation or registration no.): _____

VESSEL'S NAME: _____

GROSS TONNAGE: _____ LENGTH: _____

HOME PORT (Port where customarily docked): _____

RADIO CALL SIGN: _____

OWNER'S NAME: _____

OWNER'S ADDRESS: _____

_____
(ZIP Code)

OWNER'S TELEPHONE NO.: _____
(Area Code)

OWNER'S DATE OF BIRTH: _____

OWNER'S SOCIAL SECURITY NO.: _____

PORT OF LANDING OF FISH TO BE TAKEN FROM TREATY WATERS: _____

PRIMARY SPECIES OF FISH TO BE TAKEN FROM TREATY WATERS: _____

PRIMARY FISHING GEAR TO BE USED IN TREATY WATERS: _____

OWNER'S SIGNATURE: _____

DATE: _____

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Management and Budget, Paperwork Reduction Project (0648-0249), Washington, D.C. 20503.

OMB Number 0648-0248 - Expires 11/30/93

CATCH REPORT FORM - COLOMBIAN TREATY WATERS

AREA FISHED (check only one) QUITA SUENO _____ RONCADOR _____ SERRANA _____

(Use a separate form for each area fished)

Vessel Name	Official Number

Date Entered Area:	199___ Year	Month	Day
Date Departed Area:	199___ Year	Month	Day

Gear: Check Box to Indicate Gear Used

☐ Traps		☐ Longline		☐ Hook & Line		☐ Diving	
% of Total Catch		% of Total Catch		% of Total Catch		% of Total Catch	
No. Traps Fished		No. Sets Made		No. Lines Fished		No. Divers	
No. Trap Hauls		Av. No. Hooks per Set		Av. No. Hooks per Line		Total No. Days Diving	
Av. Soak Time Between Hauls (hr)		Av. Line Length per Set		Total Hours Fished		Man-hours Worked per Day	
Mesh Sizes	____x____	Av. Time Sets Fished (hr)				Check if Targeted: Conch	
	____x____					If Targeted: Lobster	
	____x____					If Targeted: Reef Fish	

Species name	In Spanish	Pounds	Species Name	In Spanish	Pounds	
GROUPER	Mero		SNAPPER	Pargo		
Black	Mero Negron		Lane	Manchego		
Gag			Mangrove (Gray)	Pargo Dienton		
Red Hind	Mero Colorado		Mutton	Pargo Cebadai		
Rock Hind	Mero Cabrilla		Queen	Pargo Rojo-		
Jewfish	Mero Grande		Red	Pargo Rojo		
Misty	Guasa		Silk	Ojo Amarillo		
Nassau	Cherna		Vermillion	Buchona		
Red	Mero Para-Cano		Yellowtail	Rabirrubia		
Scamp			Other Snapper	Pargo		
Snowy	Cherna Pintada		TRIGGERFISHES	Puercos		
Warsaw	Mero Negro		LOBSTER	Langosta	Whole	Cleaned
Yellowedge			Spiny			
Yellowfin	Cuna de Piedra		Smooth Tailed			
Yellowmouth			Spotted			
Other Grouper			Slipper			
AMBERJACK	Medregal-coronado		CONCH			
GRUNTS	Roncos		OTHER SPECIES:			
HOGFISH	Capitan					
PORGY	Plumas					

SIGNATURE _____

NAME (Printed): _____ Date of Report - Year 199____ Month_____ Day_____

INSTRUCTIONS

CATCH REPORT FORM - COLOMBIAN TREATY WATERS

Print clearly all information

Use a separate log sheet for each entry into each area fished (Quito Sueno, Roncador, Serrana).

Each vessel of the U.S. must report its catch and effort on each trip into treaty waters. Mail completed forms so as to be received not later than 7 days after the end of each fishing trip to:

Science and Research Director
Southeast Fisheries Science Center, NMFS
75 Virginia Beach Drive
Miami, FL 33149

Vessel Name - *Enter the vessel name as it appears on the permit.*

Official No. - *Enter the U.S. Coast Guard documentation number of the vessel or the state registration number, if the vessel is not documented.*

Area Fished - *Check only one on each form submitted.*

Date entered/departed area - *Enter appropriate dates for each fishing trip into the area checked.*

Gear - *Check one or more boxes to indicate the fishing gear or method employed in the area checked during the period covered by the report. For each gear/method checked, (1) indicate the percentage of the total catch during the period covered by the report that was taken by each gear and (2) complete the effort data as follows:*

Traps:

- **No. Traps Fished** - *Total number of traps used during the period covered by the report.*
- **No. Trap Hauls** - *The total number of hauls made during the period covered by the report, including hauls with no catch. Ten traps each pulled 3 times would equal 30 hauls.*
- **Av. Soak Time Between Hauls** - *The average time in hours the traps were in the water between hauls.*
- **Mesh Sizes** - *Record the mesh sizes in inches. For example, 1 x 2 for rectangular meshes 1" by 2"; 1.5 x 1.5 for rectangular meshes 1 1/2" by 1 1/2"; or 1.5 x hex for hexagonal meshes 1 1/2" on each side.*

Longline:

- **No. Sets Made** - *Total number of times a longline was set during the period covered by the report.*
- **Av. No. Hooks per Set** - *The average number of hooks on the longline.*
- **Av. Line Length per Set** - *The average length of the line in feet.*
- **Av. Time Sets Fished** - *The average time in hours the longlines were in the water from start of set to start of pickup.*

Hook & Line (includes bandit gear, rod and reel and hand line):

- **No. Lines Fished** - *Total number of lines used during the period covered by the report.*
- **Av. No. Hooks per Line** - *The average number of hooks on each line.*
- **Total Hours Fished** - *Total time in hours this gear was used during the period covered by the report.*

Diving:

- **No. Divers** - *Total number of divers used during the period covered by the report.*
- **Total No. Days Diving** - *The number of days during the period that diving was conducted.*
- **Man-hours Worked per Day** - *For the days worked, the average number of man-hours spent diving. For example, 5 divers who average 6 hours diving per day would yield 30 man-hours worked/day.*
- **Check if Targeted** - *Indicate the primary species harvested by diving.*

Catch - *Record the catch in pounds of each species during the period covered by the report. For lobster and conch, record the weight in the appropriate column either as whole or cleaned weight.*

Operator's signature - *The operator is the master or other individual on board and in charge of the vessel. Type or print the name below the signature and indicate the date signed.*

Public reporting burden for this collection of information is estimated to average 18 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Management and Budget, Paperwork Reduction Project (0648-0248), Washington, D.C. 20503.

[FR Doc. 91-96 Filed 1-3-91; 8:45 am]
BILLING CODE 3510-22-C

50 CFR Parts 611 and 675

[Docket No. 900958-0343]

RIN 0648-AD43

Foreign Fishing; Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Final rule.

SUMMARY: NOAA announces approval of a regulatory amendment that delays the start of the directed fishing season for yellowfin sole, "other flatfish," arrowtooth flounder, and Greenland turbot in the Bering Sea and Aleutian Islands area (BSAI) until May 1 of the fishing year, and amends the directed fishing standards for yellowfin sole, "other flatfish," and arrowtooth flounder. Delaying the fishing season is necessary to allow more groundfish to be harvested by reducing bycatches of Pacific halibut, red king crab, and possibly Tanner crab (*Chionoecetes bairdi*), for which prohibited species catch limits are established. Amending the directed fishing standards is necessary to reduce discards of yellowfin sole, "other flatfish," and arrowtooth flounder while fishing for rock sole. A technical amendment to redefine arrowtooth flounder is also included. These actions are intended to allow fuller utilization of the groundfish optimum yield, thereby promoting the goals and objectives of the North Pacific Fishery Management Council with respect to groundfish management off Alaska.

EFFECTIVE DATE: Effective January 1, 1991.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis EA/RIR/FRFA) may be obtained by writing to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone of the BSAI are managed by the Secretary under the Fishery Management Plan for BSAI Groundfish (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 675.

At its June 25-30, 1990, meeting, the Council recommended a regulatory amendment that would implement two measures pertaining to management of the BSAI flatfish fisheries, including fisheries for yellowfin sole, rock sole, arrowtooth flounder, Greenland turbot, and "other flatfish." The first measure will delay the start of the directed fishing seasons for yellowfin sole, "other flatfish," arrowtooth flounder, and Greenland turbot until May 1 of the fishing year. The second measure will amend directed fishing standards for flatfish species caught as bycatch in the rock sole fishery.

The Secretary published the proposed rule in the **Federal Register** (55 FR 46082, November 1, 1990). Comments were invited until November 28, 1990. Four letters of comments were received. They are summarized and responded to in the "Response to Comments Received" section.

The purpose of this new season starting date is to reduce incidental catches of fish species important to U.S. fishermen in other fisheries. These fish species include halibut, red king crab, and possibly Tanner crab (*C. bairdi*). The second measure modifies directed fishing standards for yellowfin sole, "other flatfish," and arrowtooth flounder while fishing for rock sole. The purpose of this second measure is to allow more retention of yellowfin sole, "other flatfish," and arrowtooth flounder, thereby reducing unnecessary waste of otherwise marketable species of groundfish. A description of the need for this action is contained in the preamble to the proposed rule.

The Secretary has determined that the season delay and the new directed fishing standards are necessary for fishery conservation and management. He has approved the final rule. Upon reviewing the record and intent of the Council, the Secretary also has included arrowtooth flounder within the group of flatfish species for which the fishing season is being delayed (see "Changes in the Final Rule from the Proposed Rule").

Changes in the Final Rule From the Proposed Rule

(1) A technical amendment is implemented that redefines arrowtooth flounder. The meaning of arrowtooth flounder in § 675.2, within the definition of *groundfish,* is changed to include two species: arrowtooth flounder (*Atheresthes stomias*) and Kamchatka flounder (*Atheresthes evermanni*). This change responds to NMFS's concerns that arrowtooth flounder and Kamchatka flounder are so similar that field identification is not practical. The biomass of Kamchatka flounder is small relative to arrowtooth flounder. The NMFS Alaska Fisheries Science Center has combined biomass estimates of these two species for several years. The Council's BSAI Plan Team recommended in the final Stock Assessment and Fishery Evaluation Report for 1991 that the two species be managed under the name arrowtooth flounder.

(2) Paragraphs (b)(5)(iii) in § 611.93, (h)(2) in § 675.20, and (c) in § 675.23 are changed by including arrowtooth flounder in the group of flatfish species for which the season starting date is May 1 rather than January 1. Arrowtooth flounder are harvested and often discarded in large quantities during trawling for target fisheries such as yellowfin sole and "other flatfish." Therefore, it is consistent with current fishing practices to include arrowtooth flounder within the group of species which cannot be targeted for directed fishing until May 1. This reflects the Council's intent at its June meeting, which it reaffirmed at its December 3-7, 1990, meeting.

Response to Comments Received

Four letters of comment were received during the comment period. Comments are summarized and responded to as follows:

Comment 1: The yellowfin sole season should be delayed until April 1, rather than May 1, because an April 1 starting date would provide for an alternative fishery if the pollock apportionment during the January 1-April 15 split season and all of the Pacific cod TAC is taken by April 1.

Response: The objective of the yellowfin sole season delay is to reduce the bycatch rates of red king crab and halibut by allowing sufficient time for the sea ice edge to move north, thereby opening productive flatfish fishing grounds in areas where the respective bycatch rates would be lower. Opening the flatfish fishery on April 1, rather than May 1, is not consistent with that objective.

Comment 2: Incidental catches of yellowfin sole or turbot should be allowed when targeting other species.

Response: Incidental catch amounts of yellowfin sole, "other flatfish," arrowtooth flounder, and turbot in other groundfish fisheries prior to the target fishery starting on May 1 will be allowed by regulations.

Comment 3: A starting date of May 1 will ensure a safer fishery with respect to weather conditions.

Response: NOAA concurs that weather conditions should be safer beginning in May.

Comment 4: A May 1 starting date will provide a much larger area to conduct fishery operations, permitting fishermen opportunity to move away from areas where high bycatch rates are occurring.

Response: NOAA has approved the May 1 starting date.

Comment 5: The delayed opening will only exacerbate problems of disruptions in supply and reduced availability, thereby increasing costs to consumers.

Response: NOAA expects that supplies will stabilize even though the starting date is changed. Furthermore, improved, safer working conditions with the advent of better weather should result in increased operating efficiency, which might reduce operating costs for the fishermen. These reductions could be passed on to the consumer.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has determined that this rule is necessary for the conservation and management of the groundfish off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, NMFS, prepared an environmental assessment for this rule and the Assistant Administrator concluded that no significant impact on the environment will occur as a result of this rule. You may obtain a copy of the EA/RIR/FRFA from the Regional Director at the above address.

The Assistant Administrator initially determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the socioeconomic impacts discussed in the EA/RIR/FRFA prepared by the Alaska Region, NMFS.

The Alaska Region, NMFS, prepared a final regulatory flexibility analysis as part of the regulatory impact review, which concludes that this rule would have significant economic impacts on a substantial number of small entities.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

NOAA has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Since the appropriate state agency did not reply within the statutory time period, consistency is automatically inferred.

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

This rule must be effective no later than January 1, 1991, to achieve an orderly prosecution of the groundfish fisheries off Alaska for the 1991 fishing season and to derive meaningful conservation benefits from this rule. Consequently, the Assistant Administrator finds for good cause that it is contrary to the public interest to delay for the full 30 days the effective date of this rule under section 553(d) of the APA in order to have this action effective by the opening of the fishing season on January 1, 1991.

List of Subjects in 50 CFR Parts 611 and 675

Fisheries.

Dated: December 28, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 611 and 675 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

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

2. In § 611.93, paragraph (b)(3)(i) and the first sentence in paragraph (c)(5) are revised and paragraph (b)(5)(iii) is added to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(b) * * *

(3) * * *

(i) The catching in the management area and retention of any groundfish for which a nation has an allocation is permitted during open seasons specified under § 675.23 of this chapter, except as provided in this section.

* * * * *

(5) * * *

(iii) Receipts of U.S.-harvested yellowfin sole, "other flatfish," arrowtooth flounder, and Greenland turbot are permitted during open seasons specified under § 675.23 of this chapter.

(c) * * *

(5) *Receipts of fish at sea.* Foreign fishing vessels holding permits to receive U.S.-harvested fish may receive those fish during open seasons specified under § 675.23 of this chapter in the management area between 3 and 12 nautical miles from the baseline from which the United States' Territorial Sea is measured. * * *

* * * * *

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

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

§ 675.2 [Amended]

4. In § 675.2, the name of arrowtooth flounder in the definition of "Groundfish" is changed to mean "Atheresthes stomias" and "Atheresthes evermanni".

5. In § 675.20, paragraphs (h)(2), (h)(3), (h)(4), and (h)(5) are redesignated as (h)(3), (h)(4), (h)(5), and (h)(6), respectively; paragraph (h)(1) and newly designated paragraph (h)(6) are revised; and a new paragraph (h)(2) is added to read as follows:

§ 675.20 General limitations.

* * * * *

(h) * * *

(1) *Using trawl gear for pollock, Pacific cod, or rock sole.* The operator of a vessel is engaged in directed fishing for pollock, Pacific cod, or rock sole if he retains at any time during a trip an amount of any one of these species caught using trawl gear equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip.

(2) *Using trawl gear for yellowfin sole, "other flatfish, or arrowtooth flounder."* The operator of a vessel is engaged in directed fishing for yellowfin sole, "other flatfish," or arrowtooth flounder if he retains at any time during a trip an aggregate amount of yellowfin sole, "other flatfish," and arrowtooth flounder caught using trawl gear equal to or greater than a total of:

(i) 35 percent of the amount of rock sole retained at the same time on the vessel during the same trip, plus.

(ii) 20 percent of the total amount of other fish species (besides rock sole, yellowfin sole, "other flatfish", and arrowtooth flounder) retained at the same time by the vessel during the same trip.

* * * * *

(6) *Other.* Except as provided under paragraph (h)(1) through (h)(5) of this section, the operator of a vessel is engaged in directed fishing for a specific species or species group if he retains at

any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip.

* * * * *

6. In § 675.23, paragraph (a) is revised, and paragraph (c) is added to read as follows:

§ 675.23 Seasons.

(a) Fishing for groundfish in the subareas and statistical areas of the Bering Sea and Aleutians Islands is authorized from 00:01 a.m. on January 1 through 12:00 midnight Alaska local time, December 31, subject to the other provisions of this part, except as provided in paragraphs (b) and (c) of this section.

* * * *

(c) directed fishing for yellowfin sole, "other flatfish," arrowtooth flounder, and turbot is authorized from 12:00 noon Alaska local time, May 1 through 12:00 midnight, Alaska local time, December 31, subject to the other provisions of this part.

[FR Doc. 90-30630 Filed 12-31-90 12:39 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 3
Friday, January 4, 1991

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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 936

Community Support Requirements for Members of the Federal Home Loan Bank System

AGENCY: Federal Housing Finance Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Housing Finance Board ("Finance Board") is requesting public comment to assist in its development of the implementing regulations for section 710(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101–73, 103 Stat. 183, 418–419. This section requires the Finance Board to adopt regulations establishing standards of community investment or service for members of the Federal Home Loan Bank System ("FHL Bank System") to maintain continued access to long-term advances. FIRREA mandates that the Finance Board adopt these regulations no later than August 8, 1991. The Finance Board requests public comment on the full range of policy issues and practical considerations involved in establishing community support standards and appropriate implementing regulations.

DATES: Comments must be received on or before March 5, 1991.

ADDRESSES: Comments should be sent to: Leonard H. O. Spearman, Jr., Executive Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Acting Director, Office of Housing Finance Programs, (202) 408–2848, or Stephen D. Johnson, Attorney/Advisor, Office of Housing Finance Programs, (202) 408–2847, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. General

FIRREA established the Finance Board as an independent agency in the executive branch of the federal government. It is the successor agency toe the Federal Home Loan Bank Board with respect to that agency's oversight of the FHL Bank System. In supervising the activities of the FHL Bank System and the 12 Federal Home Loan Banks ("FHL Banks"), the Finance Board is directed to ensure that they carry out their housing finance mission, remain adequately capitalized and able to raise funds in capital markets, and are operated in a safe and sound manner.

The FHL Banks are located in Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle. All savings institutions the deposits of which are insured by the Savings Association Insurance Fund ("SAIF") of the Federal Deposit Insurance Corporation ("FDIC") are members of the FHL Bank System, as well as many savings banks insured by the FDIC's Bank Insurance Fund ("BIF"). FIRREA opened membership in the FHL Bank System to commercial banks and credit unions that make long-term home mortgage loans, subject to qualifications of financial soundness and home financing policies.

The FHL Banks are central banks for the provision of residential credit and provide their members with a wide range of services, including short- and long-term loans (called "advances"), check clearing, safekeeping of securities, demand and time accounts, technical assistance (particularly in community-oriented lending), economic analysis, and access to federal funds markets.

B. Community Support Requirements in FIRREA

Section 710(c) of FIRREA added a new section 10(g) to the Federal Home Loan Bank Act of 1932, 12 U.S.C. 1430(g), as follows:

(g) Community Support Requirements.

(1) In General.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

(2) Factors To Be Included.—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.

C. FIRREA Changes to the Community Reinvestment Act and the Home Mortgage Disclosure Act

FIRREA contains two other important and related sections concerning community investment and the requirement that federally regulated depository institutions serve the credit needs of their communities.

Section 1212(b) of FIRREA amended the Community Reinvestment Act of 1977, 12 U.S.C. 2901 ("CRA"), by adding a new section 807 requiring that, upon completion of each CRA compliance examination, the examining Federal depository regulatory agency prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods. The written evaluations must have a public and a confidential section. The public section of the evaluation must discuss the agency's examination findings and conclusions, and must assign one of four CRA ratings to the institution. The Conference Report confirms that the intent of the section was to promote enforcement of CRA by allowing the public to know both what regulatory agencies are telling depository institutions and the community investment records of particular depository institutions. The Conference Report also places special emphasis on the insured depository institution's record of serving the housing credit needs of low- and moderate-income persons, small business credit needs, small farm credit needs, and rural economic development. These changes to CRA became effective with examinations commencing on or after July 1, 1990, pursuant to uniform regulations promulgated by the financial regulatory agencies.

Section 1211 of FIRREA made several technical but significant changes to the Home Mortgage Disclosure Act of 1975, 12 U.S.C. 2803 ("HMDA"), that relate to the issue of community support, community investment, and fair lending practices. These changes require the collection of mortgage application data grouped by census tract, income level, race, and gender. The Conference

Report explained that the primary purpose of HMDA reporting is to assist regulatory agencies in identifying possible discriminatory lending patterns that warrant closer scrutiny.

D. Issues for Consideration

The Finance Board considers the development of the community support regulations to be one of its most significant new responsibilities under FIRREA. Therefore, the Finance Board seeks the broadest possible public comment on all aspects of the regulations it must adopt and implement. In doing so, it seeks the expertise and insight of all interested parties, including community groups, FHL Banks, lenders, public interest groups, present and possible FHL Bank System members, trade associations, state and local government agencies, other financial service providers, and private citizens. The questions posed below are intended to elicit comments on issues considered of importance, but the listing is not intended to be exclusive or to preclude consideration of any other issues considered relevant or important by the commenter.

1. Community Investment

What would be the best definition of "community investment"? Should the Finance Board simply define the "standards" of community investment in terms of CRA ratings or should community investment be more broadly interpreted? Should the components or elements of community investment be expressly stated in the regulation?

2. Service

How would the term "service" be best defined? Should it be interpreted as "community service?" Should the regulation treat service as the purchase or holding of a certain type of asset or should it include specified activities? Should the regulation focus on a target population for these services, such as very low-, low-, and moderate-income households? Should "service" for a depository institution have an interpretation beyond meeting the credit needs of the local community?

3. Possible Conflict with Other Provisions of FIRREA

Section 303 of FIRREA expanded and strengthened the Qualified Thrift Lender test requiring SAIF-insured institutions, the vast majority of current FHL Bank System members, to hold at least 70 percent of their assets in activities closely related to the financing of residential real estate. In addition, section 301 of FIRREA requires the Office of Thrift Supervision to promulgate capital rules for thrifts substantially similar to those for national banks. These rules apply lower capital weights to one- to four-family mortgage loans and mortgage-backed securities than to most other assets. If the standards for community investment for FHL Bank System members are extended to assets and activities other than residential real estate loans, can this be reconciled with the other parts of FIRREA that channel thrifts' investments toward residential mortgage loans?

4. Effect on Discretionary Members

The FHL Banks are critical providers of housing finance. Their financial soundness and profitability directly affect the availability and cost of home loans in the broadest sense. In promulgating the community support regulations, therefore, the Finance Board must balance the benefits and costs to the FHL Banks, FHLB System members, our Nation's communities, and the public. A regulation that reduces the ability of the FHL Bank System to attract members, provide residential mortgage capital, and make home loans could hurt rather than help housing finance and community-oriented lending as intended by Congress in enacting the community-support requirements of FIRREA. Accordingly, the Finance Board seeks advice on structuring the regulation so that it will maximize the attractiveness of the FHL Bank System while providing a meaningful regulatory standard of community service.

Section 704 of FIRREA expanded eligibility for membership in the FHL Bank System to commercial banks and credit unions, both of which have recently and substantially expanded their commitment to the provision of residential mortgage credit. The standards for community investment and service would apply only to those banks and credit unions that elected to become FHL Bank System members. How can the Finance Board formulate the regulations so that they will not reduce the attractiveness of membership to these institutions? What form of community support regulations will maximize the desire of eligible institutions to join the FHL Bank System?

5. Providing Incentives For Community-Oriented Lending

The Finance Board believes that the FHL Bank System should continue to serve as a leader in advancing community-oriented lending and providing affordable housing finance. The Finance Board seeks assistance in formulating positive regulatory concepts and provisions that will provide incentives to creativity and action by FHL Bank System members in meeting the credit needs of their communities. What should be the FHL Bank System and Finance Board response when it is determined that a member is not meeting its community investment and service requirements? Should the FHL Banks' only response be to deny that member access to long-term advances? Does or should the Finance Board or the FHL Bank System have authority to take actions beyond this? What steps should the Finance Board and the FHL Banks take to assist a non-complying member? How should the FHL Banks strike a balance between penalizing members whose community support records may be lacking and helping those same members improve their community support efforts with the use of long-term advances? Should the Finance Board and the FHL Banks provide remedial and technical assistance? If so, who should pay for the costs of such a program?

6. CRA

FIRREA requires the Finance Board to consider CRA performance. Does this mean only the summary CRA rating or is it broader? How will the Finance Board obtain the information it needs to judge an institution's record of meeting local credit needs beyond the CRA rating? How should the Finance Board treat CRA examinations or ratings that it finds incomplete? How current should the rating be? Should the Finance Board consider both the public and the confidential CRA ratings? How should FHL Bank System members without a CRA rating, such as credit unions, be evaluated?

7. HMDA

Should an institution's HMDA reports be considered in the community support evaluation, and if so, how?

8. First-Time Homebuyers

The Finance Board seeks assistance in identifying an appropriate measure of a member's record of lending to first-time homebuyers. In reviewing this provision, commenters may wish to consider the following elements. How should "first-time homebuyer" be defined? Should the definition entail never having owned a home, or not having owned a home in some preceding period of time? Should credit be given for indicators other than the number of loans made, such as marketing efforts and community activities, and if so, how? Is there an existing data base or a relatively simple and inexpensive method for identifying

relevant data? What weight, if any, should be given to characteristics of the first-time homebuyer, such as income level?

In view of the importance of the development of the community support regulations, the Finance Board plans to publish a proposed regulation (notice of proposed rulemaking) after analyzing comments and suggestions received in response to this request. The proposed regulation will be subject to public comment and scrutiny before the final regulation is developed and promulgated. The Finance Board will welcome further appropriate assistance from the FHL Banks, their Affordable Housing Advisory Councils, community and public interest groups, members of the FHL Bank System, and other financial regulatory and housing agencies, and all other interested parties.

Dated: December 21, 1990.

By the Federal Housing Finance Board.

Jack Kemp,

Chairman.

[FR Doc. 91-63 Filed 1-3-91; 8:45 am]

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INTERNATIONAL BOUNDARY AND WATER COMMISSION

22 CFR Part 1104

Protection of Archaeological Resources

AGENCY: United States Section, International Boundary and Water Commission.

ACTION: Proposed rule.

SUMMARY: The United States Section, International Boundary and Water Commission (IBWC), by this proposed rule intends to implement the provisions of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-11), as amended.

DATES: Comments should be submitted in writing on or before February 4, 1991, to the address shown below.

ADDRESSES: United States Section, International Boundary and Water Commission, 4171 North Mesa, suite C-310, El Paso, Texas 79902-1422.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Echlin, U.S. Section Staff Environmentalist, (915) 534-6704.

SUPPLEMENTARY INFORMATION: Section 470ff of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa, et seq.) requires each Federal agency to promulgate regulations for the protection of archaeological resources located on public lands under its control. The United States Forest Service, United States Department of Agriculture, developed a uniform agency regulation for that purpose, which is found at 36 CFR part 296.

The following proposed regulation is based upon the above-referenced uniform regulation, pursuant to the above-referenced Act. It applies to all public lands controlled by the United States Section, International Boundary and Water Commission, United States and Mexico. This agency controls various public lands, generally situated along the international boundary between the United States and Mexico, some of which contain known archaeological sites.

This proposed regulation expressly prohibits certain activities with regard to archaeological resources located on such public lands under the agency's control, and it establishes procedures for issuance of permits for other activities. It establishes procedures for imposition of civil penalties for violations, and provides for rewards for information leading to civil or criminal punishment of violators, in accordance with the underlying Act. It also contains other rules pertaining to the agency's responsibilities for the protestion of archaeological resources, including reporting requirements.

List of Subjects in 22 CFR Part 1104

Protection of archaeological resources.

It is proposed to amend 22 CFR by adding part 1104, which will read as follows:

PART 1104—PROTECTION OF ARCHAEOLOGICAL RESOURCES

Sec.

Authority: Pub. L. 96-95, 93 Stat. 721 (16 U.S.C. 470aa-11) (Sec. 10(a).) Related Authority: Pub. L. 59-209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86-523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470a-t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95-341, 92 Stat. 469 (42 U.S.C. 1996).

§ 1104.1 Purpose.

(a) The regulations in this part implement provisions of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-11) by establishing the definitions, standards, and procedures to be followed by the Commissioner in providing protection for archaeological resources, located on public lands through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the archaeological resources.

(b) The regulations in this part do not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

§ 1104.2 Definitions.

As used for purposes of this part:

(a) *Archaeological resource* means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest.

(1) *Of archaeological interest* means capable of providig scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) *Material remains* means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

(3) The following classes of material remains (and illustrative examples), if they are at least 100 years of age, are of

archaeological interest and shall be considered archaeological resources unless determined otherwise pursuant to paragraph (a)(4) or (a)(5) of this section:

(i) Surface or subsurface structures, shelters, facilities, or features (including, but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, artificial mounds, earthworks, fortifications, canals, reservoirs, horticultural/agricultural gardens or fields, bedrock mortars or grinding surfaces, rock alignments, cairns, trails, borrow pits, cooking pits, refuse pits, burial pits or graves, hearths, kilns, post molds, wall trenches, middens);

(ii) Surface or subsurface artifact concentrations or scatters;

(iii) Whole or fragmentary tools, implements, containers, weapons and weapon projectiles, clothing, and ornaments (including, but not limited to, pottery and other ceramics, cordage, basketry and other weaving, bottles and other glassware, bone, ivory, shell, metal, wood, hide, feathers, pigments, and flaked, ground, or pecked stone);

(iv) By-products, waste products, or debris resulting from manufacture or use of human-made or natural materials;

(v) Organic waste (including, but not limited to, vegetable and animal remains, coprolites);

(vi) Human remains (including, but not limited to bone, teeth, mummified flesh, burials, cremations);

(vii) Rock carvings, rock paintings, intaglios and other works of artistic or symbolic representation;

(viii) Rockshelters and caves or portions thereof containing any of the above material remains;

(ix) All portions of shipwrecks (including, but not limited to, armaments, apparel, tackle, cargo);

(x) Any portion or piece of any of the foregoing.

(4) The following material remains shall not be considered of archaeological interest, and shall not be considered to be archaeological resources for purposes of the Act and this part, unless found in a direct physical relationship with archaeological resources as defined in this section:

(i) Paleontological remains;

(ii) Coins, bullets, and unworked minerals and rocks.

(5) The Commissioner may determine that certain material remains, in specified areas under the Commissioner's jurisdiction, and under specified circumstances, are not or are no longer of archaeological interest and are not to be considered archaeological resources under this part. Any determination made pursuant to this subparagraph shall be documented. Such determination shall in no way affect the Commissioner's obligations under other applicable laws or regulations.

(b) *Arrowhead* means any projectile point which appears to have been designed for use with an arrow.

(c) *Commissioner* means the head of the United States Section, International Boundary and Water Commission, United States and Mexico, and his delegate.

(d) *Public lands* means lands to which the United States of America holds fee title, and which are under the control of the U.S. Section, International Boundary and Water Commission, United States and Mexico.

(e) *Indian tribe* as defined in the Act means any Indian tribe, band, nation, or other organized group or community. In order to clarify this statutory definition for purposes of this part, "Indian tribe" means:

(1) Any tribal entity which is included in the annual list of recognized tribes published in the **Federal Register** by the Secretary of the Interior pursuant to 25 CFR part 54;

(2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR part 54 since the most recent publication of the annual list;

(f) *Person* means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof.

(g) *State* means any of the fifty states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(h) *Act* means the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–11.), as amended.

§ 1104.3 Prohibited acts.

(a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands unless such activity is pursuant to a permit issued under § 1104.7 or exempted by § 1104.4(b) of this part.

(b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of:

(1) The prohibitions contained in paragraph (a) of this section; or

(2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

§ 1104.4 Permit requirements and exceptions.

(a) Any person proposing to excavate and/or remove archaeological resources from public lands, and to carry out activities associated with such excavation and/or removal, shall apply to the Commissioner for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued. The Commissioner may issue a permit to any qualified person, subject to appropriate terms and conditions provided that the person applying for a permit meets conditions in § 1104.7(a) of this part.

(b) Exceptions: (1) No permit shall be required under this part for any person conducting activities on the public lands under other permits, leases, licenses, or entitlements for use, when those activities are exclusively for purposes other than the excavation and/or removal of archaeological resources, even though those activities might incidentally result in the disturbance of archaeological resources. General earth-moving excavation conducted under a permit or other authorization shall not be construed to mean excavation and/or removal as used in this part. This exception does not, however, affect the Commissioner's responsibility to comply with other authorities which protect archaeological resources prior to approving permits, leases, licenses, or entitlements for use; any excavation and/or removal of archaeological resources required for compliance with those authorities shall be conducted in accordance with the permit requirements of this part.

(2) No permit shall be required under this part for any person collecting for private purposes any rock, coin, bullet, or mineral which is not an archaeological resource as defined in this part, provided that such collecting does not result in disturbance of any archaeological resource.

(3) No permit shall be required under section 3 of the Act of June 8, 1906 (16 U.S.C. 432) for any archaeological work for which a permit is issued under this part.

(c) Persons carrying out official agency duties under the Commissioner's direction, associated with the management of archaeological resources, need not follow the permit application procedures of § 1104.5. However, the Commissioner shall insure that provisions of § 1104.7 and § 1104.8 have been met by other documented means, and that any official duties which might result in harm to or destruction of any Indian tribal religious or cultural site, as determined by the

Commissioner, have been the subject of consideration under § 1104.6.

(d) Upon the written request of the Governor of any State, on behalf of the State or its educational institutions, the Commissioner shall issue a permit, subject to the provisions of §§ 1104.4(b)(5), 1104.6, 1104.7(a)(3), (4), (5), (6), and (7), 1104.8, 1104.9, 1104.11, and 1104.12(a) to such Governor or to such designee as the Governor deems qualified to carry out the intent of the Act, for purposes of conducting archaeological research, excavating and/or removing archaeological resources, and safeguarding and preserving any materials and data collected in a university, museum, or other scientific or educational institution approved by the Commissioner.

(e) Under other statutory, regulatory, or administrative authorities governing the use of public lands, authorizations may be required for activities which do not require a permit under this part. Any person wishing to conduct on public lands any activities related to but believed to fall outside the scope of this part should consult with the Commissioner, for the purpose of determining whether any authorization is required, prior to beginning such activities.

§ 1104.5 Application for permits and information collection.

(a) Any person may apply to the Commissioner for a permit to excavate and/or remove archaeological resources from public lands and to carry out activities associated with such excavation and/or removal.

(b) Each application for a permit shall include:

(1) The nature and extent of the work proposed, including how and why it is proposed to be conducted, proposed time of performance, locational maps, and proposed outlet for public written dissemination of the results.

(2) The name and address of the individual(s) proposed to be responsible for conducting the work institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in § 1104.7(a).

(3) The name and address of the individual(s), if different from the individual(s) named in paragraph (b)(2) of this section, proposed to be responsible for carrying out the terms and conditions of the permit.

(4) Evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities.

(5) Where the application is for the excavation and/or removal of archaeological resources on public lands, the names of the university, museum, or other scientific or educational institution in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard and preserve these materials as property of the United States.

(c) The Commissioner may require additional information, pertinent to land management responsibilities, to be included in the application for permit and shall so inform the applicant.

(d) Paperwork Reduction Act. The information collection requirement contained in § 1104.5 of these regulations has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0037. The purpose of the information collection is to meet statutory and administrative requirements in the public interest. The information will be used to assist the Commissioner in determining that applicants for permits are qualified, that the work proposed would further archaeological knowledge, that archaeological resources and associated records and data will be properly preserved, and that the permitted activity would not conflict with the management of the public lands involved. Response to the information requirement is necessary in order for an applicant to obtain a benefit.

§ 1104.6 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.

(a) If the issuance of a permit under this part may result in harm to, or destruction of, any indian tribal religious or cultural site on public lands, as determined by the Commissioner, at least 30 days before issuing such a permit the Commissioner shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9 of the Act.

(1) Notice by the Commissioner to any Indian tribe shall be sent to the chief executive officer or other designated official of the tribe. Indian tribes are encouraged to designate a tribal official to be the focal point for any notification and discussion between the tribe and the Commissioner.

(2) The Commissioner may provide notice to any other Native American group that is known by the Commissioner to consider sites potentially affected as being of religious or cultural importance.

(3) Upon request during the 30-day period, the Commissioner may meet with official representatives of any Indian tribe or group to discuss their interests, including ways to avoid or mitigate potential harm or destruction such as excluding sites from the permit area. Any mitigation measures which are adopted shall be incorporated into the terms and conditions of the permit under § 1104.8.

(4) When the Commissioner determines that a permit applied for under this part must be issued immediately because of an imminent threat of loss or destruction of an archaeological resource, the Commissioner shall so notify the appropriate tribe.

(b)(1) In order to identify sites of religious or cultural importance, the Commissioner shall seek to identify all Indian tribes having aboriginal or historic ties to the lands under the Commissioner's jurisdiction and seek to determine, from the chief executive officer or other designated official of any such tribe, the location and nature of specific sites of religious or cultural importance so that such information may be on file for land management purposes. Information on site eligible for or included in the National Register of Historic Places may be withheld from public disclosure pursuant to section 304 of the Act of October 15, 1966, as amended (16 U.S.C. 470w–3).

(2) If the Commissioner becomes aware of a Native American group that is not an Indian tribe as defined in this part but has aboriginal or historic ties to public lands under the Commissioner's jurisdiction, the Commissioner may seek to communicate with official representatives of that group to obtain information on sites they may consider to be of religious or cultural importance.

(3) The Commissioner may enter into agreement with any Indian tribe or other Native American group for determining locations for which such tribe or group wishes to receive notice under this section.

§ 1104.7 Issuance of permits.

(a) The Commissioner may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological theory and methods, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the following minimum qualifications:

(i) A graduate degree in anthropology or archaeology, or equivalent training and experience;

(ii) The demonstrated ability to plan, equip, staff, organize, and supervise activity of the type and scope proposed;

(iii) The demonstrated ability to carry research to completion, as evidenced by timely completion of theses, research reports, or similar documents;

(iv) Completion of at least 16 months of professional experience and/or specialized training in archaeological field, laboratory, or library research, administration, or management, including at least 4 months experience and/or specialized training in the kind of activity the individual proposes to conduct under authority of a permit; and

(v) Applicants proposing to engage in historical archaeology should have had at least one year of experience in research concerning archaeological resources of the historic period. Applicants proposing to engage in prehistoric archaeology should have had at least one year of experience in research concerning archaeological resources of the prehistoric period.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data;

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of the public lands concerned;

(4) Where the proposed work consists of archaeological survey and/or data recovery undertaken in accordance with other approved uses of the public lands, and the proposed work has been agreed to in writing by the Commissioner pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), paragraphs (a)(2) and (a)(3) of this section shall be deemed satisfied by the prior approval.

(5) Evidence is submitted to the Commissioner that any university, museum, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records; and

(6) The applicant has certified that, not later than 90 days after the date the final report is submitted to the Commissioner, the following will be delivered to the appropriate official of the approved university, museum, or other scientific or educational institution, which shall be named in the permit:

(i) All artifacts, samples, collections, and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit where the permit is for the excavation and/or removal of archaeological resources from public lands.

(b) When the area of the proposed work would cross jurisdictional boundaries, so that permit applications must be submitted to more than one Federal agency, the Commissioner shall coordinate the review and evaluation of applications and the issuance of permits.

§ 1104.8 Terms and conditions of permits.

(a) In all permits issued, the Commissioner shall specify:

(1) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work;

(2) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit;

(3) The name of any university, museum, or other scientific or educational institutional institutions in which any collected materials and data shall be deposited; and

(4) Reporting requirements.

(b) The Commissioner may specify such terms and conditions as deemed necessary, consistent with this part, to protect public safety and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

(c) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(d) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(e) The permittee may request that the Commissioner extend or modify a permit.

(f) The permittee's performance under any permit issued for a period greater than 1 year shall be subject to review by the Commissioner, at least annually.

§ 1104.9 Suspension and revocation of permits.

(a) *Suspension or revocation for cause.* (1) The Commissioner may suspend a permit issued pursuant to this part upon determining that the permittee has failed to meet any of the terms and conditions of the permit or has violated any prohibition of the Act or § 1104.3. The Commissioner shall provide written notice to the permittee of the suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The Commissioner may revoke a permit upon assessment of a civil penalty under § 1104.14 upon the permittee's conviction under section 6 of the Act, or upon determining that the permittee has failed after notice under this section to correct the situation which led to suspension of the permit.

(b) *Suspension or revocation for management purposes.* The Commissioner may suspend or revoke a permit, without liability to the United States, its agents, or employees, when continuation of work under the permit would be in conflict with management requirements not in effect when the permit was issued. The Commissioner shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

§ 1104.10 Appeals relating to permits.

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit.

§ 1104.11 Relationship to section 106 of the National Historic Preservation Act.

Issuance of a permit in accordance with the Act and this part does not constitute an undertaking requiring compliance with section 106 of the Act of October 15, 1966 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the Commissioner from compliance with section 106 where otherwise required.

§1104.12 Custody of archaeological resources.

(a) Archaeological resources excavated or removed from the public lands remain the property of the United States.

(b) The Commissioner may provide for the exchange of archaeological resources among suitable universities, museums, or other scientific or educational institutions, when such

resources have been excavated or removed from public lands under the authority of a permit issued by the Commissioner.

§ 1104.13 Determination of archaeological or commercial value and cost of restoration and repair.

(a) *Archaeological value.* For purposes of this part, the archaeological value of any archaeological resource involved in a violation of the prohibitions in § 1104.3 of this part or conditions of a permit issued pursuant to this part shall be the value of the information associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) *Commercial value.* For purposes of this part, the commercial value of any archaeological resource involved in a violation of the prohibitions in § 1104.3 of this part or conditons of a permit issued pursuant to this part shall be its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation, to the extent that its prior condition can be ascertained.

(c) *Cost of restoration and repair.* For purposes of this part, the cost of restoration and repair of archaeological resources damaged as a result of a violation of prohibitions or conditions pursuant to this part, shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

(1) Reconstruction of the archaeological resource;

(2) Stabilization of the archaeological resource,

(3) Ground contour reconstruction and surface stabilization;

(4) Research necessary to carry out reconstruction or stabilization;

(5) Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(6) Examination and analysis of the archaeological resource including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;

(7) Reinterment of human remains in accordance with religious custom and State, local, or tribal law, where appropriate, as determined by the Commissioner;

(8) Preparation of reports relating to any of the above activities.

§ 1104.14 Assessment of civil penalties.

(a) The Commissioner may assess a civil penalty against any person who has violated any prohibition contained in § 1104.3 or who has violated any term or condition included in a permit issued in accordance with the Act and this part.

(b) *Notice of violation.* The Commissioner shall serve a notice of violation upon any person believed to be subject to a civil penalty, either in person or by registered or certified mail (return receipt requested). The Commissioner shall include in the notice:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provision(s) of this part or to a permit issued pursuant to this part allegedly violated;

(3) The amount of penalty proposed to be assessed, including any initial proposal to mitigate or remit where appropriate, or a statement that notice of a proposed penalty amount will be served after the damages associated with the alleged violation have been ascertained;

(4) Notification of the right to file a petition for relief pursuant to paragraph (d) of this section, or to await the Commissioner's notice of assessment, and to request a hearing in accordance with paragraph (g) of this section. The notice shall also inform the person of the right to seek judicial review of any final administrative decision assessing a civil penalty.

(c) The person served with a notice of violation shall have 45 calendar days from the date of its service (or the date of service of a proposed penalty amount, if later) in which to respond. During this time the person may:

(1) Seek informal discussions with the Commissioner;

(2) File a petition for relief in accordance with paragraph (d) of this section;

(3) Take no action and await the Commissioner's notice of assessment;

(4) Accept in writing or by payment the proposed penalty, or any mitigation or remission offered in the notice. Acceptance of the proposed penalty or mitigation or remission shall be deemed a waiver of the notice of assessment and of the right to request a hearing under paragraph (g) of this section.

(d) *Petition for relief.* The person served with a notice of violation may request that no penalty be assessed or that the amount be reduced, by filing a petition for relief with the Commissioner within 45 calendar days of the date of service of the notice of violation (or of a proposed penalty amount, if later). The petition shall be in writing and signed by the person served with the notice of violation. If the person is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition shall set forth in full the legal or factual basis for the requested relief.

(e) *Assessment of penalty.* (1) The Commissioner shall assess a civil penalty upon expiration of the period for filing a petition for relief, upon completion of review of any petition filed, or upon completion of informal discussions, whichever is later.

(2) The Commissioner shall take into consideration all available information, including information provided pursuant to paragraphs (c) and (d) of this section or furnished upon further request by the Commissioner.

(3) If the facts warrant a conclusion that no violation has occurred, the Commissioner shall so notify the person served with a notice of violation, and no penalty shall be assessed.

(4) Where the facts warrant a conclusion that a violation has occurred, the Commissioner shall determine a penalty amount in accordance with § 296.16.

(f) *Notice of assessment.* The Commissioner shall notify the person served with a notice of violation of the penalty amount assessed by serving a written notice of assessment, either in person or by registered or certified mail (return receipt requested). The Commissioner shall include in the notice of assessment:

(1) The facts and conclusions from which it was determined that a violation did occur;

(2) The basis in § 1104.15 for determining the penalty amount assessed and/or any offer to mitigate or remit the penalty; and

(3) Notification of the right to request a hearing, including the procedures to be followed, and to seek judicial review of any final administrative decision assessing a civil penalty.

(g) *Hearings.* (1) Except where the right to request a hearing is deemed to have been waived as provided in paragraph (c)(4) of this section, the person served with a notice of assessment may file a written request

for a hearing with the adjudicatory body specified in the notice. The person shall enclose with the request for hearing a copy of the notice of assessment, and shall deliver the request as specified in the notice of assessment, personally or by registered or certified mail (return receipt requested).

(2) Failure to deliver a written request for a hearing within 45 days of the date of service of the notice of assessment shall be deemed a waiver of the right to a hearing.

(3) Any hearing conducted pursuant to this section shall be held in accordance with 5 U.S.C. 554. In any such hearing, the amount of civil penalty assessed shall be determined in accordance with this part, and shall not be limited by the amount assessed by the Commissioner under paragraph (f) of this section or any offer of mitigation or remission made by the Commissioner.

(h) *Final administrative decision.* (1) Where the person served with a notice of violation has accepted the penalty pursuant to paragraph (c)(4) of this section, the notice of violation shall constitute the final administrative decision;

(2) Where the person served with a notice of assessment has not filed a timely request for a hearing pursuant to paragraph (g)(1) of this section, the notice of assessment shall constitute the final administrative decision;

(3) Where the person served with a notice of assessment has filed a timely request for a hearing pursuant to paragraph (g)(1) of this section, the decision resulting from the hearing or any applicable administrative appeal therefrom shall constitute the final administrative decision.

(i) *Payment of penalty.* (1) The person assessed a civil penalty shall have 45 calendar days from the date of issuance of the final administrative decision in which to make full payment of the penalty assessed, unless a timely request for appeal has been filed with the United States District Court as provided in section 7(b)(1) of the Act.

(2) Upon failure to pay the penalty, the Commissioner may request the Attorney General to institute a civil action to collect the penalty in a United States District Court for any district in which the person assessed a civil penalty is found, resides, or transacts business. Where the Commissioner is not represented by the Attorney General, a civil action may be initiated directly by the Commissioner.

(j) *Other remedies not waived.* Assessment of a penalty under this section shall not be deemed a waiver of the right to pursue other available legal or administrative remedies.

§ 1104.15 Civil penalty amounts.

(a) *Maximum amount of penalty.* (1) Where the person being assessed a civil penalty has not committed any previous violation of any prohibition in § 1104.3 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be the full cost of restoration and repair of archaeological resources damaged plus the archaeological or commercial value of archaeological resources destroyed or not recovered.

(2) Where the person being assessed a civil penalty has committed any previous violation of any prohibition in § 1104.3 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be double the cost of restoration and repair plus double the archaeological or commercial value of archaeological resources destroyed or not recovered.

(3) Violations limited to the removal of arrowheads located on the surface of the ground shall not be subject to the penalties prescribed in this section.

(b) *Determination of penalty amount, mitigation, and remission.* The Commissioner may assess a penalty amount less than the maximum amount of penalty and may offer to mitigate or remit the penalty.

(1) Determination of the penalty amount and/or a proposal to mitigate or remit the penalty may be based upon any of the following factors:

(i) Agreement by the person being assessed a civil penalty to return to the Commissioner archaeological resources removed from public lands;

(ii) Agreement by the person being assessed a civil penalty to assist the Commissioner in activity to preserve, restore, or otherwise contribute to the protection and study of archaeological resources on public lands;

(iii) Agreement by the person being assessed a civil penalty to provide information which will assist in the detection, prevention, or prosecution of violations of the Act or this part;

(iv) Demonstration of hardship or inability to pay, provided that this factor shall only be considered when the person being assessed a civil penalty has not been found to have previously violated the regulation in this part;

(v) Determination that the person being assessed a civil penalty did not willfully commit the violation;

(vi) Determination that the proposed penalty would constitute excessive punishment under the circumstances;

(vii) Determination of other mitigating circumstances appropriate to consideration in reaching a fair and expeditious assessment.

(2) When the penalty is for a violation which may have had an effect on a known Indian tribal religious or cultural site on public lands, the Commissioner should consult with and consider the interests of the affected tribe(s) prior to proposing to mitigate or remit the penalty.

§ 1104.16 Other penalties and rewards.

(a) Section 6 of the Act contains criminal prohibitions and provisions for criminal penalties. Section 8(b) of the Act provides that archaeological resources, vehicles, or equipment involved in a violation may be subject to forfeiture.

(b) Section 8(a) of the Act provides for rewards to be made to persons who furnish information which leads to conviction for a criminal violation or to assessment of a civil penalty. The Commissioner may certify to the Secretary of the Treasury that a person is eligible to receive payment. Officers and employees of Federal, State, or local government who furnish information or render service in the performance of their official duties, and persons who have provided information under § 1104.15(b)(1)(iii) shall not be certified eligible to receive payment of rewards.

§ 1104.17 Confidentiality of archaeological resource information.

(a) The Commissioner shall not make available to the public, under subchapter II of chapter 5 of title 5 of the United States Code or any other provision of law, information concerning the nature and location of any archaeological resource, with the following exceptions:

(1) The Commissioner may make information available, provided that the disclosure will further the purposes of the Act and this part, or the Act of June 27, 1960, as amended (16 U.S.C. 469–469c), without risking harm to the archaeological resource or to the site in which it is located.

(2) The Commissioner shall make information available, when the Governor of any State has submitted to the Commissioner a written request for information, concerning the archaeological resources within the requesting Governor's State, provided that the request includes:

(i) The specific archaeological resource or area about which information is sought;

(ii) The purpose of which the information is sought; and

(iii) The Governor's written commitment to adequately protect the confidentiality of the information.

§ 1104.18 Report to the Secretary of the Interior.

The Commissioner, when requested by the Secretary of the Interior, shall submit such information as is necessary to enable the Secretary to comply with section 13 of the Act.

Dated: December 20, 1990.

Conrad G. Keyes, Jr.,

Principal Engineer, Planning.

[FR Doc. 91-70 Filed 1-3-91; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[IA-28-90]

RIN 1545-A086

Deposits of Employment Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the deposit of Federal employment taxes (including railroad retirement taxes). The amendments concern the manner in which an employer computes its deposit liability at the close of a specified deposit period. The amendments also reflect the addition of section 6302(g) to the Internal Revenue Code by the Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, 103 Stat. 2106, accelerating the deposit due date of employment taxes of $100,000 or more, and its amendment by the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, 104 Stat. 1388. Guidance concerning the acceleration provisions was previously issued in Notice 90-37, 1990-1 C.B. 343, dated May 21, 1990.

DATES: Written comments must be received by February 19, 1991. Outlines for persons wishing to speak at the public hearing scheduled for February 26, 1991, must be delivered by February 19, 1991. See the Notice of Public Hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Submit comments or outlines to: Internal Revenue Service, Attention: CC:CORP:T:R (IA-28-90), P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, telephone 202-566-5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 31.6302(c)-1 of the Employment Tax Regulations was originally adopted on January 13, 1959, by T.D. 6354 and amended several times thereafter. That section currently sets forth a methodology for determining a deposit obligation based on an employer's undeposited FICA and withheld income taxes at the close of a deposit period. Regulation § 31.6302(c)-2 was originally adopted on December 20, 1960, by T.D. 6516 and amended several times thereafter. That section provides similar rules with respect to railroad retirement taxes. Section 226 of the Railroad Retirement Solvency Act of 1983, Pub. L. No. 98-76, 97 Stat. 411, provides that the times for making deposits prescribed under section 6302 of the Internal Revenue Code with respect to railroad retirement taxes shall be the same as the times prescribed for FICA and withheld income taxes.

Explanation of Provisions

Currently, the determination of whether there is an obligation to deposit and the amount to be deposited is made with reference to the aggregate amount of undeposited taxes on hand at the close of a deposit period. Under the proposed amendments, a determination of whether an employer has a deposit obligation and the amount thereof would instead be made with reference to the aggregate amount of taxes accumulated with respect to wages paid during a specified deposit period. This change is intended to simplify and clarify the application of the penalty provisions under section 6656 of the Internal Revenue Code, as amended by the Omnibus Budget Reconciliation Act of 1989. It is also intended to prevent employers from making small pre-deposits during a deposit period in order to postpone an otherwise larger deposit obligation that would arise at the close of the deposit period. This practice was permitted under Rev. Rul. 76-561, 1976-2 C.B. 395, which was issued based on language in the current regulations. The proposed amendment would therefore render Rev. Rul. 76-561 obsolete. This change is proposed to be effective for deposit periods beginning after March 31, 1991.

The proposed amendments also restate the rules set forth in Notice 90-37 regarding the interplay between the statutorily-imposed deposit due dates set forth in section 6302(g) of the Code and the deposit due dates set forth in §§ 31.6302(c)-1 and 31.6302(c)-2 of the regulations, and revises these rules to reflect the changes made by the Omnibus Budget Reconciliation Act of 1990.

Pursuant to the Congressional mandate in section 226 of the Railroad Retirement Solvency Act of 1983 that the times prescribed for making deposits of railroad retirement taxes be the same as the times prescribed for making deposits of FICA and withheld income taxes, the proposed amendments would make changes to the regulations under sections 6302 applicable to railroad retirement taxes parallel to those described above for FICA and withheld income taxes. Form CT-1, Employer's Annual Railroad Retirement and Unemployment Repayment Tax Return, sets forth instructions for application of the rule in section 6302(g) of the Code for periods prior to the effective date of these proposed amendments.

Special Analyses

It has been determined that these 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, a copy of this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments

Before these proposed amendments are adopted as final regulations, consideration will be given to any written comments that are submitted (preferably nine copies) to the Commissioner of Internal Revenue. all comments will be available for public inspection and copying.

Drafting Information

The principal author of these proposed regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department have participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 31

Employment taxes, Income Taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

Proposed Amendments to the Regulations

Accordingly, title 26, part 31, of the Code of Federal Regulations is proposed to be amended as follows:

PART 31—[AMENDED]

Paragraph 1. The authority for part 31 continues to read in part:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 31.6302(c)–1 is amended as follows:

1. The heading of paragraph (a) and introductory language in paragraph (a)(1)(i) of § 31.6302(c)–1 is revised as set forth below.

2. The text of § 31.6302(c)–1(a)(1)(ii) is revised to read as set forth below.

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement for calendar months beginning after December 31, 1980*—(1) *In general.* (1) In the case of a calendar month which begins after December 31, 1980, but before April 1, 1991—

* * * * *

(ii) In the case of a calendar month which begins after march 31, 1991—

(*a*) Except as provided in § 31.6302(c)–1(a)(1)(ii)(*b*) or (*c*), or § 31.6302(c)–1(b), if with respect to any calendar month the aggregate amount of taxes (as defined in § 31.6302(c)–1(a)(iii)) accumulated with respect to wages paid is $500 or more, but less than $3,000, then the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution within 15 calendar days after the close of such calendar month. Taxes are accumulated with respect to wages paid in a prior calendar month within the same return period shall not be taken into account if a deposit was required to be made under this section with respect to such amounts. Deposits made during the calendar month of taxes with respect to wages paid during such month do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for such month.

Example 1: Employer *A*'s aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $800. Since that amount is in excess of $500, but less $3,000, *A* must deposit the $800 in a Federal Reserve bank or authorized financial institution by May 15, 1991.

Example 2: Employer B's aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $400. Since that amount is less than $500, B has no deposit obligation for the month of April. In May 1991 B's aggregate amount of taxes accumulated with respect to wages paid during the month is $450. Since the $400 in taxes in April was not required to be deposited, that amount is taken into account in determining if a deposit is required for May. The aggregate amount of taxes accumulated with respect to wages paid for the two months is in excess of $500, thus requiring a deposit. Since June 15, 1991, is a Saturday, B must deposit the $850 in a Federal Reserve bank or authorized financial institution by Monday, June 17, 1991, pursuant to section 7503 of the Code.

Example 3: The facts are the same as in Example 2 except that B deposits the $400 in taxes from April on May 15, 1991. Because the $400 was not required to be deposited, that amount is taken into account in determining if a deposit obligation exists for May. Since the aggregate amount of taxes accumulated with respect to wages paid for the two months, $850, is in excess of $500, a deposit in the aggregate amount of $850 is required by Monday, June 17, 1991. Since $400 was previously deposited, B must deposit an additional $450 by June 17, 1991.

Example 4: On Friday, April 5, 1991, a payroll date, Employer C accumulates $450 in taxes with respect to wages paid on that date. Although not required to do so, C deposits the $450 in an authorized depository. On Friday, April 19, 1991, C accumulates and additional $450 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the calendar month is $900. C has a deposit obligation of $900 for the calendar month and must deposit an additional $450 in an authorized depository by May 15, 1991.

(*b*) Except as provided in § 31.6302(c)–1(a)(1)(ii)(*c*) or § 31.6302(c)–1(b), and except in the case of first-time 3-banking-day depositors (as defined in § 31.6302(c)–1(a)(1)(i)(*b*)(*2*)), if with respect to any eighth-monthly period (as defined in § 31.6302(c)–1(a)(1)(i)(*b*)) the aggregate amount of taxes accumulated with respect to wages paid is $3,000 or more, but less than $100,000, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of that eighth-monthly period. Taxes accumulated with respect to wages paid during a prior eighth-monthly period shall not be taken into account if a deposit was required to be made under this section with respect to such amounts. Deposits made during the eighth-monthly period of taxes with respect to wages paid during such eighth-monthly period do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for such eighth-monthly period. Solely for purposes of the examples in this paragraph (a)(1)(ii)(*b*) and paragraphs (a)(1)(ii)(*c*), (*d*), and (*f*) of this section, "banking days" are assumed to include all calendar days except Saturdays, Sundays, and Federal holidays.

Example 1: For the eighth-monthly period April 1–3, 1991, Employer *D*'s aggregate amount of taxes accumulated with respect to wages paid is $3,500. Since that amount is in excess of $3,000, but less than $100,000, D has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, the third banking day after the close of the eighth-monthly period.

Example 2: For the eighth-monthly period April 1–3, 1991, Employer E's aggregate amount of taxes accumulated with respect to wages paid is $3,500. E has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, three banking days after the close of the April 1–3 eighth-monthly period. For the eighth-monthly period April 4–7, 1991, E's aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since D was required to make a deposit for the April 1–3 eighth-monthly period, that $3,500 amount is not taken into account in determining any obligations that arise in subsequent eighth-monthly periods. E does not have an eighth-monthly deposit obligation with respect to the April 4–7 period.

Example 3: For the eighth-monthly period April 1–3, 1991, Employer F's aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since that amount is less than $3,000, no deposit is required with respect to that eighth-monthly period. For the eighth-monthly period April 4–7, 1991, F's aggregate amount of taxes accumulated with respect to wages paid is $2,500. Since F was not required to deposit the $2,800 in taxes from the April 1–3 eighth-monthly period, that amount is taken into account in determining F's deposit obligation for April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. F has a deposit obligation of $5,300 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 4: The facts are the same as in Example 3 except that F deposits the $2,800 from the April 1–3 eighth-monthly period on April 4, 1991. Because the $2,800 was not required to be deposited, that amount is taken into account in determining F's deposit obligation for the April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. Since that amount is in excess of $3,000, a deposit obligation exists after the close of the April 4–7 eighth-monthly period. As $2,800 of that amount was previously deposited, F has a deposit obligation of $2,500 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 5: On Friday, April 12, 1991, the beginning of an eighth-monthly period (April 12–15), G accumulates $3,500 in taxes with respect to wages paid and deposits the $3,500 in an authorized depository on that date although a deposit of the $3,500 was not required to be made on that date. On Monday, April 15, 1991, the end of the April 12–15 eighth-monthly period, G accumulates an additional $2,000 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the April 12–15 eighth-monthly period

is $5,500. G has a deposit obligation for the eighth-monthly period of $5,500. Since $3,500 of that amount was previously deposited, G has a remaining deposit obligation of $2,000 that must be satisfied by Thursday, April 18, 1991, three banking days after the close of the eighth-monthly period.

(*c*) If on any day within an eighth-monthly period the aggregate amount of taxes accumulated with respect to wages paid is $100,000 or more, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution on the first banking day after such date. Taxes accumulated with respect to wages paid prior to such date shall not be taken into account if a deposit was required under this section with respect to such amounts. Taxes deposited on any given day with respect to wages paid on that day do not reduce the aggregate amount of taxes accumulated on that day for purposes of determining the deposit requirement (if any) for such day.

Example 1: On Thursday, April 4, 1991, the beginning of the April 4–7 eighth-monthly period, Employer H accumulates $55,000 in taxes with respect to wages paid on that date. On Saturday, April 6, 1991, H accumulates an additional $50,000 in taxes with respect to wages paid. H has a deposit obligation of $105,000 that must be satisfied by Monday, April 8, the next banking day after Saturday, April 6.

Example 2: On Friday, April 12, 1991, the beginning of the April 12–15 eighth-monthly period, J accumulates $60,000 in taxes with respect to wages paid and deposits the $60,000 in an authorized depository on that date although a deposit of the $60,000 was not required to be made on that date. On Monday, April 15, 1991, the last day in the April 12–15 eighth-monthly period, J accumulates an additional $50,000 in taxes with respect to wages paid. On Monday, April 15, the aggregate amount of taxes accumulated with respect to wages paid during the eighth-monthly period to date totals $110,000. J has a $110,000 deposit obligation that must be satisfied by the next banking day after the $100,000 threshold is reached. Since $60,000 of the $110,000 was already deposited, J has a remaining deposit obligation of $50,000 that must be satisfied by Tuesday, April 16, 1991, the next banking day following April 15th.

Example 3: On Monday, April 1, 1991, Employer K accumulates $105,000 in taxes with respect to wages paid on that date. On that same day, K deposits in an authorized depository $10,000 of the $105,000 accumulated. K has a $105,000 deposit obligation that must be satisfied by the next banking day, April 2, 1991. The $10,000 deposited on April 1 cannot be used to reduce the aggregate amount of accumulated taxes with respect to that date. K has a remaining deposit obligation of $95,000 that must be satisfied by April 2, 1991.

(*d*) If, with respect to any eighth-monthly period, an employer has made a deposit in accordance with § 31.6302(c)–1(a)(1)(ii)–(*c*), and later, within the same eighth-monthly period, accumulates with respect to wages paid taxes of $3,000 or more, but less than $100,000, an additional deposit is required in accordance with § 31.6302(c)–1(a)(1)(ii)(*b*). However, if the amount of taxes is $100,000 or more, an additional deposit is required in accordance with § 31.6302(c)–1(a)(1)(ii)(*c*).

Example: On Tuesday, April 2, 1991, Employer L accumulates $110,000 in aggregate taxes with respect to wages paid. In accordance with paragraph (a)(1)(ii)(*c*) of this section, L has a $110,000 deposit obligation that must be satisfied by Wednesday, April 3, 1991, the next banking day following April 2. On Wednesday, April 3, 1991, L accumulates an additional $10,000 in taxes with respect to wages paid that date. In accordance with paragraph (a)(1)(ii)(*b*), L now has an additional deposit obligation of $10,000 that must be satisfied by Monday, April 8, 1991, the 3rd banking day following the close of the April 1–3 eighth-monthly period. The obligation to deposit the $10,000 is separate and distinct from the obligation to deposit the $110,000.

(*e*) An employer will be considered to have satisfied the deposit obligation imposed by paragraphs (a)(1)(ii) (*b*), (*c*) and (*d*) of this section if—

(*1*) The deposit that is made is not less than 95 percent of the aggregate amount of taxes accumulated with respect to wages paid during the period for which the deposit is made, and

(*2*) If the eighth-monthly period (or, in the case of a deposit required under paragraph (a)(1)(ii)(*c*) of this section, the day on which the obligation arose) is in a month other than the last month of the return period, the employer deposits any remaining amount due with respect to such deposit period with the first deposit otherwise required to be made after the fifteenth day of the following month. In the case of the last month of the return period, see § 31.6302(c)–1(a)(1)(iv).

(*f*) Any excess of a deposit over the actual taxes required to be deposited to date (overdeposit) during the return period shall be applied in order of time to each of the employer's succeeding deposit obligations within the same return period. In the determination of the aggregate amount of taxes accumulated with respect to wages paid in succeeding deposit periods, the overdeposit does not reduce such aggregate amount accumulated although the overdeposit is credited to the depositor's account.

Example: Employer M's deposit obligation for the eighth-monthly period April 1–3, 1991, is $3,200. On April 8, 1991, three banking days after the close of the eighth-monthly period, M deposits $4,000 in an authorized depository, $800 in excess of the amount required to be deposited. During the eighth-monthly period April 4–7, 1991, M accumulates $3,750 in taxes with respect to wages paid during such period. Although the $800 overdeposit for the April 1–3 eighth-monthly period is credited to M's account, it may not be used to determine whether a deposit obligation exists for the April 4–7 eighth-monthly period. The two deposit obligations are separate and distinct. Since the amount of taxes accumulated with respect to the April 4–7 eighth-monthly period is an amount greater than $3,000, a deposit is required under paragraph (a)(1)(ii)(*b*) of this section within three banking days after the close of the period. M has a remaining deposit obligation of $2,950 ($3,750 accumulated less $800 overdeposit) that must be satisfied by April 10, 1991, three banking days after the close of the period.

(*g*) The periods within which taxes must be deposited under this section are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

(*h*) For purposes of this paragraph (a)(1)(ii), the term "wages paid" includes all amounts included in wages, e.g., under § 3121(v) of the Code, regardless of whether they have actually been paid.

* * * * *

Par. 3. Section 31.6302(c)–2 is amended as follows:

1. The heading of paragraph (a)(1) of § 31.6302(c)–2 is revised to read as set forth below.

2. Section 31.6302(c)–2(a)(2) is revised to read as set forth below.

§ 31.6302(c)–2 Use of Government depositories in connection with employee and employer taxes under Railroad Retirement Tax Act.

(a) *Requirement*—(1) *In general: After 1983 and before April 1, 1991.* * * *

(2) *In general; after March 31, 1991.* In the case of a calendar month which begins after March 31, 1991, if, at a time prescribed under § 31.6302(c)–1(a)(1) (ii) or (v) for the deposit of accumulated taxes, the aggregate amount of accumulated employee tax withheld after March 31, 1991, under section 3202 and employer tax imposed after March 31, 1991, under section 3221 (a) and (b) equals an amount required to be deposited under § 31.6302(c)–1(a)(1) (ii) or (v), the employer shall deposit the accumulated railroad retirement taxes described in sections 3202 and 3221 at such time in the manner prescribed in § 31.6302(c)–1(a)(1) (ii) or (v) (except that accumulated railroad retirement taxes described in section 3221(c) shall in no case be required to be deposited earlier than the first day on which a deposit is otherwise required by

§ 31.6302(c)–1(a)(1)(ii) to be made after the 15th day of the month following the month in which the section 3221(c) tax arises. Notwithstanding the preceding sentence, and notwithstanding § 31.6302(c)–1(a)(1)(v), if, for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under sections 3202 and 3221 with respect to an employer equalled or exceeded $1 million, such employer shall deposit the aggregate amount of railroad retirement taxes required to be deposited for the current calendar year in accordance with Revenue Procedure 83–90, 1983–2 C.B. 615 (relating to transfers by wire to the Treasury).

* * * * *

Par. 4. In the second sentence of paragraph (b)(2) of § 31.6302(c)–2, the language "paragraph (a)(1)" is removed and the language "paragraph (a)(1) or (a)(2)" is added in its place.

Fred T. Goldberg, Jr.

Commissioner of Internal Revenue.

[FR Doc. 91–6 Filed 1–3–91; 8:45 am]

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26 CFR Part 31

[IA–028–90]

RIN 1545–AO86

Deposits of Employment Taxes; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: The document provides notice of a public hearing relating to a proposed rule published elsewhere in this issue with respect to eighth-monthly deposits of Federal employment taxes.

DATES: The public hearing will be held on February 26, 1991, beginning at 10 a.m. Outlines of oral comments must be received by February 19, 1991.

ADDRESSES: The public hearing will be held in the Old Post Office Building, room M09, 1100 Pennsylvania Avenue, NW., Washington, DC (use 12th street entrance). The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA–028–90), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6302 of the Internal Revenue Code of 1986. The proposed regulations appear in the proposed rules section of this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than February 19, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91–7 Filed 1–3–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: OSM is announcing the receipt of additional revisions pertaining to a previously proposed amendment to the Iowa Permanent regulatory program (hereinafter, the "Iowa program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These revisions pertain to definitions, protection of employees, areas unsuitable, permit processing, underground reclamation and operation plan, prime farmland, coal preparation, small operator assistance, bonding, revegetation success, inspection and enforcement, civil penalties, and blaster certification.

This amendment is intended to revise the State program to be consistent with the corresponding Federal standards, and to clarify ambiguities and improve operational efficiency.

This notice sets forth the times and locations that the Iowa program, the proposed amendment to that program, and additional information are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received on or before 4 p.m., c.s.t., January 22, 1991.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Iowa program, the proposed amendment to the program, and all written comments received in response to this notice will be available for public review at the addresses listed below, during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, room 500, Kansas City, Missouri 64105, Telephone: (816) 374–6405.

Department of Agriculture and Land Stewardship, Division of Soil Conservation, Wallace State Office Building, East 9th and Grand Streets, Des Moines, Iowa 50319; Telephone: (515) 281–6142.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Kansas City Field Office (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Iowa program. Information regarding general background on the Iowa program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885). Subsequent actions with regard to Iowa's approved program and program amendments can be found at 30 CFR 915.15.

II. Proposed Amendment

By letter dated February 9, 1988, Iowa submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. IA–305). Iowa submitted the proposed revisions (1) in response to an August 1, 1986, letter (Administrative Record No. IA–280) that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1986, (2) in response to a June 9, 1987, letter (Administrative Record No. IA–307) that OSM sent in accordance with 30 CFR 732.17(c) concerning the protection of historic properties, and (3) at the State's own initiative to improve its program.

The proposed changes would rescind rules at 780-chapter 4 within the Soil Conservation Department of the Iowa Administrative Code (IAC) and adopt chapters 40 through 49 within the Agriculture and Land Stewardship Department of the IAC. The Iowa Division of Soil Conservation (DSC) has incorporated by reference into the Iowa program, applicable sections of the July 1, 1987, Code of Federal Regulations (CFR) at 30 CFR parts 700 through 850. OSM published a notice in the March 31, 1988, **Federal Register** (53 FR 10397) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended May 2, 1988.

Iowa revised certain portions of its amendment prior to final adoption by DSC. By letter dated June 9, 1988, (Administrative Record No. IA–319) Iowa requested that OSM include these revisions in the amendment submitted February 9, 1988. The revisions include: IAC 27–43.1(2), Coal Exploration; 27–43.2(3), 43.3(1), 43.4(3), 43.6 (2), (3), and (6), and 43.8(4), Operations Permit; 27–46.3(3), Permanent Program Performance Standards; and 27–47.4(83), Inspection and Enforcement.

OSM published a notice in the July 20, 1988, **Federal Register** (53 FR 27362) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. IA–332). The public comment period ended August 4, 1988.

During its review of the amendment, OSM identified concerns related to IAC 27–40.1, Authority and Scope; 27–40.3, General Definitions; 27–40.4, Permanent Regulatory Program; 27–40.5, Restriction on Financial Interests of State Employees; 27–40.6, Exemptions for Coal Extraction Incident to Government-Financed Highway or Other Constructions; 27–40.7, Protection of Employees; 27–41.1, Initial Regulatory Programs; 27–41.2, General Performance Standards—Initial Program; 27–41.3, Special Performance Standards—Initial Program; 27–42.1, Areas Designated by an Act of Congress; 27–42.2, Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations; 27–42.3, State Procedures for Designating Areas Unsuitable for Surface Coal Mining Operations; 27–43.1, Requirements for Coal Exploration; 27–43.2, Requirements for Permits and Permit Processing; 27–43.3, Revision, Renewal, and Transfer, Assignment, or Sale of Permit Rights; 27–43.4, General Content Requirements for Permit Applications; 27–43.5, Permit Application—Minimum Requirements for Legal, Financial, Compliance, and Related Information; 27–43.6 and 27–43.8, Surface and Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources; 27–43.7 and 27–43.9, Surface and Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan; 27–43.10, Requirements for Permits for Special Categories of Mining; 27–44.1, Permanent Regulatory Program—Small Operator Assistance Program; 27–45.1, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs; 27–46.1, Permanent Program Performance Standards—General Provisions; 27–46.2, Permanent Program Performance Standards—Coal Exploration; 27–46.3, Permanent Program Performance Standards—Surface Mining Activities; 27–46.4, Permanent Program Performance Standards—Underground Mining Activities; 27–46.5, Special Permanent Program Performance Standards—Auger Mining; 27–46.6, Special Permanent Program Performance Standards—Operations on Prime Farmland; 27–46.7, Permanent Program Performance Standards—Coal Preparation Plants Not Located within the Permit Area of a Mine; 27–46.8, Special Permanent Program Performance Standards—In Situ Processing; 27–47.1, State Regulatory Authority—Inspection and Enforcement; 27–47.2, Federal Inspections and Monitoring; 27–47.3, Federal Enforcement; 27–47.4, Civil Penalties; 27–48.1, Permanent Regulatory Program Requirements—Standards for Certification of Blasters; 27–48.2, Certification of Blasters; and 27–49.1, Procedural Rules: Contested Cases and Public Hearings. OSM notified Iowa of the concerns by letters dated September 23, 1988 (Administrative Record No. IA–335), May 5, 1989 (Administrative Record No. IA–339), June 6, 1989 (Administrative Record No. IA–341), and July 13, 1989 (Administrative Record No. IA–342).

Iowa responded on December 19, 1990 (Administrative Record No. IA–357), by submitting a revised amendment. In addition to revising the amendment in response to the issues identified in OSM's letters, Iowa submitted additional revisions (1) in response to a June 22, 1990, letter from OSM sent in accordance with 30 CFR 732.17(c) concerning subsidence control, and (2) at its own initiative to improve its program.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Iowa program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Iowa program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 21, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 91–82 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 938

Pennsylvania Regulatory Program; Regulatory Reform

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on Program

Amendment PA 790.00, December 22, 1989, to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This additional public comment period is for the sole purpose of providing persons the opportunity to comment on the amended provisions of § 89.143(a)(1)–(a)(4) dealing with performance standards for underground mining, as set out in the **Federal Register** notice, 55 FR 6647, February 26, 1990. The narrative in this **Federal Register** notice describing the above subsections is misleading and may have caused persons not to comment during the previous comment period. It is important to stress that only the description the proposed amendment was misleading and that the proposed amendment itself has not been modified in any way. Persons or parties that commented on the initial notice of proposed rulemaking need to comment again at this time.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on January 22, 1991, to ensure consideration in the rulemaking process. If requested, a public hearing on the amendment will be held at 9 a.m. on January 14, 1991. Requests to present testimony at the hearing must be received on or before 4 p.m. on January 11, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address listed below. Copies of the Pennsylvania program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, telephone: (717) 782–4036.

Pennsylvania Department of Environmental Resources, Office of Environmental Energy Management, 10th Floor, Fulton Building, 3rd and Locust Streets, P.O. Box 2063, Harrisburg, Pennsylvania 17120, Telephone: (717) 787–4686.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982. Information on the background of the Pennsylvania program including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Chronology of Amendment

On December 22, 1989, Pennsylvania Department of Environmental Resources-Bureau of Mining and Reclamation submitted to OSM proposed regulatory amendments to the Pennsylvania regulatory program under the Surface Mining Control and Reclamation Act of 1977. OSM announced receipt of the amendment in the February 26, 1990, **Federal Register** (55 FR 6647) and solicited public comments on the proposed regulatory changes. The February 26, 1990, notice stated that the public comment period would end on March 28, 1990, and if a hearing on the amendment is requested, that the hearing would be held on March 23, 1990, at the Penn Harris Motor Inn, Camp Hill, Pennsylvania.

Based on a request of several individuals for a public hearing and for a location change for that hearing, the comment period was extended to April 8, 1990, and the hearing date and location were changed to April 3, 1990, at Monroeville, Pennsylvania (**Federal Register** notice, 55 FR 10469, March 21, 1990).

III. Rationale for Extension of Public Comment Period

During OSM's preparation of final rulemaking for the subject amendment, questions were raised about the clarity of the narrative describing the changes to section 89.143(a)(1)–(a)(4). Since the narrative is misleading as to the extent of the changes, it may have prompted persons to not submit comments based on this description. OSM has thus decided to reopen the comment period to allow persons that did not submit comments on this section for the reasons stated above. Only comments pertaining to changes proposed to section 89.143(a)(1)–(a)(4) will be accepted.

OSM is publishing the amended section (a)(1)–(a)(4) in its entirety, along with Pennsylvania's summary description of these changes as listed in its final rulemaking concerning this amendment, in the "Pennsylvania Bulletin," Vol. 20, No. 24, June 16, 1990, page 3385. (Proposed deletions are in brackets, while proposed language is indicated by arrows.

Amendment: Section 89.143(a)(1)–(a)(4)

Section 89.143. Performance standards.

(a) *General requirements.* [The] ►All◄ underground mining activities shall be planned and conducted in accordance with the ►following:◄

►(1)◄ The subsidence control plan required by 89.141(d) (relating to application requirements) and be consistent with the post-mining land use protected by 89.88 (relating to post-mining land use).

[(1) Extraction techniques which provide for planned subsidence in a predictable and controlled manner.]

►(2) The performance standards set forth in subsections (b) through (f) of this section.◄

[(2) Support techniques which are designed to prevent subsidence damage to features identified in subsection (b).]

►(3)◄ No underground mining activity shall be authorized beneath structures where the depth of overburden is less than 100 feet, with the exception of mine related openings to the surface such as entries, shafts and boreholes and site specific variances for entry development as approved by the Department.

►(4) The mine operator shall adopt and describe to the Department in his permit application measures to maximize mine stability provided, however, that nothing in this subsection shall be construed to prohibit planned subsidence in a predictable and controlled manner or the standard method of room and pillar mining.◄

Description—Pennsylvania: Section 89.143(a)(1)–(a)(4).

The amendments to § 89.143(a) include a restructuring of the section for the sake of clarity. The existing requirements to comply with the subsidence control plan, and to be

consistent with the postmining land uses and the prohibition against mining beneath structures where the cover is less than 100 feet, have been put in paragraph form and enumerated. In addition, a paragraph (2) has been added to make it clear that the operator must comply with § 89.143(b)–(f). Finally, paragraph (4) has been added which paraphrases the statutory language relating to the requirement to maximize mine stability.

IV. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on whether the amendments proposed above by Pennsylvania satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4 p.m. on January 11, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be made part of the Administrative Record.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 21, 1990.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–83 Filed 1–3–91; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286b

[OSD Administrative Instruction No. 81]

Office of the Joint Staff; Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed exemption rule.

SUMMARY: The Office of the Secretary of Defense proposes to add a new general exemption rule for a new record system subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552A). The record system is identified as JS006.CND, entitled "USSOUTHCOM Counter Narcotics Database".

DATES: Comments regarding this proposed exemption rule must be received on or before February 4, 1991, to be considered by the agency.

ADDRESSES: Forward any comments to Mr. Dan Cragg, Chief, Records Management and Privacy Act Branch, Office of the Secretary of Defense, Room 5C315, The Pentagon, Washington, DC 20301–1155. Telephone (703) 695–0970.

FOR FURTHER INFORMATION CONTACT: The establishment of a new record system subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) has been proposed by the Joint Staff for the United States Southern Command. The Office of the Secretary of Defense provides Privacy Act administrative support to the Joint Staff and is the proponent for this action.

The Commander in Chief, U.S. Southern Command, was directed by the Secretary of Defense on September 18, 1989, to submit a plan to combat the production and trafficking of illegal drugs within the USSOUTHCOM region. USSOUTHCOM's response, approved by the Secretary and proceeding to implementation, establishes an advanced command, control, communications, and intelligence computer network to support DoD counter narcotics law enforcement efforts and those of the participating U.S. government departments and agencies. In accepting this law enforcement mission, USSOUTHCOM has separated the counter narcotics system hardware, personnel, and budgetary resources from other missions.

It is being proposed that certain portions of this newly established record system be exempted from certain subsections of the Privacy Act under the provision of 5 U.S.C. 552A(J)(2) in order to protect the confidentiality of civil investigatory and criminal law enforcement materials and of properly classified information. Therefore, the Joint Staff proposes to claim an exemption from certain particular subsections of the Privacy Act under the (j)(2) provision of the Privacy Act. The exemption applies only to the extent that information in the system is subject to exemption, i.e., any information in the system which cannot be defined as (j)(2) information will not be withheld pursuant thereto simply because "the system" has been exempted.

This proposed general exemption rule is to be added to existing OSD exemption rules found at 32 CFR 286b.7.

List of Subjects in 32 CFR Part 286b

Privacy.

Accordingly, the Office of the Secretary of Defense proposes to amend 32 CFR part 286b as follows:

PART 286b—PRIVACY PROGRAM

1. The Authority citation for 32 CFR part 286b continues to read as follows:

Authority: Privacy Act of 1974, Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 286b.7 is proposed to be amended by adding a new paragraph (b)(2) as follows:

§ 286b.7 Procedures for exemptions.

* * * * *

(b) *General exemptions.*

* * * * *

(2) *System Identification and Name*—JS006.CND, USSOUTHCOM Counter Narcotics Database.

Exemption—Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (4); (d)(1) through (d)(5); (e)(1) through (e)(3);

(e)(4)(G) and (e)(4)(H); (e)(5); (f)(1) through (f)(5); (G)(1) through (g)(5) of the Act.

Authority: 5 U.S.C. 552a(j)(2).

Reason—From subsection (c)(3) because the release of accounting of disclosure would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by the cooperating agencies. This would greatly impede USSOUTHCOM's criminal law enforcement.

From subsections (c)(4) and (d) because notification would alert a subject to the fact that an investigation of that individual is taking place, and might weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

From subsection (e)(4)(G) and (H) because this system of records is exempt from the access provisions of subsection (d) pursuant to subsection (j).

From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going criminal investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

For comparability with the exception claimed from subsection (f), the civil remedies provisions of subsection (g) must be suspended for this record system. Because of the nature of criminal investigations, standards of accuracy, relevance, timeliness and completeness cannot apply to this record system. Information gathered in criminal investigations is often fragmentary and leads relating to an individual in the context of one investigation may instead pertain to a second investigation.

From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing a specific parameter in a particular case with respect to what information is relevant or necessary. Also, due to USSOUTHCOM's close liaison and working relationships with the other Federal, as well as state, local, and foreign country law enforcement agencies, information may be received which may relate to a case under the investigative jurisdiction of another agency. The maintenance of this information may be necessary to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of other cooperating agencies.

From subsection (e)(2) because collecting information to the greatest extent possible directly from the subject individual may or may not be practicable in a criminal investigation. The individual may choose not to provide information and the law enforcement process will rely upon significant information about the subject from witnesses and informants.

From subsection (e)(3) because supplying an individual with a form containing a Privacy Act Statement would tend to inhibit cooperation by many individuals involved in a criminal investigation. The effect would be somewhat inimical to established investigative methods and techniques.

From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness would unfairly hamper the criminal investigative process. It is the nature of criminal law enforcement for investigations to uncover the commission of illegal acts at diverse stages. It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

* * * * *

Dated: December 21, 1990.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

FR Doc. 91–91 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 90–313; FCC 90–417]

Operator Service Providers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this Further Notice of Proposed Rule Making (Further NPRM) to initiate rule making and monitoring/reporting proceedings and to seek comment on rules and reporting proposals required by the Telephone Operator Consumer Services Improvement Act of 1990, Pub. L. No. 101–435, 104 Stat. 986 (1990) (to be codified at 47 U.S.C. 226) ("Operator Services Act"). Specifically, the Commission has proposed rules that: (1) Require the provision of certain information to consumers by operator service providers (OSPs) and call aggregators; (2) prohibit the blocking of 800 and 950 access by aggregators; (3) prohibit most call splashing and charging for unanswered calls by OSPs; (4) prohibit aggregators from charging more for 800 or 950 access code calls than for calls using the presubscribed OSP; (5) establish minimum standards for the routing and handling of emergency calls by OSPs; (6) require OSPs to provide to inquiring consumers information about changes in services and consumer choices; (7) define relevant terms as set out in the Operator Services Act; (8) require aggregator equipment or software manufactured or imported on or after April 17, 1992, to be capable of processing 10XXX access code calls; and (9) require OSPs to ensure, by various means, that aggregators comply with specified rules. Further, in Phase II of this docket, the Commission proposes that OSPs be required to file certain information regarding their rates, consumer complaints, and various costs, which will be used in the monitoring/reporting proceeding required by the Operator Services Act. The rules and other requirements proposed in the Further NPRM shall supplant those proposed in this docket's original Notice of Proposed Rule Making, 55 FR 29639 (July 20, 1990).

DATES: Comments must be filed on before January 22, 1991, and replies must be filed on or before February 6, 1991. Comments and replies on issues designated for CC Docket No. 90–313—Phase II are also due on these dates. Phase II comments and replies must be filed separately from comments on other

issues in this docket and must include the designation "CC Docket No. 90–313—Phase II" in the caption.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kurt A. Schroeder, Enforcement Division, Common Carrier Bureau, (202) 632–4887.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rule Making (Further NPRM) in CC Docket No. 90–313 (FCC 90–417), adopted December 13, 1990, and released December 21, 1990.

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

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's duplicating contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should direct their comments to Jonas Neihardt, (202) 395–3785, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. Copies of comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information, contact Judy Boley, Federal Communications Commission, (202) 632–7513.

OMB number: None.

Title: Policies and Rules Concerning Operator Service Providers (CC Docket No. 90–313).

Action: New collections.

Respondents: Business or other for-profit (including small businesses).

Frequency of response: 6, 9, 15, 21 months after release of FNPRM.

Estimated annual buden: 4 hours average burden per response for report on rates; 2 hours average burden per response for report on complaints; 4 hours average burden per response for report on cost data.

Needs and uses: The Further NPRM solicits public comment on proposals to implement certain provisions of the Telephone Operator Consumer Services Improvement Act of 1990. It is proposed that operator service providers file reports with the Commission on rates, complaints, and cost data. The Commission will use the information for monitoring purposes and to report to Congress.

Summary of Further Notice of Proposed Rule Making

1. On December 13, 1990, the Commission adopted a Further Notice of Proposed Rule Making in CC Docket No. 90–313 (released December 21, 1990; FCC 90–417) in order to propose and seek comment on rules and reporting requirements necessitated by the Telephone Operator Consumer Services Improvement Act of 1990, Pub. L. No. 101–435, 104 Stat. 986 (1990) (to be codified at 47 U.S.C. 226) ("Operator Services Act"). Under the Act, the Commission, must, *inter alia*, conduct a "general" rule making proceeding to prescribe regulations that will implement statutory provisions and establish certain standards and policies, and a monitoring/reporting proceeding that will ultimately result in three reports to Congress. The Commission has therefore adopted the Further NPRM in order to: (1) "Initiate" the general rule making and monitoring/reporting proceedings required by the Operator Services Act; (2) propose the required rules; (3) invite any additional comments that are necessary beyond those submitted in response to our initial Notice of Proposed Rule Making (NPRM) in CC Docket No. 90–313 55 FR 29639, July 20, 1990; (4) solicit the information that must be examined in the monitoring/reporting proceeding; and (5) declare that, under the Act, the access and payphone compensation issues must be considered in a separate proceeding.

2. First, the Commission notes that the Further NPRM will formally initiate the "general" rule making proceeding required by the Operator Services Act. In order to ensure that the Act is satisfied by this rule making proceeding, the Further NPRM proposes new, comprehensive rules that are modeled directly on the text of the Act. These new rules will supersede those proposed on the initial NPRM. The Commission seeks comment on the new proposed rules set out below and asks that interested parties pay special attention in their comments to provisions that differ significantly from the rules proposed in the initial NPRM. The Commission emphasizes, however, that parties need not repeat the views contained in their previously submitted comments. Full consideration will be given to all relevant comments, including those filed during the initial stages of this proceeding.

3. Several of the new proposed rules depart somewhat from the treatment given the same topics in the initial NPRM. For example, the new rules would require double branding and the posting of the address of the Bureau's Enforcement Division on or near aggregator telephones, while the earlier proposed rules required only single branding and did not require the latter posting. The new rules also prohibit operator service providers (OSPs) from charging for most unanswered calls and aggregators from placing a higher surcharge on access code calls than on calls using the presubscribed OSP, topics on which the Commission did not originally propose rules. Further, the new rules would only prohibit, as the Act does, the blocking of 800 and 950 access, while the original proposed rules would have prohibited 10XXX blocking as well. At the same time, the new rules, like the Act, require only new aggregator equipment to have the 10XXX access capability; the Commission originally proposed that both new and existing equipment be required to have this capability. The Commission has also proposed a definition section, which was not contained in the initial NPRM, and a somewhat different splashing rule based on the Act.

4. As required by the Act, the Commission also proposes a rule that establishes minimum standards for the routing and handling of emergency calls by OSPs. While the proposed rule requires that only calls made via an "emergency" dialing sequence (e.g., "O," "911") be covered by the rule, the Commission seeks comment on whether it is possible for an OSP to receive emergency calls that are initiated in some other way. The Commission also tentatively concludes that when an OSP connects a call to the "appropriate emergency service of the call's originating location," the call must be routed not only to the proper type of service but also to the service that serves the caller's particular location.

5. In addition, the Commission proposes a rule directing OSPs to disseminate, to inquiring consumers, information about recent changes in operator services and in the choices available to consumers in that market. This rule would require an OSP to make available, upon request, written information that describes not only its own services and recent changes in those services, but also the services and trends in the industry as a whole. The information must also include

descriptions of any recent changes in the choices available to consumers in the operator services market and the methods by which they may exercise those choices. The Commission does not, however, intend that OSPs be required to publish lengthy details about their competitors' rates and services but, rather, simply generic descriptions of any recent innovations in services and consumer choices. Comment is sought on how detailed this information must be to satisfy section 226(d)(4)(B) of the Operator Services Act, which is the statutory basis of the proposed rule.

6. The Further NPRM also serves to initiate the monitoring/reporting proceeding required by section 226(h)(3) of the Act. In this proceeding, the Commission must: Monitor operator service rates; determine the extent to which offerings made by OSPs improve operator services in various respects; report on operator service rates, incidence of complaints, and service offerings (both in the aggregate and with respect to particular OSPs); consider the effect of commissions and various other costs of doing business on the rates operator service providers charge consumers; and monitor compliance with the Act, including the periodic placement of telephone calls from aggregator locations. Under the Act, the Commission must report on the progress of this proceeding 5, 11, and 23 months after its initiation.

7. Issues raised by the monitoring/reporting proceeding and by the reporting requirements proposed below are designated "Phase II" of CC Docket No. 90-313. Comments on these issues must be filed separately from those on all other issues in this docket and must be labeled "CC Docket No. 90-313—Phase II."

8. In order to monitor and report on the specified aspects of the operator services industry, the Commission concludes that it will need information beyond that provided by the informational tariffs that OSPs will file under section 226(h)(1). Hence, the Commission proposes that OSPs be required to file additional information with the Common Carrier Bureau. This information would have to be filed not later than 6, 9, 15, and 21 months after release of the Further NPRM.

9. First, the Commission proposes that OSPs be required to submit compilations of their rates at each of the intervals noted above. It tentatively concludes that each report should state the percentage change in each rate element since January 1, 1991, or since the date of the last report, whichever is more recent.

10. Next, the Commission proposes to require each OSP to file, at the intervals noted above, a statement of the number of complaints each OSP has received each month since January 1, 1991, or since the date of its last report, whichever is more recent. This statement should include both complaints received directly from consumers and complaints filed with this Commission or other governmental bodies and should indicate the incidence of complaints, i.e., the number of complaints received divided by the number of calls attempted by consumers during each month covered by the report. The Commission proposes that the reports cover all complaints. The reports should, when possible, indicate the actual numbers of interstate and intrastate complaints and the percentages of total complaints that those numbers represent. If and only if such a distinction cannot be made, the reports should include the total number of complaints and an estimate of the percentage of complaints that relate to interstate calling. The reports should also classify and quantify the complaints using the following categories: (1) Rate charged; (2) blocking of access to carriers other than the presubscribed one; (3) call splashing; (4) call quality; (5) failure to comply with other statutory requirements or FCC rules; and (6) other complaints.

11. So that the Commission may consider the effect that commissions and other various costs have on overall consumer rates, it proposes to require OSPs to file certain cost data. Specifically, the Commission proposes to require OSPs to state their total capital investment, total expenses, and total revenue for the period from January 1, 1991 to the date of each report. Reports of expenses should separately state the amounts of commissions and surcharges that OSPs pay as well as their costs for billing and validation, total salaries and other benefits to officers and employees, and all other expenses.

12. The Commission also asks commenters to address the extent to which service offerings made by operator service providers are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market. Commenters are also invited to discuss how the Commission can best monitor compliance with the provisions of section 226 of the Act, as required by section 226(h)(3)(A)(v), for purposes of submitting the reports to Congress required by section 226(h)(3)(B).

13. In the initial NPRM, the Commission proposed a rule prohibiting the blocking of 10XXX access. The Operator Services Act, however, clearly directs the Commission to conduct a "[s]eparate" rule making to make determinations on two issues: access, i.e., whether 10XXX access must be unblocked and whether carriers must establish 800 or 950 access; and whether to prescribe compensation for owners of competitive public payphones for calls not routed through their presubscribed OSP. The Commission therefore concludes that the access and payphone compensation issues should not be addressed in this proceeding and that the record established to date on these issues will be made a part of the later separate proceeding.

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

15. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission has determined that the proposals contained in the Further NPRM may have some impact on small entities due, in part, to the proposed information posting and reporting requirements. Public comment is requested on the further initial regulatory flexibility analysis set out in the full Further NPRM.

16. This notice and comment rule making proceeding is non-restricted. § 1.1206(a) of the Commission's Rules, 47 CFR 1.1206(a), contains provision governing permissible *ex parte* contacts.

Ordering Clauses

17. Accordingly, *it is ordered,* Pursuant to section 1, 4(i), 4(j), 201–205, 218, 226, and 3039(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 226, 303(r), that a further notice of proposed rule making is issued, proposing the amendment of 47 CFR Parts 64 and 68 as set forth below.

18. *It is further ordered,* Pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, that all interested parties may file comments on the matters discussed in this Further NPRM and on the proposed rules contained below by January 22, 1991, and reply comments by February 6, 1991. Comments on issues designated for CC

Docket No. 90–313—Phase II are also due on these dates. Phase II comments must be filed separately from comments on other issues in this docket and must include the designation "CC Docket No. 90–313—Phase II" in the caption of the comments. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants which each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

19. *It is further ordered,* That the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

20. *It is further ordered,* That the Secretary shall cause a copy of this Further NPRM, including the Further Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a) (1981). The Secretary shall also cause a summary of this Further NPRM to appear in the **Federal Register**

List of Subjects in

47 CFR Part 64

Communications Common Carriers, Telephone.

47 CFR Part 68

Communication Common Carriers, Communications equipment, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

It is proposed that part 64 of title 47 of the Code of Federal Regulations be amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 is revised to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 48 Stat. 1070, as amended, 1077, 47 U.S.C. 201, 218, 226, unless otherwise noted.

2. A new § 64.703 is added to read as follows:

§ 64.703 Consumer information.

(a) Each provider of operator services shall:

(1) Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected; and

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer,

(i) A quotation of its rates or charges for the call;

(ii) The methods by which such rates or charges will be collected; and

(iii) The methods by which complaints concerning such rates, charges, or collection practices will be resolved.

(b) Each aggregator shall post on or near the telephone instrument, in plain view of consumers:

(1) The name, address, and toll-free telephone number of the provider of operator services;

(2) A written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

(3) The name and address of the Enforcement Division of the Common Carrier Bureau of the Commission (FCC, Enforcement Division, CCB, Room 6202, Washington, DC 20554), to which the consumer may direct complaints regarding operator services.

(c) *Additional requirements for first 3 years.* In addition to meeting the requirements of paragraph (a) of this section, each presubscribed provider of operator services shall, during the 3-year period beginning on the effective date of this section, identify itself audibly and distinctly to the consumer, not only as required in paragraph (a)(1) of this section, but also for a second time before connecting the call and before the consumer incurs any charge.

(d) *Effect of state law or regulation.* The requirements of paragraph (b) of this section shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (b) of this section.

(e) Each provider of operator services shall ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

3. A new § 64.704 is added to read as follows:

§ 64.704 Call blocking prohibited.

(a) Each aggregator shall ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer.

(b) Each provider of operator services shall:

(1) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (a) of this section; and

(2) Withhold payment (on a location-by-location basis) of any compensation, including commission, to aggregators if such provider reasonably believes that the aggregator is blocking access to interstate common carriers in violation of paragraph (a) of this section.

4. A new § 64.705 is added to read as follows:

§ 64.705 Restrictions on charges related to the provision of operator services.

(a) A provider of operator services shall:

(1) Not bill for unanswered telephone calls in areas where equal access is available;

(2) Not knowingly bill for unanswered telephone calls where equal access is not available;

(3) Not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

(4) Except as provided in paragraph (a)(3) of this section, not bill for a call that does not reflect the location of the origination of the call; and

(5) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

(b) An aggregator shall ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

5. A new § 64.706 is added to read as follows:

§ 64.706 Minimum standards for the routing and handling of emergency telephone calls.

Upon receipt of any emergency telephone call initiated through use of a dialing sequence associated with such calls (e.g., "0," "911") in the call's originating location, a provider of operator services shall immediately connect the call to the appropriate emergency service of the call's originating location.

6. A new § 64.707 is added to read as follows:

§ 64.707 Public dissemination of information by providers of operator services.

Providers of operator services shall regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.

7. A new § 64.708 is added to read as follows:

§ 64.708 Definitions.

As used in §§ 64. 703 through 64.707 and 68.318, 47 CFR 64.707, 68.318:

(a) The term *access code* means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence;

(b) The term *aggregator* means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(c) The term *call splashing* means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location;

(d) The term *consumer* means a person initiating any interstate telephone call using operator services;

(e) The term *equal access* has the meaning given that term in appendix B of the Modification of Final Judgment entered by the United States District Court on August 24, 1982, in *United States* v. *Western Electric,* Civil Action No. 82–0192 (D.D.C. 1982), as amended by the Court in its orders issued prior to the effective date of this section;

(f) The term *equal access code* means an access code that allows the public to obtain an equal access connection to the carrier associated with that code;

(g) The term *operator services* means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(1) Automatic completion with billing to the telephone from which the call originated; or

(2) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(h) The term *presubscribed provider of operator services* means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code;

(i) The term *provider of operator services* means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

It is proposed that part 68 of title 47 of the Code of Federal Regulations be amended as follows:

PART 68—[AMENDED]

1. The authority citation for part 68 is revised to read as follows:

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 226, 313, 314, 403, 404, 410, 602, 48 Stat., as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102, 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 226, 313, 314, 403, 404, 410, 602, unless otherwise noted.

2. Section 68.318 is amended by adding paragraph (d) to read as follows:

§ 68.318 Additional limitations.

* * * * *

(d) *Requirement that registered equipment allow access to common carriers.* Any equipment or software manufactured or imported on or after April 17, 1992, and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes. The terms used in this paragraph shall have the meanings defined in § 64.708, 47 CFR 64.708.

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BILLING CODE 6712–01–M

47 CFR Part 76

[MM Docket No. 90–4, FCC 90–412]

Cable Service; Effective Competition Standard for Cable Basic Service Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts a Further Notice of Proposed Rule Making (Further Notice) which finds that the existing three signal standard for determining whether a cable system is subject to effective competition is no longer valid, and solicits further comment regarding the relevant revised effective competition standard and/or standards for rate regulation. The action is taken as a followup to the Notice of Proposed Rule Making (Notice) (See 55 FR 4208, February 7, 1990) which stated the Commission's belief that changed circumstances in the video marketplace warranted reexamination of the "three signal standard." The comments issued in response to that decision indicate that an effective competition standard based on three over-the-air broadcast signals is no longer valid. Thus, this Further Notice proposes alternative tests for effective competition, and seeks comment on specific aspects of the proposals for changing the effective competition standard and standards for rate regulation.

DATES: Comments are due by January 31, 1991, and reply comments are due by February 15, 1991.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Mass Media Bureau, Policy and Rules Division, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making in MM Docket No. 90–4, adopted December 13, 1990, and released December 31, 1990. The complete text of this Further Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription

Services, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Further Notice of Proposed Rule Making

1. The Commission, in this Further Notice, finds that the existing three signal standard for determining whether a cable system is subject to effective competition no longer reflects effective competition to the full range of cable service. The Commission believes that the standard should be modified to take into account the possible sources of cable's market power. After a review of the record in this proceeding, the Commission proposes a multiple-option effective competition standard that includes alternative structural tests and a behavioral test not previously addressed in this proceeding. The Commission seeks comment on the proposed effective competition standard which balances its desire to minimize unnecessary regulatory constraints upon cable operators against the concern that local cable systems can exert undue market power to the detriment of consumers. The Further Notice also addresses proposed standards for the regulation of basic service rates by franchising authorities in the absence of effective competition. The Commission invites comment on the proposals set forth in the Further Notice, and encourages parties to suggest alternatives that will enable franchising authorities to regulate basic cable service rates where effective competition does not exist.

2. Section 623 of the Cable Communications Policy Act of 1984 (Cable Act) permits, but does require, local franchising authorities to regulate basic service rates only in this situation where the cable system is not subject to "effective competition." (See 47 U.S.C. 543.) The Cable Act directed the Commission to define the circumstances in which a cable system is not subject to effective competition and to establish standards for the regulation of basic cable rates by local franchising authorities in such cases. (See 47 U.S.C. 543(b)(2)(A) and (b)(2)(B). Under existing Commission rules, a cable system is deemed subject to effective competition if at least three unduplicated broadcast television signals are available over the entire cable community. The Commission also has established procedural requirements for those franchising authorities that choose to regulate basic cable rates, although the specific rate-setting methodology used to set the basic service rate is left to the local franchising authorities.

3. Section 623 of the Cable Act also requires that the Commission periodically review its regulations, taking into account developments in technology. The Notice initiating this proceeding was adopted to undertake such a review in light of changed circumstances in the video marketplace since the three signal standard was adopted. Specifically, the Notice requested comment on whether the three signal standard remains valid, or whether some alternative standard would provide a more accurate determination of effective competition.

4. There is a consensus among commenters responding to the Notice that the three signal standard is no longer a viable measure of effective competition because it does not reflect today's video marketplace. This record supports the Commission's initial determination regarding the need to redefine effective competition because the three over-the-air signal standard no longer provides a correct measure of effective competition to the full range of cable service. Based upon data from the rate survey conducted by the FCC in conjunction with the General Accounting Office, the Commission finds that the most widely subscribed-to tier of service has expanded to include significant amounts of programming beyond the retransmission of local broadcast signals. Moreover, audience statistics indicate that nonbroadcast cable programming has attracted an increasing share of the audience in cable homes. Furthermore, while a Commission analysis of the services provided by cable television systems indicates that the availability of comparable off-air broadcast television service is a good substitute for cable's "antenna service" function, it also finds that a small number of broadcast signals alone generally cannot deliver service comparable to the unique cluster of programming services delivered directly to the home.

5. In the Further Notice, the Commission finds that there are a number of ways to measure effective competition and that no one factor, taken in isolation, can necessarily measure the existence or lack of effective competition. Cable's market power is derived from a variety of sources whose influence varies because of different local circumstances. Thus, the Commission believes that a revised standard must set forth a number of alternative conditions, any one of whch can be presumed to indicate the presence of effective competition. Accordingly, the Commission proposes that effective competition would be presumed to exist if any of the following conditions are met: (1) Six unduplicated over-the-air broadcast television signals are available in the cable community and cable penetration is below 50 percent; (2) an independently owned, competing multichannel video delivery system is available to 50 percent of the homes passed by the incumbent cable system and subscribed to by at least 10 percent of the homes passed; or, (3) a behavioral test would find a cable system subject to effective competition if it (a) Offers a basic tier of service at a rate, and perhaps a quantity, comparable to that offered in other communities where effective competition is found to exist or where rates otherwise appear to have been held to a reasonable competitive level, and (b) meets specified customer service standards.

6. The first alternative criterion would require that at least six unduplicated over-the-air broadcast signals be available in the cable community in combination with a cable penetration of less than 50 percent. The Commission believes that the presence of six over-the-air signals will be adequate to ensure that competitive choices are present, in sufficient quantity and diversity, in the franchise area. However, the Commission is also aware that consumers with individual antennas may not always enjoy good reception from signals "technically" available in their communities. Thus, the Commission believes that signal availability should be considered in conjunction with a less than 50 percent cable penetration criterion which will provide evidence that there are likely to be adequate alternatives to the antenna function and programming services provided by the cable operator.

7. The second alternative condition under which the Commission would find that effective competition exists is if a competing, independently owned, multichannel video delivery service operates in the cable community. Such services could include a second competitive cable system, wireless cable system, satellite matter antenna systems, home satellite dish serivce or direct broadcast satellite systems. The Further Notice proposes that at least 50 percent of the homes passed by the incumbent cable system be capable of receiving the alternative services. Such a criterion should be sufficient to indicate that an alternative really exists in the cable community and will result in pro-consumer competitive responses by incumbent cable operators. The Commission also believes that the alternative video providers should meet

a penetration criterion of 10 percent or more to demonstrate that the alternative video providers offer service that consumers view as a substitute for the incumbent cable television system.

8. The Commission recognizes that its structural tests for effective competition may not capture or reflect all competitive forces that, taken together, have a price disciplining effect on cable services. While the Commission seeks to restrain the pricing of basic cable service where effective competition is not apparent, it also is intent on minimizing unnecessary regulatory burdens on cable systems. Therefore, the Commission believes that consumer interests in receiving cable service at reasonable rates can be protected without direct rate regulatrion by using a behavioral test in addition to the structural tests identified above. This behavioral standard would test whether the cable operator provides a basic service tier at a competitive price level, as well as a minimum level of customer service.

9. Under the first part of this behavioral test, a cable system would be deemed to be subject to effective competition, whatever the source, if it offered a basic tier of service corresponding in rates, and perhaps in quantity, to those in communities where effective competition is readily apparent. In order to implement this proposal, the Commission must specify the relevant pricing, and perhaps complement of signals. The Commission believes that the most appropriate benchmarks for this competitive tier should be determined by analyzing basic cable service in communities subject to effective competition under our new structural tests. As this information will not be available until some time after the new structural standard becomes effective, however, the Commission proposes alternative transitional behavioral standards.

10. One possible method for determining transitional benchmarks would be to specify a minimum number of channels and a maximum aggregate price for the basic tier to ensure that cable subscribers receive a reasonable amount of programming at a competitive price. One approach would be to base this standard on each cable system's pre-deregulation price adjusted upward to reflect inflation rather than to establish national benchmarks for this competitive package. Alternatively, the Commission might establish national benchmarks for this competitive package based on the number of basic service channels and the price of basic service offered by the median or average cable system in the FCC/GAO rate study.

11. As an additional alternative, the Commission could set a maximum per channel price for the basic cable service without specifying any minimum number of channels that cable operators must include in their basic service. As in the proposal above, the average price per channel could be based on the data for the median or average system in the FCC/GAO rate survey.

12. In addition, the Further Notice suggests a possible modification to the last proposal that would specify more than simply a maximum per-channel price. For example, in order to ensure that basic cable service is available to consumers at a reasonable price, the Commission could specify a maximum aggregate price that would prevent operators from offering a basic tier with so many channels that, while reasonable on a price-per-channel basis, it would cost more than subscribers could be reasonably expected to pay for such service. The Commission could also consider a basic tier service floor to ensure that a system meeting the behavioral standard carries at least a minimum number of basic service channels.

13. Under the second part of this behavioral test, the cable system would be required to certify to the local franchising authority, on an annual basis, that it has fully complied with specific customer service standards. The Commission proposes using the National Cable Television Association's (NCTA's) voluntary customer service standards which are set forth in Appendix D of the full text of this Further Notice, as the basis for this requirement. These standards establish a minimum level of customer service in three main areas: office and telephone availability; installations, outages and service calls; and communications, bills and refunds.

14. The Cable Act also requires the Commission to establish standards for the regulation of basic cable service rates by local franchising authorities whenever the cable system does not face effective competition. The current rules impose procedural requirements upon franchising authorities exercising their right to regulate basic rates. Franchising authorities must give: (1) Formal notice to the public; (2) opportunities for interested parties to make their views known; and (3) a formal statement to the public including a summary explanation, when a decision on a rate matter is made. The Further Notice seeks comment on whether additional procedural requirements are warranted.

15. With respect to substantive for use by local franchising authorities in their regulation of basic cable service rates, the Cable Act gives the Commission considerable flexibility in setting such standards. The Commission believes it appropriate and consistent with prevailing precedent in this area that, in setting or approving rates, franchising authorities take into account costs such as direct capital costs, programming, labor, and ancillary costs attributable to obtaining and transmitting signals carried on the basic tier, increases in such costs, and the cost of any franchise-imposed requirements not directly related to the provision of cable service, as well as a reasonable profit. At the same time, because each cable system operates under its own franchise agreement and is subject to different costs depending, in part, on the provisions of that franchise agreement, the Commission proposes to rely generally on municipalities to determine or approve specific rates is appropriate. Therefore, the Commission seeks comment on its proposal that the standard franchising authorities use in regulating basic cable rates in the absence of effective competition allow a fair return taking into account, at a minimum, the specific factors identified above. The Commission also requests comment on whether disputes arising with respect to whether the franchising authority has appropriately applied the standard should or can be resolved in the courts.

Paperwork Reduction Act Statement

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

Initial Regulatory Flexibility Act Analysis

17. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds:

I. *Reason for action.* The Cable Communications Policy Act of 1984 requires the Commission to periodically review its rules regarding the regulation of basic cable service rates. An analysis of changes in the video marketplace since these rules were adopted in 1985 led us to adopt the Notice of Proposed Rule Making (Notice) in this proceeding in order to reexamine the "effective

competition" standard and standards for rate regulation and to consider revisions to them. The Notice raised a wide variety of alternatives for the regulation of basic service rates. Based on the comments received in response to the Notice, we now seek comment on more specific proposals.

II. *Objectives.* To consider alternative definitions for "effective competition" and modifications to the standards for rate regualtion to ensure that local franchising authorities are permitted to regulate basic cable rates in situations where a cable system has significant market power. We also desire to adopt rules that will be easily interpreted and readily applicable and, whenever possible, minimize any unnecessary regulatory burden on affected parties.

III. *Legal basis.* Action as proposed for this rule making is contained in sections 4(i), 303 and 543(b)(3) of the Communications Act of 1934, as amended.

IV. *Description, potential impact and number of small entities affected.* The proposed effective competition standard is likely to subject additional cable television systems to rate regulation of their basic cable service by their franchising authorities. However, as these cable systems may or may not be rate regulated, at the discretion of the franchising authority, we are unable to estimate the number of cable systems that would be affected by any of the proposals discussed in the *Further Notice of Proposed Rule Making.*

V. *Reporting, recordkeeping and other compliance requirements:* The proposals under consideration in this Further Notice of Proposed Rule Making include the possibility of new reporting and recordkeeping requirements for cable systems.

VI. *Federal rules which overlap, duplicate or conflict with this rule:*

None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives:* In response to the initial regulatory flexibility analysis included in the Notice, Southwest Missouri Cable TV, the only commenter to directly address the Initial Regulatory Flexibility Act analysis, and a number of other small cable operators requested that any new standards exempt small cable systems (*e.g.*, less than 1,000 subscribers) from rate regulation even when effective competition does not exist. Before adopting any new rules, we will evaluate the impact on small systems and give due consideration to this proposal.

18. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Further Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Further Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte Consideration

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

Comment Information

20. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before January 31, 1991, and reply comments on or before February 15, 1991. No extension of these comment deadlines is contemplated. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Proposed Rules

PART 76—[AMENDED]

Part 76 of chapter I of title 47 of the Code of Federal Regulations is proposed to be amended to read as follows:

1. Section 76.33 is proposed to be amended by revising paragraph (a) to read as follows:

§ 76.33 Standards for rate regulation.

(a) Effective _____, a franchising authority may regulate the rates of a cable system subject to the following conditions (cable systems that were subject to rate regulation prior to this date will remain subject to that regulation pending demonstration that they may not be regulated pursuant to this section):

(1) Only basic cable service as defined in § 76.5(ii) may be regulated;

(2) Only cable systems that are not subject to effective competition may be rate regulated. A cable system will be determined to be subject to effective competition whenever any one of the following conditions are met:

(i) 100 percent of the cable community receives service from at least six unduplicated broadcast television signals and cable penetration in the cable community is less than 50 percent. It is not necessary that the same six signals provide service to the entire community. Signals shall be counted on the basis of their predicted Grade B contour (as defined in § 73.683 of the rules) or whether they are significantly viewed within the cable community, as defined in § 76.54 (b) and (c) of the rules. A signal that is significantly viewed shall be considered to be available to 100 percent of the cable community. A translator station authorized to serve the cable community is to be counted in the same manner as a full-service station, except that its coverage area shall be based on its protected contour as specified in § 74.707 of the rules, provided that the translator is not used to retransmit a station already providing a Grade B contour or significantly viewed signal within the cable community. Cable penetration must be determined as the number of households that subscribe to cable service divided by the number of homes passed by the cable system, expressed as a percentage. Homes passed is defined as the number of homes to which cable service is available without a line extension.

Note: For purposes of this section, "unduplicated broadcast television signal" is defined as one which does not duplicate more than 50 percent of another signal's prime time schedule pursuant to the definition of "prime time" provided in § 76.5(n).

(ii) An independently owned, multichannel video delivery service is available to 50 percent of the homes passed by the cable system, and at least 10 percent of those homes actually subscribe to the service. Video delivery services that may be counted include, but are not necessarily limited to, a competing cable system, "wireless cable", satellite master antenna television (SMATV), home satellite dishes (HSD), and direct broadcast satellites (DBS). It is not necessary that the same multichannel video delivery service be available throughout the area. Availability of a competing cable

system will be determined by comparing the number of homes passed by such system with the number of homes passed by the incumbent cable system. This competing cable system penetration will be determined as specified in § 76.33(a)(2)(i). Availability and penetration information for the other multichannel video delivery services may be obtained from publicly available sources, from the operator directly, or from specifically undertaken audits. DBS will be considered to be available to the entire United States when any one such service becomes operational.

Note: For purposes of this section, "independently owned" is defined as _____.

(iii) The cable system meets the Commission's behavioral test for effective competition.

(3) The Commission may grant waivers of the effective competition standard where the filing party submits one or more of the following showings, as appropriate:

(i) The availability of broadcast signal(s) with engineering studies in accordance with § 73.686 of the Commission's rules or by other showings that such Grade B level signals are (or are not) in fact available within the community. In performing the engineering studies noted above, cluster measurements, as provided in § 73.686(b)(2)(viii), may be taken in place of mobile runs as provided in § 73.686(b)(2)(v). Responsibility for the cost of engineering studies undertaken to refute the predicted availability of Grade B service will fall on the party that loses in the waiver proceeding. Any party intending to obtain this study must first inform the other party and provide it an opportunity to negotiate a resolution. Parties not taking this first step will be assigned full responsibility for the study costs.

(ii) The penetration of a cable system, incumbent or competing, based on a survey of cable households passed and cable subscribers, if the filing party is a franchising authority, or more recent data if the filing party is a cable system;

(iii) The availability or penetration of alternative video delivery technologies with additional information.

(4) A cable system, once determined to be subject to effective competition after the effective date of this section, shall not be subject to regulation for six months after any change in market conditions which would cause it to be determined not to be subject to effective competition. When a cable system not subject to effective competition becomes subject to effective competition due to any change in market conditions, the right of the local franchising authority to regulate the basic cable service rates of such cable system shall terminate immediately. In instances where disputes arise between a cable system and a franchising authority regarding the changed circumstances, the status quo shall be maintained until the matter is resolved either by the parties or the Commission.

(5) Franchising authorities setting regulated basic cable service rates pursuant to this section shall allow a fair return taking into account appropriate costs, including, but not necessarily limited to, direct capital costs, programming, labor, and ancillary costs attributable to obtaining and transmitting signals carried on the basic tier, increases in such costs, and the cost of any franchise-imposed requirements not directly related to the provision of cable service, as well as a reasonable profit.

* * * * *

2. Section 76.54 is proposed to be amended by revising paragraph (c) to read as follows:

§ 76.54 Significantly viewed signals; method to be followed for special showings.

* * * * *

(c) Notice of a survey to be made pursuant to paragraph (b) of this section shall be served on all licensees or permittees of television broadcast stations within whose predicted Grade B contour the cable community or communities are located, in whole or in part, and on all other system community units, franchisees, and franchise applicants in the cable community or communities at least (30) days prior to the initial survey period. Furthermore, if a survey is undertaken pursuant to the provisions of § 76.33(a)(2)(i) of the rules, notice shall also be served on the franchising authority. Such notice shall include the name of the survey organization and a description of the procedures to be used. Objections to survey organizations or procedures shall be served on the party sponsoring the survey within twenty (20) days after receipt of such notice.

* * * * *

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-157 Filed 1-3-91; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1145

[Ex Parte No. 394 (Sub-No. 3)]

RIN 3120-AB47

Cost Ratios for Recyclables; Compliance Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to modify its regulations on railroad freight rates on recyclable commodities to provide that: (1) Statutory cap revenue/variable cost ratios will be determined for regions and individual carriers in addition to a national cap ratio; (2) each annual proceeding will be initiated by a decision of the Commission containing the procedural schedule for the proceeding, rather than being governed by a schedule of specific dates contained in the regulations; and (3) cap ratios will be announced at the beginning of each annual proceeding conducted under the regulations, rather than in the final decision in the proceeding. These modifications are necessary to adapt the regulations for use with the Commission's recently adopted Uniform Railroad Costing System (URCS) and to permit more efficient scheduling of the annual proceedings. The effect of the modifications will be that cap ratios for the various regions and individual carriers will reflect the differing cost variabilities of these regions or carriers under URCS, that the annual proceedings will begin each year as soon as the necessary cost data become available, and that the cap ratios will be made known earlier in the annual proceedings.

The Commission also announces its intention to conduct the first annual proceeding under the regulations in Ex Parte No. 394 (Sub-No. 8), *Cost Ratios for Recyclables—1991 Determination.* This action is necessary to relieve interested parties and the Commission of the expense and burden of conducting a proceeding for 1990 that appears to be unneeded. The effect of this action will be that any rate challenges relating to 1990 would be handled by complaint, as in previous years, and that the determinations made in the first annual proceeding under the regulations will govern during 1991.

DATES: Comments on the proposed rule changes and on the designation of Ex Parte No. 394 (Sub-No. 8) as the first annual proceeding under the regulations

must be filed on or before February 4, 1991. Replies to the comments, if any, must be filed on or before February 25, 1991.

ADDRESSES: An original and 10 copies of comments should be sent to: Office of the Secretary, Case Control Branch, ATTN: Ex Parte No. 394 (Sub-No. 3), Interstate Commerce Commission, Washington DC 20423. A copy of comments and replies must also be sent to each party of record on the service list in this proceeding.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: The regulations in part 1145 were adopted by a notice of final rule published October 17, 1989 (54 FR 42509). Institution of the first annual proceeding under those regulations was announced February 23, 1990 (55 FR 6489) and postponed pending further order of the Commission April 30, 1990 (55 FR 18034). The procedural schedule set forth in part 1145, as it applies to a proceeding to be conducted beginning September 15, 1990, was postponed pending further order of the Commission September 7, 1990 (55 FR 36915).

Additional information concerning the proposed modifications of the regulations and the designation of Ex Parte No. 394 (Sub-No. 8) as the first annual proceeding under the regulations is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275–7428. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

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

List of Subjects in 49 CFR Part 1145

Railroads, Reporting and recordkeeping requirements.

Decided: December 21, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble and explained fully in the decision, title 49, chapter X, part 1145 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1145—RAILROAD RATES ON RECYCLABLE COMMODITIES

1. The authority citation for part 1145 continues to read as follows:

Authority: 49 U.S.C. 10321, 10731, and 10707a; 5 U.S.C. 553.

2. Sections 1145.1 and 1145.2 are proposed to be revised to read as follows:

§ 1145.1 Definitions.

(a) For the purpose of this part, *recyclable commodities* means recyclable material as defined at 49 U.S.C. 10731(a)(1), other than recyclable or recycled iron or steel. Commodities are to be specified at the five digit Standard transportation Commodity Code (STCC) level, unless exceptions are requested and justified as provided in § 1145.4(a).

(b) *Costs determined pursuant to 49 U.S.C. 10705a(m)* means *unadjusted costs* calculated pursuant to the procedures developed in Ex Parte No. 389, "Procedures for Requesting Rail Variable Cost and Revenue Determinations for Joint Rates Subject to Surcharge and Cancellation," as amended, with two exceptions. For the purpose of this part, parties are to use actual shipment weight as shown in the way bill file (rather than tariff minimum weight), and route miles as calculated in the Princeton Railroad Network model and entered in the waybill file (rather than short line miles increased for circuity).

(c) *Statutory cap levels* means the railroad revenue-to-variable-cost ratio level referred to the 49 U.S.C. 10731(e), determined:

(1) As a national ratio;

(2) As regional ratios for the Eastern and Western regions; and

(3) As individual carrier ratios for each Class I railroad.

These cap ratios are intended to be compared to actual revenue/variable cost ratios produced by railroad rates, computed as national, regional, and in some cases individual carrier, averages. See § 1145.4(b) and (f).

(d) *Pertinent statutory cap level* means the cap ratio level that is computed on the same territorial or carrier basis as the actual ratio to which it is compared. For example, the cap level pertinent to an actual ratio produced by rates of all carriers in the Eastern region is the cap level for the Eastern region. The cap level pertinent to an actual ratio produced by the rates of a single Class I carrier is the cap level for that carrier.

(e) *Above-cap rate* means an individual rate that produces a revenue/variable cost ratio above the pertinent statutory cap level.

(f) *Above-cap rate group* means a rate group specified in § 1145.4(b) that produces an average revenue/variable cost ratio above the pertinent statutory cap level. The term may relate either to a railroad industry rate group or to an individual carrier rate group for which a determination is made under § 1145.5(a).

(g) *Rate (or rate group) determined to be above the cap level* means a rate (or rate group) that had or would have an above-cap status as the effective date of an increase in the rate, under the latest effective determination made by the Commission concerning the status of the rate on that date, whether made in an annual proceeding under § 1145.5 or in another proceeding.

(h) *Below-cap rate (or rate group)* means a rate (or rate group) that produces a revenue/variable cost ratio equal to or below the pertinent statutory cap level.

§ 1145.2 Purpose.

These rules establish procedures by which the Interstate Commerce Commission will ensure continued compliance by the Nation's railroads with the statutory cap on freight rates for recyclable commodities established in 49 U.S.C. 10731(e). The Commission will:

(a) Determine annually the statutory cap levels to apply for the ensuing calendar year;

(b) Determine annually the regional and national average revenue/variable cost ratios produced by rates on recyclable commodities and identify the recyclable commodities having territorial average ratios above the statutory cap levels;

(c) Determine annually, in response to shipper requests, the revenue/variable cost ratios produced by rates on individual movements of recyclable commodities and identify the movements having ratios above the statutory cap levels; and

(d) Regulate rate increases on recyclable commodities, including increases under 49 U.S.C. 10707a(a)–(d), to prohibit increases in rates with ratios above the statutory cap levels and to prevent increases in other rates from raising the ratios on those rates above the cap levels.

§§ 1145.4, 1145.5, 1145.6, 1145.7 and 1145.8 [Redesignated from §§ 1145.3, 1145.4, 1145.5, 1145.6 and 1145.7].

3. Sections 1145.3, 1145.4, 1145.5, 1145.6 and 1145.7 are proposed to be redesignated as §§ 1145.4, 1145.5, 1145.6, 1145.7 and 1145.8. A new § 1145.3 is

added and newly redesignated §§ 1145.4, 1145.5, 1145.6(c) and 1145.7 are revised to read as follows:

§ 1145.3 Annual proceedings: announcement of cap ratios and initiation of proceedings.

(a) *Announcement of cap ratios.* Each calendar year, as soon as the Commission has received and processed the railroads' cost and revenue data from the previous year and announced the Uniform Railroad Costing System (URCS) unit costs for the previous year, the Commission will state the statutory cap levels required by 49 U.S.C. 10731(e), to apply for the ensuing calendar year. These cap levels will be stated:

(1) As a national ratio;

(2) As regional ratios for the Eastern and Western regions; and

(3) As individual carrier ratios for each Class I railroad.

(b) *Initiation of proceedings.* In the same decision in which the Commission states the statutory cap levels, it will announce the institution of a proceeding under these rules and provide a schedule for the filing of evidence and the issuance of a final decision consistent with the time intervals stated in §§ 1145.4 and 1145.5. For the purpose of the stated time intervals, the date of service of the decision announcing the institution of the proceeding is Day 0 (zero).

§ 1145.4 Annual proceedings: submission of evidence.

(a) *Initial railroad submission.* By Day 30 (the 30th day after the service date of the Commission's decision described in § 1145.3(b)), railroads shall file, jointly or separately, certified average revenue/variable cost ratios as described in paragraph (b) of this section for all single-line, joint, and combination rates applicable to each recyclable commodity. Such ratios will be computed on the basis of the railroads' revenues for each commodity and the railroads' costs for that particular transportation determined pursuant to 49 U.S.C. 10705a(m). The Commission's most recently published one percent waybill study will be an acceptable source for computing the average revenue/variable cost ratios determined under this paragraph subject to correction for overstatement of revenues due to 49 U.S.C. 10713 contracts at the option of participating railroads. The recyclable commodity ratios shall be for the applicable five digit STCC code groups. Parties may petition for reconsideration of the STCC level described in § 1145.1(a) by identifying, with adequate justification, specific exceptions that may be appropriate.

(b) *Regional and national average revenue/variable cost ratios required.* The computations described in paragraph (a) of this section will be made so that for each commodity there will be computed a separate average revenue/variable cost ratio for two regional rate groups and one national rate group as follows:

(1) Intra-East;

(2) Intra-West; and

(3) Nationally.

The Commission decision under § 1145.5 for each commodity will be based upon the revenue/variable cost ratios computed for the two regional rate groups wherever the car samples used in computing the regional ratios comprise ten or more cars. Wherever the car sample used in computing a regional ratio comprises nine or fewer cars, the national revenue/variable cost ratio for that commodity will be used for that regional rate group instead of the regional ratio.

(c) *Initial railroad submission available to shippers.* By Day 30, the railroads shall make available to shippers, at a convenient time and a place provided by the railroads, the certified average revenue/variable cost ratios described in paragraph (b) of this section, including the underlying workpapers. The certified average revenue/variable cost ratios submitted by the railroads and the underlying workpapers shall also be made available to shippers during business hours in the Interstate Commerce Commission Building, Public Dockets Room. The underlying workpapers shall be presented to shippers at a level of aggregation sufficient to assure that specific shipper contract or shipment information is not disclosed.

(d) *Shippers to present to appropriate railroads disagreement with certified average revenue/variable cost ratios.* If a shipper disagrees with the certified average revenue/variable cost ratios submitted by the railroads pursuant to paragraph (a) of this section, it shall present its disagreement to the railroads in writing within 7 days of the railroads' filing, or by Day 37, whichever is earliest.

(e) *Railroads and shippers to negotiate changes in submitted certified average revenue/variable cost ratios and submit revised ratios.* Upon receipt of a shipper's written disagreement with any certified average revenue/variable cost ratio submitted by the railroads pursuant to paragraph (a) of this section, the railroads shall negotiate in good faith with the shipper to resolve the disagreement. The railroads and shippers shall submit to the Commission by Day 60 any agreed adjustments to the railroads' initial submissions pursuant to paragraph (a) of this section. To the extent that disagreement remains, the railroads and shippers shall, by Day 60, submit evidence and argument supporting their respective positions.

(f) *Alternate railroad filing in lieu of filing under paragraph (a).* Any individual railroad or railroad system may satisfy the requirements of paragraph (a) of this section with respect to some or all recyclable commodities by submitting by Day 30 the revenue/variable cost ratios produced by single-line or combination rates for movements of the commodities over its lines only. A submission under this paragraph shall be made available to shippers pursuant to paragraph (c) of this section and the provisions of paragraphs (d) and (e) of this section shall also apply.

(g) *Individual rates.* A shipper may establish in any annual proceeding that the rate it actually pays for an individual movement of a recyclable commodity exceeds the pertinent statutory cap level. Submission of evidence on individual rate issues will be governed by the following schedule:

(1) By Day 30, shippers shall file their statements, if any, on individual rates with the Commission and serve them on the railroads. These shall be sworn statements supported by cost evidence, which may be either adjusted or unadjusted, and evidence of actual revenues paid to railroads for shipments made.

(2) The railroads may respond to the shippers' individual rate statements on or before Day 60 by filing sworn statements supported by cost evidence, which may be either adjusted or unadjusted, and evidence of revenues actually collected for shipments transported.

§ 1145.5 Annual proceedings: final Commission decision.

(a) *Date and content of decision.* In a decision to be issued by Day 90 (the 90th day after service of the Commission's decision described in § 1145.3(b)), the Commission will state the regional and national average revenue/variable cost ratio levels produced by the rates for each recyclable commodity and determine which, if any, regional and national rate groups produce ratios exceeding the previously announced statutory cap levels. These rate group determinations will be made not only in relation to rates for the railroad industry overall but also in relation to the rates

of any railroad that has made an acceptable alternative submission under § 1145.4(f). In addition, based on the evidence submitted regarding individual rates, the Commission will state the revenue/variable cost ratios produced by those rates and determine which, if any, of those rates produce ratios exceeding the pertinent statutory cap levels.

(b) *Contingencies.* (1) If for any reason the Commission experiences delay in issuing the final decision, the prior year's final decision shall remain in effect until the issuance of a new decision. At such time as the new decision is issued, its determinations and their consequences (described in § 1145.6) shall apply retroactively, if necessary, so as to cover all recyclable commodity movements transported during the calendar year they govern (the second year after the year of the data on which the determinations are based).

(2) If the Commission is unable to make a requested individual rate determination by the date of the annual decision described in paragraph (a) of this section, it will provide in the decision either:

(i) That the determination will be made in a subsequent decision in the same annual proceeding; or

(ii) That the issue will be transferred to a separate proceeding for disposition.

(c) *Limited scope.* No rate reductions or damages will be ordered and no rate increases will be approved in the annual proceedings conducted under this part, which are solely for determination of the statutory cap levels, revenue/variable cost ratio levels, and above-cap rates and rate groups.

§ 1145.6 Regulation of rate increases.

* * * * *

(c) *Standard of maximum reasonableness.* The reasonable maximum rate level on a recyclable commodity produces a revenue/variable cost ratio equal to the pertinent statutory cap level determined in annual proceedings under this part. A rate increase violates this standard to the extent that it raises a below-cap rate above the cap level, or if it applies to a rate that is already above the cap level.

* * * * *

§ 1145.7 Prospective effect.

The rules established in this part are prospective only. Claims relating to periods prior to adoption of these rules are not affected by the rules. Nevertheless, determinations of statutory cap levels on national, regional and individual carrier bases, as described in § 1145.1(c), apply for calendar year 1989, the first year for which cap ratios were determined under URCS, and for later year, and will serve as the statutory cap levels for rate complaints relating to those years.

[FR Doc. 91–42 Filed 1–3–91; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 56, No. 3
Friday, January 4, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 28, 1990.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Revision

Food and Nutrition Service, 7 CFR part 226 for the Child and Adult Food Program, FNS-82, 341, 342, 343, 344, 345, 345-1, 430, 431, and 433, Recordkeeping; On occasion; Monthly; Annually, Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 749,290 responses; 1,641,337 hours, Winnie McQueen, (703) 756-3607.

Extension

Forest Service, 36 CFR part 223, Disposal of National Forest Timber, Timber export and substitution restrictions, Recordkeeping; one time only, Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 400 responses; 965 hours, Ron Lewis, (202) 475-3755.

New Collection

Food and Nutrition Service, 7 CFR part 226 for the Child and Adult Food Program—Addendum I, Recordkeeping; On occasion; Monthly; Annually, Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 3 hours, Winnie McQueen, (703) 756-3607.

Reinstatement

Animal and Plant Health Inspection Service, 9 CFR part 76—Hog Cholera and Other Communicable Diseases, Recordkeeping, Small businesses or organizations; 103,200 hours, Dr. Davis, (301) 436-8711.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 91-86 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Cheyenne River Sioux Tribe of the Cheyenne River Reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby, creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Cheyenne River Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon December 15, 1990, and shall be made available through April 30, 1991, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on December 27, 1990.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91-87 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Proposed Determinations With Regard to the 1991 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed determination.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1991 crop of rice: (a) The loan and purchase level; (b) loan rate adjustments; (c) whether the Secretary should require producers to purchase marketing certificates as a condition of permitting loan repayment at a reduced level; (d) the level of the established (target) price; (e) whether an acreage reduction program (ARP) should be implemented and, if so, the percentage reduction; and (f) whether an inventory reduction program should be implemented. These determinations are to be made in accordance with the Agricultural Act of 1949, as amended (hereinafter referred

to as the "1949 Act") and the Commodity Credit Croporation Charter Act, as amended.

DATES: Comments must be received on or before January 22, 1991, in order to be assured consideration.

ADDRESSES: Bruce R. Weber, Director, Commodity Analysis Division, USDA–ASCS, room 3741–S, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, P.O. Box 2415, room 3740–S Washington, DC 20013 or call (202) 447–7923.

The Preliminary Regulatory Impact Analysis describing considered options and the impacts of implementing each option is available. This analysis includes estimates of supply/use, prices, changes in Federal outlays, producer receipts and income, and changes in economic impacts for several levels of required reduction under the 1991–crop ARP.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under the U.S. Department of Agriculture (USDA) procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal assistance programs to which this notice applies are: *Title-Rice Production Stabilization:* Number 10.065 and *Title-Commodity Loans and Purchases:* Number 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rule making with respect to the subject of this notice.

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).

The following program determinations with respect to the 1991-crop of rice are to be made by the Secretary.

Proposed Determinations

a. Loan and Purchase Level: Section 101B(a) of the 1949 Act provides that the Secretary shall make loans and purchases available to producers for the 1991 crop of rice at a level that is not less than the higher of: (1) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest; or (2) $6.50 per hundredweight (cwt). The loan level for a crop of rice may not be reduced by more than 5 percent from the loan level determined for the preceding crop. Further, section 101B requires the announcement of the loan and purchase level for the 1991 crop of rice as soon as practicable after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990. A loan shall have a term of not more than 9 months.

Comments are requested as to the level of the loan and purchase rate for the 1991 crop of rice.

b. Loan Rate Adjustments: Section 403 of the 1949 Act provides that appropriate adjustments may be made in the level of the support price for rice for differences in grade, type, quality, location, and other factors. Section 403 further provides that such adjustments shall, insofar as practicable, be made in such manner that the average support price will, on the basis of the anticipated incidence of such factors, equal the statutory support level.

Comments, along with supporting data, are requested regarding: (1) Appropriate loan and purchase rates for different classes of whole kernels; (2) the loan and purchase rate for broken kernels; (3) appropriate state or national average milling outturns for use in determining class loan rates; and (4) appropriate grade discounts.

c. Marketing Loan Certificates: Section 101B(a)(5) of the 1949 Act provides that the Secretary shall permit a producer to repay a loan at a level that is the lesser of (1) the loan level determined for such crop or (2) the higher of the loan level multiplied by 70 percent of the loan level or the prevailing world marketing price for rice, as determined by the Secretary. This section also provides that as a condition of permitting a producer to repay a loan, the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. Such certificates shall be redeemable for commodities owned by CCC valued at the prevailing market price, as determined by the Secretary, or for cash, under such terms and conditions as the Secretary may prescribe. If any such certificate is not presented for marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges shall be deducted from the value of the certificate.

Comments are requested on whether the Secretary should require producers to purchase certificates and, if so, for what percentage of the difference in value between the loan level and the loan repayment rate.

d. Established (Target) Price: Section 101B(c)(1)(A) of the 1949 Act provides that the Secretary shall make payments available to producers for the 1991 crop of rice in an amount computed by multiplying (1) the payment rate, by (2) the payment acres for the crop, by (3) the farm program payment yield established for the crop for the farm.

Section 101B(c)(1)(B) provides that the payment rate for the 1991 crop of rice shall be the amount by which the established (target) price for the crop exceeds the higher of (1) the national average market price received by producers during the first five months of the marketing year for such crop or (2) the loan level for such crop.

This section further provides that the established (target) price for rice shall be not less than $10.71 per cwt for the 1991 crop.

Comments are requested as to the level of the established price for 1991–crop rice.

e. Acreage Reduction Program: Section 101B(e)(2) of the 1949 Act provides that if the Secretary determines that the total supply of rice, in the absence of an acreage reduction program (ARP), will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may implement an ARP. In making such a determination, the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under title XII of the Food Security Act of 1985. If the Secretary elects to implement an ARP for 1991, the Secretary shall announce any such program as soon as practicable after enactment of the Food, Agriculture, Conservation, and Trade Act of 1990.

The Secretary shall carry out an ARP for a crop of rice in a manner that will result in carry-over stocks equal to between sixteen and one-half and twenty percent of the simple average to the total disappearance of rice for each of the three marketing years preceding

the year for which the announcement is made. Except as provided under planting flexibility provisions, producers who knowingly produce rice in excess of the permitted rice acreage for the farm, shall be ineligible for rice loans, purchases, and payments with respect to that farm.

Comments are requested with respect to the need for an ARP, the appropriate level of reduction under an ARP, and other provisions of such program.

f. Inventory Reduction Program: Section 101B(f) of the 1949 Act provides that the Secretary may make payments available to producers who: (1) Agree to forgo obtaining a loan or purchase agreement; (2) agree to forgo receiving deficiency and disaster payments; and (3) do not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under the announced acreage limitation program. Such payments shall be made in the form of negotiable marketing certificates. Payments under this program shall be determined in the same manner as loan deficiency payments.

Comments are requested on whether the Inventory Reduction Program should be implemented for the 1991 crop of rice.

Signed at Washington, DC on December 31, 1990.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 90-30637 Filed 12-31-90; 2:00 pm]

BILLING CODE 3410-05-M

Food Safety and Inspection Service

[Docket No. 90-029N]

Hazard Analysis and Critical Control Point Workshops; Solicitation of Participants

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) intends to assist the meat and poultry industry in developing generic model Hazard Analysis and Critical Control Point (HACCP) plans. This notice is to announce the dates and topics of the workshops.

Further, this notice is to solicit participation in the Refrigerated Foods Workshop which will be held February 26–28, 1991, at the Tremont Suite Hotel, 222 Street Paul Place, Baltimore, Maryland 21202. A total of five workshops (one in each of FSIS's regions) will be held between February 1991 and March 1992. Technical experts from the meat and poultry industries are being solicited to participate in these workshops.

DATE: Interested participants should supply the requested information no later than February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Catherine M. DeRoever, United States Department of Agriculture, FSIS, Executive Secretariat, Room 3175, South Building, 14th and Independence Avenue SW., Washington, DC 20250 (202) 447-9150.

SUPPLEMENTARY INFORMATION: FSIS recognizes the merits of HACCP as a system of sanitation and process control. The industry has now expressed an interest in incorporating HACCP into the production of meat and poultry products. It is FSIS' intention to assist the industry by facilitating product specific workshops at which the industry will develop generic HACCP plans. For this purpose, technical experts from the meat and poultry industries are being sought to work on the development of generic HACCP models for Refrigerated Foods, in particular, refrigerated foods containing cooked, uncured meat or poultry product that are assembled and packaged. Individuals or companies volunteering to participate in the development of the model during the workshop need not have previous experience in HACCP-based operations. In fact, it is desirable to include firms with varying degrees of prior HACCP experience.

The tentative schedule for the other workshops appears below:

Month	Region	Product
May 1991	Southwestern	Cooked Sausage.
July 1991	Southeastern	Poultry Slaughter (young chickens).
December 1991	Western	Fresh ground beef.
March 1992	North Central	Swine slaughter (market hogs).

If you are interested in participating in the Refrigerated Foods Workshop, written requests must be submitted noting the following:

(1) Specific workshop;

(2) Organization affiliation, i.e., national and/or local trade association(s), if any;

(3) If the participant will be representing a company or corporation;

(4) If the participant represents an independent operation;

(5) An indication of plant size, i.e., small, medium, or large; and

(6) Major product lines and approximate volumes.

The number of industry participants involved in the development of the model HACCP plan may have to be limited. Requests to volunteer as a participant should be addressed to Ms. Catherine M. DeRoever at the above address.

The workshops will also be open to the public for observation. Space available for observers may be limited and seating will be based on a first come, first served basis. Therefore, it you would like to attend the workshop(s) as an observer, it would be helpful if you would submit your request in writing. Please indicate the following:

(1) Your name, address and phone number;

(2) Specific workshop(s) you wish to observe; and

(3) Who you will be representing, if applicable.

Observers will be given an opportunity to comment during the course of the workshop session.

It should be noted that there is no registration fee, but transportation and per diem expenses must be borne by the participant or his/her sponsor.

For technical information on the Agency's HACCP initiative, letters of inquiry should be addressed to Dr. Wallace I. Leary, Director, HACCP Special Team, United States Department of Agriculture, FSIS, Room 0114 South Building, 14th and Independence Avenue SW., Washington, DC 20250.

Future **Federal Register** notices will be issued regarding site location, confirmation of times and dates, anf future workshop participation.

Done at Washington, DC on: December 28, 1990.

Catherine E. Adams,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 91-133 Filed 1-3-91; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held January 29, 1991, 9 a.m., Herbert C. Hoover Building, room 1629, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to

semiconductors and related equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman and Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Discussion of Meeting Schedule for 1991.
5. Status of Core List.
6. Discussion of Action Items and Final Input to Core List: Software and Technology, Materials, Semiconductor Manufacturing Equipment, Components.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials or comments at least one week before the meeting to the address listed below: Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th & Constitution Avenue, NW., room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: January 30, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 91–135 Filed 1–3–91; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–570–804]

Postponement of Final Antidumping Duty Determination; Sparklers From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is postponing the final determination as to whether sales of sparklers from the People's Republic of China have been made at less than fair value until not later than April 26, 1991.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230, at (202) 377–2613.

SUPPLEMENTARY INFORMATION: On December 19, 1990, counsel for the respondents requested that the Department postpone the final determination until not later than 60 days after the originally-scheduled date (February 25, 1991), in accordance with section 735(a)(2) of the Act. Accordingly, we are postposing the date of the final determination until not later than April 26, 1991. In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than March 28, 1991, and rebuttal briefs no later than April 4, 1991. In accordance with 19 CFR 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 8, 1991, at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: December 28, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–99 Filed 1–3–91; 8:45 am]

BILLING CODE 3510–DS–M

[C–357–005]

Certain Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina; 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 certain cold-rolled carbon steel flat-rolled products from Argentina. We preliminarily determine the total bounty or grant for the period January 1, 1987 through December 31, 1987 to be 0.77 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 1988, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (53 FR 11540) of the countervailing duty order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006; April 26, 1984). On May 2, 1988, USX Corporation requested an administrative review of the order. We initiated the review, covering the period January 1,

1987 through December 31, 1987, on May 23, 1988 (53 FR 18324). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). This is the first administrative review since the publication of the order.

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).

Analysis of Programs

(1) Rebate Upon Export of Indirect Taxes Paid (Reembolso).

The reembolso is a tax rebate paid upon export and is calculated as a percentage of the f.o.b. invoice price of the exported merchandise. In the final countervailing duty determination, we determined that: (1) The reembolso is intended to operate as a rebate of both indirect taxes and import duties; (2) the government conducted a study of indirect tax incidence on inputs that are physically incorporated into the exported product; and, (3) the rebate schedules are periodically revised to reflect the amount of actual duties and indirect taxes paid.

On October 16, 1986, Decree 1555/86 modified the reembolso program "to make the tax regime permanent and independent from other macroeconomic variables, responding exclusively to the concept of the refund of indirect taxes." The new decree set more precise and transparent guidelines to implement the refund of indirect taxes within the context of the new law. Rather than different rebate rates for each product or industry sector, there are now only three broad rebate levels. The rate for level I is 10 percent, level II is 12.5 percent, and level III is 15 percent. Based on the government's 1986 calculation of the tax incidence in the cold-rolled carbon steel industry, certain cold-rolled carbon steel flat-rolled products are classified in level II and received a 12.5 percent rebate in the review period.

Imports covered by the review are shipments of Argentine cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped, whether or not painted or varnished and whether or not pickled, not cut, not pressed, and not stamped to non-rectangular shape, not coated or plated with metal; over 12 inches in width, and 0.1875 inch or more in thickness, as provided for during the review period in item 607.8320 of the Tariff Schedules of the United States (TSUSA); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils, provided for during the review period in items 607.8350, 607.8355 or 607.8360 of the TSUSA. Such merchandise is currently classifiable under the following HTS item numbers:

7209.11.00	7209.41.00
7209.12.00	7209.42.00
7209.13.00	7209.43.00
7209.14.00	7209.44.00
7209.21.00	7209.90.00
7209.22.00	7210.70.00
7209.23.00	7211.30.50
7209.24.00	7211.41.00
7209.31.00	7211.49.50
7209.32.00	7211.90.00
7209.33.00	7212.40.50
7209.34.00	

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 thirteen programs.

The Department will determine that the reembolso does not confer a bounty or grant if the tax rebate does not exceed the total amount of allowable indirect taxes and import duties borne by inputs that are physically incorporated in the exported product, and indirect taxes levied at the final stage.

We calculated the allowable tax incidence based on the 1986 study. We find that indirect taxes on physically-incorporated inputs and final stage indirect taxes on certain cold-rolled carbon steel flat-rolled products amounted to 13.60 percent during the review period. Because the rebate of indirect taxes did not exceed the total amount of indirect taxes paid, we preliminarily determine that there was no overrebate of indirect taxes for the review period and, therefore, no benefit from this program during the review period.

(2) Export Financing Under OPRAC 1. Circular RF–21

Under Circular RF–21, short-term export financing is provided by authorized commercial banks to exporters of promoted goods. Upon receipt of foreign bills of exchange, the commercial banks provide exporters with short-term loans for up to 80 percent of the invoiced value of the exports covered by the bill. The loans are denominated in U.S. dollars but are provided in australs at the exchange rate prevailing on the date of the loan and are repaid in australs at the exchange rate prevailing on the date of repayment. The maximum interest rates for these loans are set by the Central Bank. Because only exporters are eligible to receive these loans, we preliminarily determine that these loans are counteravailable to the extent that they are provided to exporters at preferential rates. Only one company has RF–21 loans outstanding during the review period.

To calculate the benefit, we compared the amount of interest paid on each loan during the review period with the amount that would have been paid on comparable short-term commercial loans available in Argentina during the review period, adjusting for the exchange rate differentials. We used as our benchmark the average of the monthly regulated and non-regulated 1987 interest rates published by the Fundacion de Investigaciones Economicas Latinoamericanas (FIEL). We allocated the benefit over the company's total exports of the subject merchandise to the United States and then weight-averaged the resulting by the company's share of the total Argentine exports of this merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.41 percent *ad valorem* during the review period.

(3) Pre-financing of Exports under Circualr RF–153

In 1987, OPRAC–1, under Circular RF–153, authorized pre-export short-term loans to exporters of the subject merchandise for up to 65 percent of the f.o.b. value of the exported merchandise at an annual interest rate of one percent. The loans are denominated in australs but indexed to U.S. dollars. The funds are provided by the Central Bank of Argentina and disbursed by private commercial banks. The interest on pre-export loans is payable at the end of each calendar quarter or when principal payments are made. Because only exporters are eligible to recieve these loans, we preliminarily determine that these loans are counteravailable to the extent that they are provided to exporters at preferential rates. Only one company had loans outstanding during the review period.

To calculate the benefit, we used the same methodology and the same benchmark as for the RF–21 loans. We allocated the benefit over the company's

total exports of the subject merchandise to the United States and then weight-averaged the resulting benefit by the company's share of total exports of this merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.36 percent *ad valorem* during the review period.

(4) Other programs

We examined the following programs and preliminarily determine that exporters of certain cold-rolled carbon steel flat-rolled products did not use them during the review period:

- Medium and long-term loans under Law 22.510
- Preferential pricing for purchases of inputs
- Purchase of oil residue coal at preferential prices
- Capital and income tax exemptions
- Incentives for trade (stamp tax exemption under Decree 716)
- Equity infusions and capitalization
- Capital grants
- Government loan guarantees
- Incentives for export
- Forgiveness of debt

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 0.77 percent *ad valorem* for all firms for the period January 1, 1987 through December 31, 1987.

The Department intends to instruct the Customs Service to assess countervailing duties of 0.77 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1987 and on or before December 31, 1987.

Further, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 0.77 percent of the f.o.b. invoice price 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 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: December 27, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-100 Filed 1-3-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Atlantic Sea Scallop Fishery; Public Hearing

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

ACTION: Temporary adjustment of standards; notice of a public hearing and request for comments.

SUMMARY: NMFS will hold a public hearing, in conjunction with a meeting of the New England Fishery Management Council (Council), to solicit public input on a temporary adjustment of the meat count/shell height standards for Atlantic sea scallops.

DATES: The public hearing will be held on January 10, 1991, beginning at 9:30 a.m. Written comments will be accepted through January 10, 1991, at the address given below.

ADDRESSES: The hearing will be held at the King's Grant Inn, Route 128 at Trask Lane, Danvers, MA. Written comments should be addressed to Richard Roe, Director, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, Fishery Management Operations, Northeast Region, 508-281-9331.

SUPPLEMENTARY INFORMATION: Section 650.22 of the regulations implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) (50 CFR 650) provides authority to the Regional Director to adjust temporarily the meat count/shell height standards upon finding that specific criteria are met. The standards can be adjusted within a range from 25 to 40 meats per pound and may be adjusted no more than five meats by any one adjustment. The Regional Director has considered the criteria specified in § 650.22(c) and has decided to recommend an adjustment to the standards from 30 to 35 meats per pound (shell height from 3½ inches to 3⅜ inches) for the period February 1, 1991, through June 30, 1991.

The regulations require the Regional Director to hold a public hearing on this recommendation in conjunction with the Council meeting at which the recommendation is discussed. A public hearing has been scheduled in conjunction with the January 10, 1991, meeting of the Council. This public hearing is to provide opportunity for public comment on this recommendation. The Regional Director may modify this recommendation based on comments from the Council or the public. After consideration of the full record, a final determination will be made by the Regional Director whether or not to adjust the standards. If the Regional Director determines that the standards should be adjusted, notice will be published in the **Federal Register.**

Dated: December 28, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-79 Filed 1-3-91; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Teleconference

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Scientific and Statistical Committee (SSC) will meet by teleconference on January 8, 1991, at 10 a.m., Alaska Standard Time. The SSC will discuss fishery research priorities for 1991 and prepare recommendations for the North Pacific Council's January 15-17, 1991, meeting. Please contact the North Pacific Council (telephone number below) for public teleconference locations.

For more information contact Steve Davis, Deputy Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Dated: December 28, 1990.

David S. Crestin,

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

[FR Doc. 91–77 Filed 1–3–91; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Crustaceans Plan Monitoring Team (PMT) will hold a public meeting on January 9–10, 1991. The meeting will be held at the National Marine Fisheries Service, Honolulu Laboratory, Conference room, 2570 Dole Street, Honolulu, HI.

The PMT will begin its meeting on January 9 at 9 a.m., to recommend management actions in the Northeastern Hawaiian Islands lobster fishery, i.e. emergency action to temporarily close the fishery, and a fishery management plan amendment to limit access and reduce fishing effort. Other fishery management matters also will be discussed.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368; fax: (808) 526–0824.

Dated: December 28, 1990.

David S. Crestin,

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

[FR Doc. 91–78 Filed 1–3–91; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List a commodity to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 4, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 14, October 15 and November 9, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 37929, 414741 and 47104) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodity and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and services listed.

c. The actions will result in authorizing small entities to produce the commodity and provide the services procured by the Government.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Bandage, Elastic
6510–00–935–5823
(25 percent of the Government's Requirement)

Services

Commissary Shelf Stocking, Custodial and Warehousing
Luke Air Force Base, Arizona

Janitorial/Custodial
AAFES Operations Support Center
2727 LBJ Freeway
Dallas, Texas

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–36 Filed 1–3–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity to be produced and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 4, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to the Procurement List:

Commodity

Case and Ear Plug Inserter
6515–01–100–1674

Service

Janitorial/Custodial
Social Security Administration
Operations Building
First and Second Floors
6401 Security Boulevard
Baltimore, Maryland

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–35 Filed 1–3–90; 8:45 am]

BILLING CODE 6820–33–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: DOD FAR Supplement part 236, construction and Architect-Engineer Contracts; No Form; OMB Control Number 0704–0255.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 13.2 hours.

Responses per Respondent: One.

Number of Respondents: 50.

Annual Burden Hours: 660.

Annual Responses: 50.

Needs and Uses: The Defense Supplement has been substantially revised and eliminates 5 of 7 contract clauses containing information collection requirements. The 2 remaining clauses and their requirements are: (a) Obstruction of Navigable Waterways, which requires the contractor to notify the contracting officer whenever any material, plant, machinery, or appliance which the contractor loses, dumps, sinks, etc., into a navigable waterway, may obstruct the waterways. (b) Payment for Mobilization and Preparatory Work, which sets forth circumstances when the government may reimburse the contractor for mobilization and preparatory work under a construction contract, and requires the contractor to submit certain supporting documentation in order to obtain reimbursement.

Affected Public: Business or other for profit institutions, and small business or organizations.

Frequency: On Occasion.

Respondents Obligation: Mandatory.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer 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 request for copies of the information collection proposal may be obtained from Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–92 Filed 1–3–91; 845 am]

BILLING CODE 3820–01–M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, 29 January 1991.

ADDRESSES: The meeting will be held at The Myer Center (Building 2700), room 4D121, U.S. Army Electronics Technology and Devices Laboratory (LABCOM), Fort Manmouth, NJ 07703–5000.

FOR FURTHER INFORMATION CONTACT: Becky F. Terry, AGED Secretariat, 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d)(198)], it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(198), and that accordingly, this meeting will be closed to the public.

Dated: December 28, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–93 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0830, Tuesday and Wednesday, 29–30 January 1991.

ADDRESSES: The meeting will be held at The Myer Center (Building 2700), room 4D121, U.S. Army Electronics Technology and Devices Laboratory (LABCOM), Fort Manmouth, NJ 07703–5000.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such program as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d)(1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1988), and that accordingly, this meeting will be closed to the public.

Dated: December 28, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–94 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Commitee on the Software and Computer Processor Upgrades to Software Intensive Aircraft will meet on 23–24 January 1991 from 8 a.m. to 5 p.m. at ANSER, 1215 Jefferson Davis Highway, Arlington, Virginia.

The purpose of this meeting is to review the task, obtain program briefings, and devleop a roadmap for the study.

The meeting will be closed to the public in accordance with section

552b(c)of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–111 Filed 1–3–91; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Military Traffic Management Command Certification of Independent Pricing

AGENCY: Military Traffic Management Command (MTMC), U.S. Army, DOD.

ACTION: Notice of final requirement.

SUMMARY: Effective immediately, all carriers desiring to compete for Department of Defense (DOD) sponsored movements of freight, passengers or personal property, will be required to execute a Certification of Independent Pricing. The individual MTMC operational directorates will determine whether to require the certificate as a separate document, or whether it will be incorporated into the rate tender forms.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Ramon Morales (Attorney-Adviser), (703) 756–1580.

SUPPLEMENTARY INFORMATION: The purpose of the certification is to deter certain types of collusive activities by carriers and to measure and enforce compliance with laws and regulations. This certification is exempted from the provisions of the Paperwork Reduction Act. The full text of the revised certification is reproduced at the end of this notice.

A proposed Certification of Independent Pricing was originally published in the **Federal Register** for comments on 4 April 1989 (**Federal Register** Vol. 54 No. 63, Page 13556). Numerous comments were initially received in opposition to two provisions in the certificate. The first provision objected to, in the first version of the certificate (paragraph (a)(3)(iv)), prohibited carriers from pooling traffic and revenues. The second provision dealt with the words "after investigation", in paragraph (c)(1) of the draft certificate. After considering the comments received, on 16 May 1989 (**Federal Register** Vol. 54 No. 93, page 21093), MTMC published another notice in the **Federal Register** eliminating the two provisions mentioned above, and extending the comment period until 5 July 1989.

MTMC received approximately 45 letters from individual carriers and carrier associations, and two comments from law firms. Most of the letters received from individual carriers repeated the comments made by their respective associations. The comments received have all been carefully reviewed and considered in light of the needs of MTMC and the individual characteristics of each of MTMC's operational directorates. Based on comments and suggestions received from the industry, as well as other offices within MTMC, the certification was modified to delete redundant language and to implement some of the suggestions. The actions taken with respect to the comments submitted by the industry are summarized below.

A. *Comments:* Does the certification requirement in paragraph A(1) that the rates or fares were derived at "unilaterally and independently" mean that a carrier cannot employ the services of a consultant? Does it preclude carriers from incorporating by reference certain collectively published publications presently accepted by MTMC?

Answer: The word "unilaterally" has been deleted as redundant. The certificate does not prohibit the use of consultants when the consultant is simply acting as a conduit or agent for the carrier. It is the carrier's responsibility to obtain assurances from its consultants or agents that they will not disclose its rates to the carrier's competitors. Similarly, the certificate does not prevent the incorporation of other publications when MTMC so allows.

B. *Comments:* The absolute restrictions in paragraph A(1) against communications with other carriers, competitors or their agents, deprive carriers and freight forwarders of information necessary to prepare and submit independent and competitive rates. Paragraph A(1) restricts communications between commonly owned companies that are presently authorized to participate in MTMC's transportation programs. The relationship between paragraphs A(1) and B needs to be clarified.

Answer: To clarify that the restriction against communications is not absolute, the phrase "except as described in paragraph B, below," has been added to paragraphs A(1) and A(2). The objective here is to ensure that other rate information, unrelated to the rate being negotiated by the carrier or freight forwarder, is not disclosed to actual or potential competitors. In paragraph B, the words "or freight forwarder" were inserted after "between a carrier", to clarify that freight forwarders are permitted to hold discussions with their agents concerning the tender. Also, a sentence was added to paragraph B to clarify that the certificate does not prohibit discussions between commonly owned companies (carriers or freight forwarders), when the common ownership has been previously disclosed to MTMC in writing.

C. *Comment:* The secrecy requirements of paragraph A(2) with respect to rates already on file with MTMC is anticompetitive.

Answer: This comment requires a brief discussion of the procedures used by MTMC to obtain competitive tenders from participating carriers. MTMC handles primarily two types of tenders: voluntary and negotiated. Voluntary tenders are submitted by carriers whenever they wish to compete for a particular type of traffic. Once reviewed for administrative correctness, voluntary tenders are accepted and distributed to the field by MTMC. Negotiated tenders include, essentially, all the tenders received in response to a letter solicitation from MTMC which delineates the particular requirements of the program involved. The letter solicitation states the dates in which the tenders are due, and the date when the tenders will be distributed to the field offices. As a matter of course, MTMC never discloses the tenders prior to the date they are distributed to the field. The intent of paragraph A(2) is to ensure that carriers will not disclose their rates prior to the date in which MTMC distributes the tenders to the field. To allow a carrier to disclose its rates prior to the date the tender is released to the field will defeat the purpose of requesting independently formulated rates. Paragraph A(2) does not prohibit carriers of their associations from distributing the rates once they have been released by MTMC.

D. *Comment:* The requirement that agents certify the future conduct of third party principals is unreasonable.

Answer: This certification requirement was deleted as unnecessary. Since the agent must be authorized in writing to sign the certification on behalf of the carrier, the carrier's principals can be reasonably imputed with knowledge of the restrictions imposed by paragraphs A(1) through A(3).

E. *Comment:* The requirement to certify that the carrier has not and will not take any action to "restrict competition for United States traffic by

any means or device" should be eliminated.

Answer: The rationale given in support of the request for deletion of this requirement was that the restriction appears to apply to matters unrelated to rate submission. We disagree. This provision relates to illegal means or devices used to restrict competition. In our opinion, any illegal action or conduct designed to restrict competition relates, directly or indirectly, to rates or fares. Regardless of whether the illegal restriction occurs prior or after the submission of rates, the end result is that the Government may have to pay more to meet its transportation needs.

F. *Comment:* Whom does paragraph C(2) apply to?

Answer: Paragraph C(2) asks for the name and title of the individuals within the carrier's organization responsible for determining the rates or fares offered in the tender. Paragraph C(2) should only be initialed and filled out when the certification is being signed by an agent of the carrier. If the certification is being signed by an individual in the carrier's organization responsible for determining the rates or fares offered in the tender, the individual should initial paragraph C(1) (in such a case paragraph C(2) does not apply and should be left blank).

The revised certification is reproduced below:

Certification of Independent Pricing

A. For the purpose of inducing the United States to accept these tendered rates or fares, the undersigned declares, with the understanding that a false statement is a violation of law subject to criminal and civil penalties, that the following is true:

1. The rates or fares in this tender have been arrived at independently and, except as described in paragraph B, below, there has been no communication, agreement, understanding, collusion, or any other action in respect to these rates or fares, with any carrier, competitor or agent thereof.

2. The rates or fares or other information submitted in this tender have not and will not be disclosed directly or indirectly to any other carrier, competitor, or agent thereof, except as described in paragraph B, below. If required by law to be filed with a government agency, disclosure will not be made by the carrier prior to public disclosure by that agency.

3. No action has been or will be taken, and no agreement or understanding has been or will be made, with any other carrier, competitor, or agent thereof to:

(a) Submit or not to submit rates or fares; or

(b) Change, cancel, or withdraw rates or fares; or

(c) File the same or prearranged rates or fares; or

(d) Restrict competition for United States Government traffic by any means or device.

B. It is understood that this certification does not prohibit discussions concerning this tender between a freight forwarder and its underlying carriers, between a carrier or freight forwarder and its agents providing underlying transportation service or equipment, or between or among interline carriers jointly participating in this tender. It is also understood that this certification does not prohibit discussions concerning this tender between commonly owned companies (carriers or freight forwarders) if the common ownership has been previously disclosed in writing to the Military Traffic Management Command.

C. The undersigned further certifies that (enter initials next to subparagraph 1 or 2 below, as applicable):

1. I am responsible for determining the rates or fares being offered in this tender; that I have been authorized, in writing, to sign this certificate on behalf of the carrier; that I have not participated and will not participate in any action contrary to subparagraphs A(1) through A(3) above; and, that I have no knowledge that any other person has taken such action; *OR*

2. I am an authorized agent for the carrier; that I have not personally participated, and will not participate, in any action contrary to subparagraphs A(1) through A(3) above; that as an agent I have been authorized, in writing, to certify, and do hereby certify, that the following principals have not participated in any action contrary to subparagraphs A(1) through A(3) above:

Name & Title. _____

Organization _____

(Type or print name and position title of person(s) in the carrier's organization responsible for determining the rates or fares offered in this tender.)

3. This certification applies to any medium used for the offering of the rates or fares, to include paper and any type of magnetic media such as magnetic tapes, floppy disks, or CD ROM.

Signature: _____

Print or type name: _____

Title: _____

Date: _____

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 91–113 Filed 1–3–91; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Joint Draft Supplemental Environmental Impact Statement for a Proposed Navigation Improvement Project at Maalaea Harbor, Maui, HI

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers Honolulu District in partnership with the State of Hawaii, Department of Transportation, is proposing to improve the light draft harbor at Maalaea, Maui, Hawaii, by enlarging the turning basin, changing the location of the entrance channel and constructing a new protective breakwater. In addition a rivetted mole would be added to the existing south breakwater for parking, and the State of Hawaii would add new berthing facilities and other infrastructure improvements. The improvements are needed to reduce damage from storm waves to boats at the existing berths and to expand the capacity of the harbor. The completed project is expected to significantly reduce vessel damage, and to increase berths from about 90 to about 240.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Lennan, U.S. Army Engineer District, Honolulu, ATTN: CEPOD–ED–PV, Fort Shafter, Hawaii 96858–5440, Phone: (808) 438–2264.

SUPPLEMENTARY INFORMATION: 1. The Federal portion of the project is expected to include the following items:

a. An extension to the existing south breakwater 620 feet long.

b. The addition of a rivetted mole 400 feet long on the southward side of the existing south breakwater for additional parking.

c. A new entrance channel, 610 feet long, varying in width from 150 to 180 feet, and varying in depth from 12 to 18 feet.

d. A 1.7 acre turning basin.

e. Removal of 80 feet of the existing east breakwater.

2. The State of Hawaii portion of the project is expected to include the following items:

a. An interior rivetted mole and a berthing area 8 feet deep adjacent to the existing east breakwater.

b. Parking, water, electricity, fuel and restroom facilities.

c. An increase of approximately 150 berths.

3. Alternatives to be considered include "No Action" and various alternative alignments and configurations of the entrance channel and breakwaters.

4. The Corps conducted a complete public involvement program for the final EIS circulated in 1980, and the State of Hawaii conducted a complete public involvement program for their final EIS circulated in 1982. In addition, a draft and final Environmental Assessment was circulated in 1989 and 1990, along with a public meeting and several workshops with interested community groups. Formal consultation under section 7 of the Endangered Species Act has been completed with the National

Marine Fisheries Service for species under their jurisdiction, and coordination with the State Historic Preservation Officer has been completed. The supplemental EIS will address new information concerning surfing sites and the endangered humpback whale, as well as any other significant issues developed during the scoping process. Federal, State of Hawaii, local agencies, interested private organizations and concerned citizens will be solicited for input during the public involvement program.

5. A public scoping meeting to be held on Maui is being planned for early 1991, but no date has yet been set. The draft supplemental EIS is expected to be available in September 1991.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 91-114 Filed 1-3-91; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Alter a Record System

AGENCY: Department of the Navy.

ACTION: Alter a record system.

SUMMARY: The Department of the Navy proposes to alter one existing record system in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The exemption rule for record system notice NO5800-1 was never promulgated in accordance with requirements of 5 U.S.C. 553 (b) (1), (2), and (3), (c) and (e). This alteration corrects this administrative oversight.

DATES: The proposed action will be effective on February 4, 1991 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Mrs. Gwendolyn Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (703) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) were published in the **Federal Register** as follows:

51 FR 12908 Apr 16, 1986
51 FR 18086 May 16, 1986 (DON Compilation changes follow)
51 FR 19884 Jun 3, 1986
51 FR 30377 Aug 26, 1986
51 FR 30393 Aug 26, 1986
51 FR 45931 Dec 23, 1986
52 FR 2147 Jan 20, 1987
52 FR 2149 Jan 20, 1987
52 FR 8500 Mar 18, 1987
52 FR 15530 Apr 29, 1987
52 FR 22671 Jun 15, 1987
52 FR 45846 Dec 2, 1987
53 FR 17240 May 16, 1988
53 FR 21512 Jun 8, 1988
53 FR 25363 Jul 6, 1988
53 FR 39499 Oct 7, 1988
53 FR 41224 Oct 20, 1988
54 FR 8322 Feb 28, 1989
54 FR 14378 Apr 11, 1989
54 FR 32682 Aug 9, 1989
54 FR 40160 Sep 29, 1989
54 FR 41495 Oct 10, 1989
54 FR 43453 Oct 25, 1989
54 FR 45781 Oct 31, 1989
54 FR 48131 Nov 21, 1989
54 FR 51784 Dec 18, 1989
54 FR 52976 Dec 26, 1989
55 FR 21910 May 30, 1990 (Navy Mailing Addresses)
55 FR 37930 Sep 14, 1990
55 FR 42758 Oct 23, 1990
55 FR 47508 Nov 14, 1990
55 FR 48678 Nov 21, 1990

An altered system report, as required by 5 U.S.C. 522a(r) of the Privacy Act, was submitted on December 17, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985). The changes to the record system, and the record system notice in its entirety, are provided below.

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NO5800-1

System name:

Legal Office Litigation/ Correspondence Files (51 FR 18164, May 16, 1986).

Changes:

* * * * *

Categories of individuals covered by the system:

Delete entry and substitute with "Individuals involved in litigation which requires Navy action."

Categories of records in the system:

Delete entry and substitute with "Statements; affidavits/declarations; investigatory and administrative reports, including background investigations to determine suitability for service; personnel, financial, medical and business records; promotion/ evaluation information; test or evaluation materials; hotline complaints and responses thereto; discovery and discovery responses; motions; orders; rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings, memos; related correspondence; briefs; petitions; court records involving litigation; and, related matters.

Authority for maintenance of the system:

Delete entry and substitute with "5 U.S.C. 301, Departmental Regulations.

* * * * *

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

At the end of entry, add "and computerized docket system."

Retrievability:

Delete entry and replace with "Name of individual and the year litigation commenced."

Record source categories:

Delete entry and substitute with "Military personnel system, medical records, investigative records, personal interviews, personal observations reported by persons witnessing or knowing of incidents."

Safeguards:

Delete entry and substitute with "Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access is controlled by password or other user code system."

Retention and disposal:

Delete entry and substitute with "After closure, records are sent to Federal Records Center where they are retained permanently."

* * * * *

Notification procedure:

Delete entry and substitute with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the naval activity involved in the litigation or to

the Associate General Counsel (Litigation), Washington, DC 20360–5110.

Written requests should include name and date litigation was filed."

Record access procedures:

Delete entry and substitute with "Individuals seeking access to records about themselves contained in this system of records should address written inquires to the naval activity involved in the litigation or to the Associate General Counsel (Litigation), Washington, DC 20360–5110.

Written requests should include full name and year litigation commenced."

Contesting record procedures:

Delete entry and substitute with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

Record source categories:

Delete entry and substitute with "Court records, records from the individual, personal interviews and statements, departmental records such as personnel files, medical records, State and Federal records, police reports and complaints, general correspondence."

Exemptions claimed for the system:

Delete entry and substitute with "Parts of this system may be exempt under 5 U.S.C. 552a (k)(1), (k)(2), (k)(5), (k)(6), and (k)(7) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553 (b)(1), (2), and (3), and (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager."

N05800–1

SYSTEM NAME:

Legal Office Litigation/ Correspondence Files

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Department of the Navy compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in litigation which requires Navy action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements; affidavits/declarations; investigatory and administrative reports, including background investigations to determine suitability for service; personnel, financial, medical and business records; promotion/ evaluation information; test or evaluation materials; hotline complaints and responses thereto; discovery and discovery responses; motions; orders; rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings; memos; related correspondence; briefs; petitions; court records involving litigation; and, related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations.

PURPOSE(S):

To prepare correspondence and materials for litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of record systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinets and computerized docket system.

RETRIEVABILITY:

Name of individual and the year litigation commenced.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access is controlled by password or other user code system.

RETENTION AND DISPOSAL:

After closure, records are sent to Federal Records Center where they are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Associate General Counsel (Litigation), Department of the Navy, Washington, DC 20360–5110.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the naval activity involved in the litigation or to the Associate General Counsel (Litigation), Department of the Navy, Washington, DC 20360–5110.

Written requests should include name and date litigation was filed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the naval activity involved in the litigation or to the Associate General Counsel (Litigation), Department of the Navy, Washington, DC 20360–5110.

Written requests should include full name and year litigation commenced.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Court records, records from the individual, personal interviews and statements, departmental records such as personnel files, medical records, State and Federal records, police reports and complaints, general correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a (k)(1), (k)(2), (k)(5), (k)(6), and (k)(7) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553 (b) (1), (2), and 3, (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 91–95 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.003C]

Developmental Bilingual Education Program; Invitation for Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: To provide grants to local educational agencies (LEAs) and institutions of higher education

applying jointly with one or more LEAs to establish, operate, or improve developmental bilingual education programs.

Deadline for Transmittal of Applications: April 5, 1991.

Deadline for Intergovernmental Review: June 4, 1991.

Applications Available: February 15, 1991.

Available Funds: $1.5 million.

Estimated Range of Awards: $75,000–$300,000.

Estimated Average Size of Awards: $166,000.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 500 and 501.

Priority: The Secretary is particularly interested in applications that meet the following invitational priority:

Projects providing instruction in one of the following second languages: Arabic, French, German, Hindustani, Italian, Japanese, Portuguese, Russian, Spanish, Vietnamese, or one of the Chinese languages. The special need for programs of instruction in these languages is due to recognition that such programs help develop our national linguistic resources and promote our international competitiveness.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 501.31.

In addition to the maximum of 100 points awarded under 34 CFR 501.31, the program regulations in 34 CFR 501.32(b) provide that the Secretary distributes 15 additional points among the factors listed in 34 CFR 501.32(a). For this competition the Secretary distributes the 15 additional points as follows:

(1) The need to assist LEP children who have been historically underserved by programs for limited English proficient persons (34 CFR 501.32(a)(1))—1 point.

(2) The relative need of the particular LEA(s) for the proposed program (34 CFR 501.32(a)(2))—6 points.

(3) The need to provide assistance in proportion to the distribution of LEP children throughout the Nation and within each of the States (34 CFR 501.32(a)(3))—7 points.

(4) The number and proportion of children from low-income families to be benefited by the program (34 CFR 501.32(a)(4))—1 point.

For Applications or Information Contact: Ana Maria Garcia, U.S. Department of Education, 400 Maryland Avenue SW., room 5086, Switzer Building, Washington, DC 20202–6641. Telephone: (202) 732–5701.

Program Authority: 20 U.S.C. 3291(a)(2).

Dated: December 11, 1990.

Rita Esquivel,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 91–80 Filed 1–3–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 90–106–NG]

Allied Producers Gas Service Inc.; Application for Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 6, 1990, as amended December 10, 1990, of an application filed by Allied Producers Gas Service Inc. (Allgas) for blanket authorization to import up to 300 Bcf of natural gas from Canada and to export up to 200 Bcf of natural gas from the United States to Canada for a two-year term beginning on the date of first import or export. Allgas requests authority to import/export the natural gas at any point on the U.S./Canadian border where existing pipeline facilities are located. No new construction would be involved. Allgas also states it will submit quarterly reports to FE detailing each transaction.

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., February 4, 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:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: Allgas, a corporation organized in the State of Delaware with its principal place of business in Dallas, Texas, is a wholly owned subsidiary of TransCanada PipeLines Limited (TransCanada), a Canadian gas transmission company. Allgas, a natural gas marketer, plans to import and export natural gas on its own behalf or act as broker or agent on behalf of others.

Allgas anticipates that the gas for the proposed import would be produced in the Province of Alberta, Canada. The proposed imported natural gas would be sold at market responsive prices on a short-term basis to U.S. customers. The proposed export authority would enable Allgas to make natural gas available on a short-term or spot-market basis to various Canadian end-users as required by each export sales transaction. Allgas further contemplates that gas import volumes may be exported back into Canada, and that blanket export volumes transported to Canada may ultimately be re-imported to the U.S.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. 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 the proposed imports will make

competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. Allgas also asserts that TransCanada, its parent company, has access to approximately 20 Tcf of natural gas reserves which provide assurance that any import sales negotiated will be delivered. With respect to export gas supplies, Allgas states that since it proposes to import more gas than it exports, there will be a favorable net gain in gas supplies available to the U.S. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial 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, 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 Allgas' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 28, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–146 Filed 1–3–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–108–NG]

Indeck Energy Services of Corinth, Inc., et al.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

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 of December 6, 1990, of an application filed jointly by Indeck Energy Services of Corinth, Inc. (Indeck-Corinth), Indeck Energy Services of Ilion, Inc. (Indeck-Ilion), Indeck Energy Services of Oswego, Inc. (Indeck-Oswego), and Indeck Energy Services of Yerkes, Inc. (Indeck-Yerkes) [together Indeck] for blanket authorization to import up to a total of 9 Bcf of natural gas from Canada over a period of two years beginning on the date of the initial delivery. Indeck would use only pipeline facilities currently in place to transport this gas from the international border.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., February 4, 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:
P.J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4819.
Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: The Indeck companies are wholly owned subsidiaries of Indeck Energy Services, Inc. (Services). Services and Indeck are all Illinois corporations. Since 1985, Services and its wholly owned subsidiaries have been engaged in the development, ownership, and operation of cogeneration projects.

In September 1990, Indeck-Oswego and Indeck-Yerkes were authorized to import from Canada a total of 9 Bcf of natural gas annually over a 15-year period to fuel two new cogeneration plants under construction in Oswego and Tonawanda, New York. *See* DOE/FE Opinion and Order No. 425 (1 FE Para. 70,353). Applications of Indeck-Corinth and Indeck-Ilion are currently pending before FE for authorization to import a total of 9.5 Bcf of Canadian gas annually for 15 years to supply new cogeneration plants to be built in Corinth and Ilion, New York. *See* FE Docket Nos. 90–06–NG and 90–07–NG.

Indeck states that the short-term spot market imports proposed in this proceeding would provide additional competitive supply sources for their New York cogeneration plants. In addition to the quantity Indeck would purchase for turbine fuel, Indeck may also buy Canadian gas and resell it to

pipelines, distributors, and end-users or serve as an agent on behalf of spot market customers. Indeck asserts that allowing them to resell gas imported through the spot market that is not consumed in the cogeneration plants would expand the available gas supply in the United States and enhance price competition.

According to Indeck, the import volumes, delivery points, prices, transportation arrangements, and other specifics will vary for different transactions. The provisions of the particular agreements will be established through individual negotiations based on market conditions which exist at the time. Indeck states that they intend to comply with DOE's reporting requirements and will file quarterly reports following authorization giving the specific details of each transaction.

The decision on Indeck's application will be made pursuant to section 3 of the NGA, the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127, and DOE's gas import policy guidelines. Under the policy guidelines, 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. Indeck asserts that this import arrangement will be competitive and thus in the public interest. Parties opposing the arrangement bear the burden of overcoming his assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, al hough 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 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, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based of the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Indeck's application is available for inspection and copying of the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 28, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–145 Filed 1–3–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–92–NG]

Sumas Energy, Inc.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 25, 1990, of an application filed by Sumas Energy, Inc. (SEI), to import Canadian natural gas. SEI is requesting authorization to import up to 5 Bcf of natural gas per year over a 20-year term commencing approximately October 1991. The proposed imports would be used as fuel in a new 66 megawatt (MW) electric generating plant to be constructed and operated by SEI at its proposed cogeneration facility near Sumas, Washington. The gas would be delivered to the cogeneration facility by the proposed Sumas Pipeline-USA pipeline facility. The natural gas would be imported at the interconnection between Sumas Pipeline-USA and either Westcoast Energy, Inc. (Westcoast), or Sumas Pipeline-Canada near Huntingdon, British Columbia.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0104–111 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., February 4, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Steven Mintz, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9506.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: SEI, a corporation organized under the laws of the State of Washington, intends to construct, own and operate a new gas-fired cogeneration facility near Sumas, Washington. The cogeneration facility is scheduled to have an electrical

generating capacity of 66 MW. SEI has signed a 20-year contract with Puget Sound Power & Light Company to supply 56 MW of firm power from the cogeneration facility beginning in November 1991. In addition, approximately 45,000 lbs/hr or low-pressure steam (37,000 lbs/hr from a boiler + 7,500 lbs/hr extracted from a condensing turbine) will be sold to SOCCO, INC. (SOCCO), which will own and operate a lumber kiln drying facility adjacent to the cogeneration facility. SOCCO is an affiliate of SEI.

In order to fuel the proposed cogeneration facility, SEI requests authority to import from Canada up to 15,000 Mcf of natural gas per day and up to 5 Bcf per year over a 20-year term. The source of the gas will be a combination of gas produced from reserves owned by ENCO Resources Limited (ENCO), an affiliate of SEI, or gas purchased under long-term contracts from one or more non-affiliated Canadian suppliers (Contracted Gas). As of the date of the application ENCO had executed binding agreements with several Canadian companies for the purpose of purchasing proven gas reserves estimated at 64.9 Bcf. SEI states that it is unlikely that Contracted Gas will be required until the year 2001 when deliverability of ENCO's reserves may decline below SEI's requirements. SEI has not signed any agreements for Contracted Gas nor is it negotiating for or attempting to acquire any Contracted Gas. Contracted Gas will be the result of arm's length negotiation between an unrestrained buyer and seller.

SEI would notify FE in writing of the date of first delivery of natural gas imported under the requested authorization within two weeks of the date of the date of such delivery. Also, SEI states that is would file quarterly reports detailing any transactions.

The draft of the proposed gas supply contract between SEI and ENCO does not specify a price because costs, such as transportation, processing, well operating costs and other costs are still being determined. However, SEI states that the contractural arrangement with ENCO, whereby most of its gas requirements will be provided through the acquisition of natural gas reserves in the ground, will significantly reduce its cost of fuel relative to alternatives. For example: The acquisition cost of the proven reserves on the properties being acquired by ENCO will have a weighted average cost of $0.2248 (US$/Mcf); the cost of transportation and processing for the reserved from the wellhead to the burner-tip will average approximately $0.61 (US$/Mcf); after including operating costs and developmental costs, ENCO will be able to deliver gas to SEI for an estimated $1.20 (US$/Mcf).

The gas will be transported from the wellhead to various natural gas processing plants owned and operated by Westcoast via gathering lines and raw gas lines that will be owned by Westcoast or ENCO. The gas produced by ENCO most likely will be processed by Westcoast's Taylor or Ft. Nelson processing plants. The gas then will be transported south via Westcoast's main transmission line to its Meter Station No. 16 at Huntingdon, British Columbia. SEI has applied to the National Energy Board of Canada for permission to construct approximately a 300 meter pipeline from Westcoast's Meter Station No. 16 to the Canada-US international boundary and approval is pending. SEI will construct the sumas Pipeline-USA, approximately a 3.0 mile (4,900 meter) line from the international boundary to the cogeneration facility. SEI has applied to the appropriate Federal, state and local agencies for all necessary permits to construct both the cogeneration plant and the connecting pipeline. In addition, SEI has entered into right-of-way agreements with landowners for substantially all of the proposed pipeline route.

In support of its applicaion, SEI states that the natural gas it seeks to import represents the best overall supply agreement that could be secured on a long-term, firm supply basis. SEI futher claims that for more than eight months it attempted to enter into a long-term contractual arrangement with a domestic or Canadian producer of natural gas to provide a firm supply of gas at a predetermined price for a period of at least ten years. No producer was willing to provide the required volumes of gas at a price that made SEI's proposed cogeneration project financally feasible. Therefore, SEI secured a long-term gas supply by purchasing proven gas reserves that could be used as required.

SEI maintains that the proposed imports are not inconsistent with the public interest as the terms and conditions of the agreement with ENCO will represent a secure long-term source of gas that is significantly more economical than alternative sources of gas, including gas from domestic suppliers.

SEI has filed a Certificate of Compliance with the coal capability requirement for proposed new electric powerplants on November 8, 1990, pursuant to the Powerplant and Industries Fuel Use Act of 1978 (10 U.S.C. 3801 *et. seq.*, as amended; 53 FR 35544, September 14, 1988).

The decision on SEI's application for import authority will be made consistent with the DOE's 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). Other matters that may be considered in making a public interest determination include need for gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

SEI stated in its application that its proposed import arrangement meets all of the terms and conditions imposed by FE for granting a blanket gas import authorization and requested expedited processing of its application in order to receive the necessary import authorization by December 31, 1990. DOE has determined that the proposed import arrangement involves long-term, firm supplies of natural gas and is not a blanket import proposal. Also, SEI has not made a compelling argument why DOE should suspend its normal procedures. Therefore, DOE will not make a decision on SEI's import application or its request for expedited treatment until after the 30-day comment period on the application is up.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et. seq.* requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable.

The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantal 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 trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a conditional or final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of SEI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on December 28, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–144 Filed 1–3–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed During the Week of November 2 through November 9, 1990

During the Week of November 2 through November 9, 1990, the appeal and the applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: December 27, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 2 through November 9, 1990]

Date	Name and location of applicant	Case No.	Type of submission
June 1, 1990	John H. Carter, Washington, DC	LFA–0079	Freedom of Information Appeal. If granted: The April 16, 1990, Freedom of Information Appeal Decision and Order (Case No. LFA–0035) issued to David DeKok by the Office of Hearings and Appeals would be modified.
Nov. 6, 1990	Texaco/Sam's Texaco, Baton Rouge, Louisiana	RR321–28	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The October 11, 1990 Decision and Order (Case Nos. RF321–473, RF321–732 and RF321–8822) issued to Sam's Texaco would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.
Nov. 7, 1990	Nebraska Energy Office, Lincoln, Nebraska	LEE–0018	Application for Exception. If granted: The Nebraska Energy Office would be relieved from compliance with the provisions of 10 CFR 420.12(e)(2) which prohibit the loaning of more than one-third of the funds in the State Energy Conservation Program for building energy retrofits.
Nov. 8, 1990	Texaco/Smith Bros. Texaco, Bartow, Florida	RR321–29	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The June 28, 1990 Decision and Order (Case Nos. RF321–4559 and RF321–5660) would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.

REFUND APPLICATIONS RECEIVED

[Week of November 2 to November 9, 1990]

Name of refund proceeding/Name of refund applicant	Case No.	Date received
Steve's Shell	RF315–10076	11/5/90.
Sartain's Exxon Service	RF307–10161	11/5/90.

REFUND APPLICATIONS RECEIVED—Continued

[Week of November 2 to November 9, 1990]

Name of refund proceeding/Name of refund applicant	Case No.	Date received
Fanelli Bros. Trucking	RF304-12120	11/5/90.
Capital Gas Co., Inc	RF304-12121	11/5/90.
Sumiton Gas Co., Inc	RF304-12122	11/5/90.
Park Ave. Shell	RF315-10078	11/8/90.
D&D Shell	RF315-10079	11/8/90.
Jerry's Shell	RF315-10080	11/8/90.
Bultman Oil Co., Inc	RF315-10081	11/8/90.
T.L. James & Co., Inc	RF307-10162	11/8/90.
Bill Morrow's Shell	RF315-10077	11/5/90.
Crude Oil Refund Applications Received	RF272-84206 thru RF272-84365	11/2/90 thru 11/9/90.
Gulf Oil Refund Applications Received	RF300-13353 thru RF300-13473	11/2/90 thru 11/9/90.
Texaco Refund Applications Received	RF321-10777 thru RF321-11218	11/2/90 thru 11/9/90.
Tesoro Oil Refund Applications Received	RF326-123 thru RF326-149	11/2/90 thru 11/9/90.

[FR Doc. 91-147 Filed 1-3-91; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of November 26 Through November 30, 1990

During the week of November 26 through November 30, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Akin, Gump, Strauss, Hauer & Feld, 11/27/90, LFA-0076

Akin, Gump, Strauss, Hauer & Feld (Akin, Gump) filed an Appeal from a partial denial by the DOE's Oak Ridge Operations Office (ORO) of a request for information under the Freedom on Information Act (FOIA). Akin, Gump had sought copies of documents relating to a contractor's use of cesium capsules leased from the DOE, and to DOE inquiries into the future use and transportation of the capsules. The ORO had determined that six responsive documents were exempt from mandatory disclsoure pursuant to Exemption 5 of the FOIA. Four of these documents were withheld pursuant to the attorney work-product privilege, while the remaining two were withheld under the attorney-client privilege. Akin, Gump challenged both the sufficiency of the ORO's reply and its determination that the withheld documents fall within the scope of Exemption 5. The DOE detemrined that only two sentences contained in the documents withheld as attorney work-product were properly withheld by the ORO. The DOE found that all other responsive portions of these documents were purely factual and ordered their release to Akin, Gump. Concerning the two documents withheld pursuant to the attorney-client privilege, the DOE determined that the information contained in one had not been confidential and that the privilege, therefore, no longer applied. The DOE ordered that the document also be released to the Appellant. The DOE found that the second document was exempt from mandatory disclosure under both the attorney-client and deliberative process privileges incorporated into Exemption 5, and that it was properly withheld by the ORO. Finally, the DOE determined that any public interest in the withheld portions of the documents did not outweigh the agency's need to obtain open and uninhibited recommendations from its attorneys. Accordingly, the Appeal was granted in part and denied in part.

Refund Applications

Atlantic Richfield Co./Freemansburg Arco, Parkway Arco, 11/29/90, RF304-7947, RF304-12094

The DOE issued a Decision and Order concerning two Applications for Refund filed by McMickle & Edwards on behalf of two retail gasoline outlets, Freemansburg Arco and Parkway Arco, that were owned as equal partnerships by Mr. Dale Starner and Mr. Elmer Freer. The claimants requested two separate small purchasers evaluations for their respective, individual refunds under the small purchaser presumption on the basis that the two outlets were separate and distinct businesses. The DOE denied the claimants' requested treatment and instead calculated the refund using a single small purchaser presumption of injury. The total amount of refunds approved in this Decision is $7,094, representing $5,000 in principal and $2,094 in interest.

Big Horn Coal Co., Union Rock & Materials Corp., Rosebud Coal Sales Co., 11/26/90, RF272-7401, RD272-7401, RF272-7402, RF272-7403, RD272-7403

The DOE issued a Decision and Order concerning three Applications for Refund filed in the Subpart V Crude Oil refund proceeding. The applicants are involved in minerals extraction, and claim that they were injured by crude oil overcharges during the price control period. The DOE rejected a challenge to these refund claims filed by a consortium of States, finding that the States failed to support their assertion that the applicants did not absorb the crude oil overcharges. The DOE also denied two Motions for Discovery filed by the States. Big Horn Coal Co. was granted a refund of $25,935. Union Rock & Materials Corp. and Rosebud Coal Sales Co. were granted refunds of $10,912 and $6,575 respectively. The sum of the refunds granted in this determination is $43,422.

Colt Industries, 11/28/90, RF272-522

The Department of Energy (DOE) issued a Decision and Order granting a refund from crude oil overcharge funds to Colt Industries based on the firm's purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Colt Industries used refined petroleum products in its engine division in the manufacturer of stationary and marine diesel engines. Colt Industries was an end-user of the products claimed and was therefore presumed injured. A consortium of 30 states and two territories filed a "Statement of Objections" to Colt Industries' claim based upon the firm's increased profits in the years 1973, 1974 and 1980. However, the DOE found that the states filings were insufficient to rebut the presumption of injury for end-users in this case. Therefore, the Application for Refund was granted. Colt Industries receiving a refund of $17,217.

Coulouthros Ltd., Fritzen-Halcyon Lijn, Inc., 11/30/90, RF272–20258, RD272–20258, RF272–58634, RD272–58634

The DOE issued a Decision and Order concerning two Applications for Refund filed in the subpart V crude oil special refund proceeding administered by the DOE 10 CFR part 205. The DOE determined that the refund claims were meritorious and granted refunds totalling $72,758. The DOE also denied two Motions for Discovery filed by a consortium of States and two Territories of the United States and rejected their challenges to the claim. The DOE denied the States' Objections, finding that foreign carriers are eligible for a refund.

Dow Corning Corp., 11/29/90, RF272–60665

The Department of Energy (DOE) issued a Decision and Order in regard to the application for a subpart V crude oil refund filed by Dow Corning Corporation (Dow Corning) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The Dow Chemical Corporation (Dow Chemical) and the Corning Glass Works each own 50 percent of Dow Corning. As Dow Chemical has more than a 49 percent ownership interest in Dow Corning, the Waiver and Release submitted by Dow Chemical in its application for a refund from the Rail and Water Transporters Escrow established by the Settlement Agreement in the Stripper Well proceeding precludes Dow Corning's receipt of a subpart V crude oil refund. Therefore Dow Corning's Application for Refund was denied.

Exxon Corp./C.W. Beasley Oil Co., Inc., Plymouth Oil Co., 11/28/90, RF307–10104, RF307–10105

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Exxon Special refund proceeding. The applicants, resellers of petroleum products purchased directly from Exxon during the consent order period, sought to rely on the small claims presumption of injury. In investigating the applicants' claims, the OHA discovered that both firms were affiliated with Northeastern Oil Co., Inc., a firm which had previously obtained a refund in the Exxon proceeding. The OHA determined that it would not be appropriate to allow Beasley, Plymouth and Northeastern to receive separate refunds under a presumption of injury. Therefore, the OHA considered Plymouth's and Beasley's applications along with the approved gallonage for Northeastern as a single claim for the purpose of calculating the refund for Plymouth and Beasley. The applicants elected to utilize the mid-range presumption of injury and receive 40 percent of their allocable shares or $5,000, whichever is greater. For these applicants, $5,000 was greater. However, Northwestern had previously received a refund of $5,000 plus interest in this proceeding. Consequently, Beasley's and Plymouth's applications were denied.

Exxon Corp./Larry McGee Exxon Service, 11/29/90, RF307–9579

The DOE issued a Decision and Order concerning an Application for Refund filed by Larry McGee Exxon Service (McGee). In its application, McGee requested a refund in excess of the volumetric refund amount of $0.00025 per gallon adopted in the Exxon refund proceeding on the grounds that it was injured by the violation of the price regulations that allegedly occurred when Exxon ceased to accept payment of motor gasoline purchases by bank credit cards. Because McGee failed to document that it was injured, the DOE denied this portion of the firm's refund application. However, the DOE granted McGee a volumetric refund of $558 based upon its purchases of 1,654,982 gallons of motor gasoline, as documented in a purchase volume schedule provided by Exxon.

Great Lakes Carbon Corp., 11/27/90, RF272–5971, RD272–5971, RF272–67247

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Great Lakes Carbon Corporation (Great Lakes) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight states and two territories of the United States (the States) filed pleadings objecting to and commenting on each of the applications filed by separate divisions of Great Lakes. The DOE found that petroleum coke and petroleum pitch were not eligible products for purposes of the crude oil proceeding. Accordingly, the DOE did not grant a refund to Great Lakes for its purchases of these products. The DOE determined that the evidence offered by the states was insufficient to rebut the presumption of end-user injury concerning Great Lakes' eligible refined petroleum products and that Great Lakes should receive a refund for these purchases. In addition, the States filed a Motion for Discovery which was denied. The refund granted in this Decision is $21,562. Great Lakes will be eligible for additional refunds as additional crude oil overcharge funds become available.

James B. Dodd, 11/30/90, RC272–102

The DOE issued a Supplemental Order concerning a July 25, 1990 Decision and Order. *Cunningham Brick Co., Inc., et al.*, Case Nos. RF272–74511, *et al.* (July 25, 1990). In the July 25 Decision, James B. Dodd (Case No. RF272–74876) was granted a $170 refund based on his purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981 pursuant to the provisions of 10 CFR part 205, subpart V. However, it was found that the appendix to the Decision was incorrect with respect to the applicant's address and the OHA was unable to ascertain the correct address for James B. Dodd. Accordingly, in this Decision and Order, the DOE determined that the July 25 Decision and Order must be rescinded with respect to James B. Dodd's claim and that the refund check issued to James B. Dodd in the amount of $170 must be voided. Further, this Decision ordered that the volume granted to James B. Dodd be changed to zero in the data base of the Office of Hearings and Appeals.

Kirby Forest Industries, Inc., 11/29/90, RC272–101

The DOE issued a Supplemental Order concerning an Application for Refund filed on behalf of Kirby Forest Industries, Inc. (Kirby), in the subpart V crude oil special refund proceeding being administered by the DOE under 10 CFR part 205, subpart V. The DOE discovered that Kirby was an affiliate of Louisiana Pacific Corporation, a firm which filed for and received a refund in the Surface Transporters Escrow established by the Settlement Agreement in the Stripper Well proceeding. Accordingly, this Supplemental Order rescinded the original Decision and Order with respect to Kirby's claim. In addition, this Decision stated that Kirby shall remit to the DOE the $5,258 refund amount granted in the previous Decision.

Massachusetts Bay Transportation Authority, 11/30/90, RF272–29820

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Massachusetts Bay Transportation Authority (MBTA), a public transportation company, based on its purchase of refined petroleum products during the period August 19, 1973 through January 27, 1981. Philip P. Kalodner (Kalodner), counsel for a group of utilities, transporters, and manufacturers, objected to MBTA'S application on the grounds that MBTA is ineligible for a subpart V refund since the company is a governmental claimant. The DOE rejected that argument and granted the application,

noting that although MBTA is a political subdivision of the Commonwealth of Massachusetts, it is not a governmental claimant for the purpose of subpart V refunds. In addition, even if MBTA were a governmental claimant, that status would not disqualify the transportation authority for a refund since states are eligible for direct restitution with respect to their own purchases of refined petroleum products. The refund granted in this Decision was $177,124.

Royal Caribbean Cruise Line, Inc., 11/28/90, RF272-14995, RD272-14995

The DOE issued a Decision and Order concerning an Application for Refund filed in the subpart V crude oil special refund proceeding being administered by the DOE under 10 CFR part 205. The DOE determined that the refund claim was meritorious and granted a refund of $32,420. The DOE denied a Motion for Discovery filed by a consortium of States and two Territories of the United States and rejected their challenge to the claim. The DOE also denied the States' Statement of Objections, finding that foreign passenger carriers are eligible for a refund.

St. Joseph Fuel Oil & Mfg. Co., 11/26/90, RF272-16726

The DOE issued a Decision and Order granting an Application for Refund filed by St. Joseph Fuel Oil & Mfg. Co. in the subpart V crude oil special refund proceeding. The Applicant is in the road construction business specializing in road oiling, grading, and concrete work. The DOE determined that the Applicant was a reseller with regard to a portion of its asphalt claim; no refund was granted for that percentage. The Applicant was treated as an end-user, howerver, regarding the portion of the petroleum products that it used for road paving.

Texaco Inc./Tate's Texaco, 11/28/90, RF321-11531

The DOE issued a Supplemental Order in the Texaco Inc. special refund proceeding regarding Tate's Texaco (Tate's). In *Texaco Inc./Gonzalez Texaco,* Case Nos. RF321-1541 *et al.* (October 25, 1990), Tate's was granted a refund of $2,856, based on its purchases of Texaco refined petroleum products (Case No. RF321-1844). This application had been filed on March 14, 1990 through Energy Refunds Inc. (ERI). However, on October 22, 1990, the applicant filed another application, in which it certified that it had not filed any other application in the Texaco proceeding (Case No. RF321-10284). Accordingly, because of this false certification, the DOE rescinded the refund granted to Tate's on October 25, 1990 (RF321-1844), and proposed to deny the other application unless Tate's files a satisfactory explanation for this filing of duplicate applications.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Co./E&D Beverages, Inc.	RF304-12145	11/30/90
Atlantic Richfield Co./Lionetti Fuel Company, Inc., *et al.*	RF304-3435	11/29/90
Atlantic Richfield Company/Elliott Arco *et al.*	RF304-11127	11/26/90
Atlantic Richfield Company/R.E. Breon & Sons, Inc. *et al.*	RF304-8891	11/27/90
Blue Ox Cooperative	RF272-47841	11/30/90
City of Durham *et al*	RF272-60016	11/28/90
City of Homestead Power Supply.	RF272-29579	11/30/90
Delaware & Hudson Railway Company.	RF272-71613	11/30/90
Exxon Corporation/ Tri-Par Oil Co. Inc.	RF307-5079	11/28/90
Grandview Exxon	RF307-8855	
Gulf Oil Corp./Mike Maxwell Gulf *et al.*	RF300-11110	11/28/90
Paramount Farming Company *et al.*	RF272-14934	11/30/90
Renaud, Inc. *et al*	RF272-65523	11/30/90
Shell Oil Company/ Keller Oil Co., Inc. *et al.*	RF315-5247	11/27/90
Shell Oil Company/ Mercer Island Shell.	RF315-7179	11/27/90
Mercer Island Shell	RF315-10063	
Shell Oil Company/ Polen's Shell Service.	RF315-2113	11/26/90
Bob's Shell Service	RF315-4844	
Shell Oil Company/ Thelen Oil Company.	RF315-1802	11/27/90
Thelen Oil Company	RF315-1815	
Thelen Oil Company	RF315-1825	
Thelen Oil Company	RF315-1828	
Texaco Inc./Craig Oil Co. Inc.	RF321-11688	11/30/90
Texas Star Distributing.	RF321-11689	
F. Gregorie & Son, Inc.	RF321-11689	
Texas Inc./Shelby F. Miller.	RF321-11692	11/30/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Arlington AM/PM Mini Mart	RF304-8308
Bar Harbor Airways, Inc.	RF321-4305
Bill Hughes Texaco	RF321-10417
Bragg Texaco Service	RF321-10209
Calvin Texaco	RF321-10208
Cedar Hills Texaco	RF321-10265
Charlie's Texaco	RF321-9532
City of New York	RF315-3210
Cocoa Beach Shell	RF315-0076
Continental Airlines	RF321-4716
Croswell Lexington Community School District.	RF272-80344
Dibol I School District	RF272-80822
Farewell Area Schools	RF272-81418
Fort Vancouver Plywood Co	RF315-791
John Gabriel Arco	RF304-11549
John Gabriel Arco	RF304-2072
Johnny's Texaco	RF321-10274
Kalina's Texaco	RF321-1639
McNabb's Atlantic Service	RF321-1697
Mitchell County School District	RF272-81203
New York Airways, Inc.	RF321-4304
Reynolds Manor Texaco	RF321-10433
Rich Cox Texaco	RF321-1249
Robbins Texaco Service	RF321-10430
Rocky Mountain Aviation, Inc.	RF321-4303
Salomon Inc.	KRO-0720
Summer Grove Shell	RF315-993
Tom Norris, Inc.	RF272-70358
Upson County School District	RF272-81340
Victor Valley High School	RF272-81679

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in "Energy Management: Federal Energy Guidelines", a commercially published loose leaf reporter system.

Dated: December 27, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-148 Filed 1-3-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3895-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 17, 1990 Through December 21, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

DRAFT EISs

ERP No. D–BLM–K36197–NV Rating EC2, Clark County Regional Flood Control Master Plan, Facilities Construction and Operation, Implementation, Section 404 Permit, Clark County, NV.

Summary: EPA expressed environmental concerns regarding potential cumulative impacts to wetlands, water quality and air quality as well as recommended mitigation measures to reduce adverse impacts. EPA requested that the final EIS clarify these issues and also provide information on project's relation to the Federal Emergency Management Agency requirements and the requirements of the Executive Order on Floodplain Management.

ERP No. D–FHW–K40179–CA Rating EC2, Hollister Bypass Construction, CA–156/Hollister from Union/Mitchell Road to San Felipe Road, Funding, Possible COE Permit, San Benito County, CA.

Summary: EPA requested that the final EIS contain more information on the project's consistency with the Clean Air Act, including section 176 conformity and air quality mitigation. EPA also expressed concerns regarding potential impacts to water quality, wetlands and riparian resources and requested a commitment to adopt appropriate mitigation.

ERP No. D1–AFS–D65013–PA Rating LO1, Allegheny National Forest Understory Vegetation Management Amendment, Implementation, Warren, McKean, Forest and Elk Counties, PA.

Summary: EPA does not object to the proposed action and subsequent amendment to the Forest Plan.

FINAL EISs

ERP No. F–FHW–J40118–UT UT–91 Highway Improvement, Brigham City to Wellsville, Funding and Section 404 Permit, Box Elder and Cache Counties, UT.

Summary: Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F–FHW–L40173–WA WA–509/East-West Corridor Improvements or Relocation, I–705 to East 11th Street and Marine View Drive, Funding, US Coast Guard section 9, and US COE sections 10 and 404 Permits, City of Tacoma, Pierce County, WA.

Summary: EPA has environmental objections to the project's potential to the National Ambient Air Quality Standard (NAAQS) for carbon monoxide. Under the 1990 Clean Air Act Amendments transportation projects are restricted from causing any new exceedences. Mitigation measures need to be developed that would bring the project within NAAQS.

ERP No. F–HUD–G85178–TX Stonebridge Ranch Development Project, Mortgage Insurance, section 404 Permit, City of McKinney, Collin County, TX.

Summary: EPA has not identified any new issues of concern with regard to the proposed action.

ERP No. FS–COE–A36407–WA Chehalis River Flood Control Project, South Aberdeen and Cosmopolis, Design Modifications, Implementation, Gray Harbor County, WA.

Summary: Review of the final EIS has been completed and the project found to be satisfactory. No formal letter was sent to the agency.

Dated: December 31, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities

[FR Doc. 91–137 Filed 1–3–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3895–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements Filed December 24, 1990 Through December 28, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900473, DRAFT EIS, AFS, UT, Tippets Valley Timber Harvest Project, Timber Sale and Road Construction, Implementation, Dixie National Forest, Cedar City Ranger District, Iron County, UT, Due: February 18, 1991, Contact: Ronald S. Wilson (801) 865–3200.

EIS No. 900474, DRAFT EIS, COE, CA, Delta Islands Water Diversion and Storage Project, Management of Wetland Habitat, Implementation, Section 10 and 404 Permits, Bacon and Bouldin Islands in San Joaquin County; and Holland and Webb Tracts in Contra Costa County, CA, Due: February 28, 1991, Contact: Jean Elder (916) 551–2270.

EIS No. 900475, DRAFT EIS, EPA, FL, Martin Coal Gasification/Combined Cycle Project, Construction and Operation, Issuance of New Source NPDES Permit, section 404 Permit, Martin County, FL, Due: February 19, 1991, Contact: Heinz L. Mueller (404) 347–3776.

EIS No. 900476, FINAL EIS, TVA, TN, KY, VA, GA, KY, NC, AL, MS, Tennessee River Reservoir System Improvement, Operation, Funding, TN, VA, GA, KY, NC, AL and MS, Due: February 04, 1991, Contact: Christopher D. Ungate (615) 632–8502.

EIS No. 900477, FINAL EIS, UMT, CA, Colma BART Station Project, Transit Improvements, Funding, San Mateo County, CA, Due: February 04, 1991, Contact: Robert Hom (415) 974–7317.

Amended Notices

EIS No. 900450, DRAFT EIS, FHW, PA, Morgantown Connector Construction, I–176 between Pennsylvania Turnpike at relocated I–22, Funding, Berks County, PA, Due: February 15, 1991, Contact: Manuel A. Marks (717) 782–2222. Published FR–12–14–90—Review period reestablished.

Dated: December 31, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91–136 Filed 1–3–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507)

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0076

Title: Annual Employment Report for Common Carriers.

Form Number: FCC Form 395.

Action: Extension.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Annual reporting.

Estimated Annual Burden: 1,200 responses, 1 hour average burden per response, 1,200 hours total annual burden.

Needs and Uses: The FCC 395 is a data collection device for enforcement

and assessment of the Commission's EEO Rules. All common carrier licensees and permittees are required to file this report and retain a copy for a two year period. The report identifies each carrier's staff by gender, race, color and/or national origin in each of nine major job categories. The information, in addition to be useful for our purposes, is also used by public interest groups, NTIA, the EEOC, the Congress and the U.S. Commission on Civil rights to assess progress in accordance with their particular objectives.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR DOC. 91-68 Filed 1-3-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Houston Authority/Ryan Walsh Inc.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-200454.

Title: Port of Houston Authority/Ryan Walsh Incorporated.

Parties: Port of Houston Authority (Port), Ryan Walsh Incorporated (RW).

Filing Party: Martha T. Williams, Port of Houston Authority, 1519 Capitol, P.O. Box 2562, Houston, TX 77252-2562.

Synopsis: The Agreement provides for RW to perform freight handling services at the Port's Wharves and Transit Sheds Nos. 30 and 32 subject to the charges, rates, rules and regulations in the Port's tariff. RW will also use the facility to repair cargo handling equipment and vehicles. RW guarantees the Port an annual income of $1.25 per square foot of shedded space generated by wharfage charges, plus a $200 per month total documentation charge, and an annual cargo movement of 0.9 of a ton per square foot of shedded space.

Dated: December 28, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-73 Filed 1-3-91; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Port of Tacoma/ International Transportation Service, 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 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-004124-004.

Title: Port of Tacoma/International Transportation Service, Inc. Terminal Agreement.

Parties: Port of Tacoma, International Transportation Service, Inc.

Synopsis: The Agreement extends the term of the basic agreement to December 31, 1995 in accordance with the terms of the basic agreement; and provides certain credit adjustments if the parties enter a new lease agreement.

Dated: December 28, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-74 Filed 1-3-91; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Jacksonville Port Authority/Wallenius Transroll Steamship Line Terminal

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200450.

Title: Jacksonville Port Authority/ Wallenius Transroll Steamship Line Terminal Agreement.

Parties:

Jacksonville Port Authority (Port)

Wallenius Transroll Steamship Line (WTSL).

Synopsis: The Agreement grants WTSL certain tariff discounts on wharfage and container receiving/ delivery. WTSL guarantees 12 vessels calls per year at the Port.

By Order of the Federal Maritime Commission.

Dated: December 31, 1990.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-134 Filed 1-3-91; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty); Starlite Cruises; Inc. and Stena Crown Princess Ltd.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Starlite Cruises, Inc. and Stena Crown Princess Ltd., 1355 N. Harbor Drive, San Diego, CA 92101.

Vessel: Pacific Star

Dated: December 27, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 91–75 Filed 1–3–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 23, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Community Group, Inc.,* Chattanooga, Tennessee; to acquire 61.9 percent of the voting shares of Consolidated Bancorporation, Inc., Chattanooga, Tennessee, and thereby indirectly acquire Volunteer Bank & Trust Company, Chattanooga, Tennessee.

2. *SB Holdings, Inc.,* Douglasville, Georgia; to acquire 100 percent of the voting shares of Southern National Bank, Douglasville, Georgia, a *de novo* bank.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Beaman Bancshares, Inc.,* Beaman, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Savings Bank, Beaman, Iowa.

2. *F&M Bancorporation,* Kaukauna, Wisconsin; to acquire 100 percent of the voting shares of SBK Bancshares, Inc., Kiel, Wisconsin, and thereby indirectly acquire State Bank of Kiel, Kiel, Wisconsin; and Lakeland Financial Corporation, Lakeland, Wisconsin, and thereby indirectly acquire Lakeland State Bank, Lakeland, Wisconsin.

3. *F&M Merger Corporation,* Kaukau, Wisconsin; to merge with SBK Bancshares, Inc., Kiel, Wisconsin, and thereby indirectly acquire State Bank of Kiel, Kiel, Wisconsin; and Lakeland Financial Corporation, Lakeland, Wisconsin, and thereby indirectly acquire Lakeland State Bank, Lakeland, Wisconsin.

4. *Illiopolis Bancorporation, Incorporated,* Springfiled, Illinois; to become a bank holding company by acquiring 95.5 percent of the voting shares of Farmers State Bank & Trust, Illiopolis, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancorp of Columbia, Inc.,* Columbia, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Columbia, Columbia, Kentucky.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Enterprise Holding Company,* Omaha, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Enterprise Bank, National Association, Omaha, Nebraska, a *de novo* bank.

Board of Governors of the Federal Reserve System, December 28, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–106 Filed 1–3–91; 8:45 am]

BILLING CODE 6210–01–M

Great Lakes Financial Resources, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 23, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Great Lakes Financial Resources, Inc.,* Homewood, Illinois; to acquire Allied Mortgage Corporation, and thereby engage in soliciting and accepting mortgage applications, originating mortgage loans and selling mortgage loans to purchasers in the secondary market pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

2. *Great Lakes Financial Resources, Inc. Employee Stock Ownership Plan,* Homewood, Illinois; to acquire Allied Mortgage Corporation, and thereby engage in soliciting and accepting mortgage applications, originating mortgage loans and selling mortgage loans to purchasers in the secondary market pursuant to § 225.25(b)(1)(iii) o the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; Norwest Financial Services, Inc., Des Moines, Iowa; and Norwest Financial Inc., Des Moines, Iowa; to acquire substantially all of the assets of Coast Program, Inc., Signal Hill, California, and the insurance premium finance receivables generated by Coast Program, Inc. and owned by ABQ Federal Savings Bank, Albuquerque, New Mexico, and thereby engage in making and servicing consumer and commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 28, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–107 Filed 1–3–91; 8:45 am]

BILLING CODE 6210–01–M

Thomas Jessie Hawes, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 17, 1991.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Thomas Jessie Hawes, Jr.*, Gainesville, Florida; to retain 15.72 percent of the voting shares of GSB Investments, Inc., Gainesville, Florida, which is the parent company of Gainesville State Bank, Gainesville, Florida.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Terry L. Jelinek*, Munden, Kansas; to acquire an additional 4.83 percent for a total of 17.04 percent; Brad Wilkenson, Munden, Kansas, to acquire 4.86 percent; and Debra K. Alexander, Mankato, Kansas, to acquire 4.86 percent of the voting shares of Munden Bankshares, Inc., Munden, Kansas, and thereby indirectly acquire Munden State Bank, Munden, Kansas.

2. *Craig Reeves*, Clayton, New Mexico, to acquire an additional 16.99 percent for a total of 26.19 percent; and Viola C. Reeves, Clayton, New Mexico, to acquire an additional 3.22 percent of the voting shares of Los Hacendados, Inc., Clayton, New Mexico, for a total of 25.50 percent and thereby indirectly acquire First National Bank in Clayton, Clayton, New Mexico.

3. *Patrick Turner Rooney*, Muskogee, Oklahoma; to acquire an additional 51.84 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, for a total of 51.87 percent and thereby indirectly acquire Charter National Bank, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, December 28, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–108 Filed 1–3–91; 8:45 am]

BILLING CODE 6210–01–M

Park National Corporation, et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 23, 1991.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Park National Corporation*, Newark, Ohio; to engage *de novo* in community development activities conducted pursuant to § 225.25(b)(6) of the Board's Regulation Y.

2. *Society Corporation*, Cleveland, Ohio; to engage *de novo* through its subsidiary, Society Equipment Leasing Company, in personal property leasing activities and related activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Financial Center Corporation*, Holland, Michigan; to engage *de novo* through its subsidiary, Consolidated Bank Services, Inc., Holland, Michigan, in management consulting to depository institutions pursuant to § 225.25(b)(11) of the Board's Regualtion Y.

2. *First Chicago Corporation*, Chicago, Illinois; to engage *de novo* through its subsidiary, Brinson Trust Company, Chicago, Illinois, in performing trust company functions pursuant to §225.25(b)(3); and acting as investment or financial advisor pursuant to § 225.25(b)(4) of the Board's Regulation Y.

3. *Firstar Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its subsidiary, Firstar Corporation of Arizona, Milwaukee, Wisconsin, in providing portfolio investment advisory servcies pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage *de novo* through its subsidiary, BA Agency, Inc., San Francisco, California, in insurance agency and underwriting activities, specifically in acting as agent to provide credit life, credit disability involuntary

unemployment, mortgage life and mortgage disability insurance directly related to extensions of credit by BankAmerica Corporation or its banking subsidiaries pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 28, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-109 Filed 1-3-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90P-0421]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Wells' Blue Bunny to market test a product designated as "lite eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: The permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than April 4, 1991.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Wells' Blue Bunny, One Blue Bunny Dr., Le Mars, IA 51031.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 6 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ fewer calories" and "75% less fat than eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 100,000 gallons (378,530 liters) of the test product. The product will be manufactured at Wells' Blue Bunny, 12th and Lincoln St. SW., Le Mars, IA 51031, and distributed in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than April 4, 1991.

Dated: December 21, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-103 Filed 1-3-91; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, December 21, 1990.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. CDC Model Performance Evaluation Program—New—CDC has developed a Model Performance Evaluation Program to assess the quality and effectiveness of emerging laboratory technologies. In addition to allowing laboratories to evaluate themselves, CDC hopes to build a database describing current laboratory testing practices for the total HIV-1 and retroviral testing processes. Respondents: Individual or households, businesses or other for-profit, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
HTLV-I/II Laboratories.	500	1 hr.	1
TLI Laboratories	400	.5 hrs.	1
TLI Physicians	10,000	.5 hrs.	1
New Enrollment Laboratories.	500	.017 hrs.	1

Estimated Annual Burden: 5,709 hours.

2. Black Lung Clinic Program (42 CFR part 55a) and Program Guidelines—0915-0081—The Health Resources and Services Administration uses the application information to determine applicants' eligibility for awards. The grantees are required to maintain patient treatment plans and a register of patients to ensure quality medical care. *Respondents:* State or local governments, non-profit institutions; *Number of Respondents:* 14; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1,899 hours; *Estimated Annual Burden:* 26,583 hours.

3. Human Immunodeficiency Virus Serosurvey Among Orthopaedic Surgeons Attending the American Academy of Orthopaedic Surgeons Annual Meetings—New—This data collection will study HIV infection among orthopaedic surgeons attending the annual meetings of the American Academy of Orthopaedic Surgeons (AAOS) in March 1991 and 1992, who participate in the study. This study will investigate occupational risk factors among surgeons for HIV infection and correlate the use of certain protective equipment and devices with the level of HIV infection. *Respondents:* Individuals or households; *Number of Respondents:* 3,300; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .67 hour; *Estimated Annual Burden:* 2,200 hours.

4. Assessment of HIV Counseling, Testing, Referral, and Partner Notification Services—New—Public

Health Clinics providing HIV counseling, testing, referral and partner notification services will be surveyed. Through on-site observation and interviews, the kinds and levels of services provided and the factors affecting service delivery will be ascertained. *Respondents:* Individuals or households, businesses or other for-profit, non-profit institutions; *Number of Respondents:* 50; *Number of Responses per Respondent:* 5.5; *Average Burden per Response:* 1.0 hour; *Estimated Annual Burden:* 275 hours.

5. Survey of NIH Extramural Shared Instrumentation Activities—0925–0318—It is generally accepted that the capabilities of expensive state-of-the-art biomedical instruments can be made available to the largest number of researchers in the most cost-effective manner by awarding them on the condition that they be shared. This study will examine the extent to which such instruments are shared; and how fully they are utilized. *Respondents:* Non-profit institutions, businesses or other for-profit; *Number or Respondents:* 6,926; *Number of Responses per Respondent;* 1; *Average Burden per Response:* .285 hour; *Estimated Annual Burden:* 1,975 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address:

Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: December 31, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 91–127 Filed 1–3–91; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–1917; FR–2334–N–06]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATES: January 4, 1991.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired, (202) 708–2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: December 28, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91–61 Filed 1–3–91; 8:45 am]

BILLING CODE 3–4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Irrigation Project; Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

PURPOSE: Final notice to increase the Blackfeet Irrigation Project's Operation and Maintenance Rates.

SUMMARY: The Bureau of Indian Affairs will increase the operation and maintenance rate for the 1991 irrigation season from $7.75 to $8.00 per assessable acre.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

Interest and/or penalty fees will be assessed on all (Trust, and Fee assessed lands) delinquent operation and maintenance charges as prescribed in the 42 Bureau of Indian Affairs Manual and the 4 CFR part 102. Government agencies, such as Federal, State and Tribal Governments are exempted from interest and/or penalty fees.

This notice will be published and posted at the following locations:

U.S. Post Offices:

Browning, Mt. 59417, Cut Bank, Mt. 59427, Valier, Mt. 59486

Bureau of Indian Affairs:

Blackfeet Agency, Browning, Mt. 59417

Newspaper:

Glacier Reporter, Browning, Mt 59417

Pioneer Press, Cut Bank, Mt. 59427

COMMENTS: The Bureau of Indian Affairs published a proposed increase to the Blackfeet irrigation projects operation and maintenance rate for 1991 in the **Federal Register** (Vol. 55, No. 217, Pg. 47008) on November 8, 1990. No adverse comments to the proposed increase were received during the 30 day comment period.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the 25 CFR, part 171 and under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior [Departmental Manual, chapter 3, part 230, (3.1 & 3.2)].

Richard Whitesell,

Billings Area Director.

[FR Doc. 91–117 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Pony Express Resource Management Plan; Availability of Proposed Planning Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the proposed planning amendment for the Pony Express Resource Management Plan (RMP) for the direct sale of 40 acres to the city of Wendover, Utah.

SUMMARY: This notice of availability is to advise the public that the proposed planning amendment is available for public review. The proposed amendment will allow for the sale of 40 acres of land to Wendover for a landfill operation. These lands are described as follows:

Salt Lake Meridian

T. 1 N., R. 19 W., sec. 34, SW¼ NE¼ containing 40 acres in Tooele County.

A 30-day protest period for the planning amendment will commence with the publication of this notice of availability.

FOR FURTHER INFORMATION CONTACT: Howard Hedrick, Pony Express Resource Area Manager, 2370 South

2300 West, Salt Lake City, Utah 84119, phone (801) 977–4300.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must be received by the Director (W–760) of the Bureau of Land Management, 18th and C Streets NW., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability for the Proposed Planning Amendment.

Dated: December 27, 1990.

James M. Parker,

State Director.

[FR Doc. 91–105 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–DQ–M

[NV–040–91–4370–12]

Ely District; Hearing to Discuss the Use of Helicopters and Motorized Vehicles to Gather Wild Horses

AGENCY: Bureau of Land Management, Interior.

ACTION: Public hearing to discuss the use of helicopters and motorized vehicles to gather wild horses during FY 91.

SUMMARY: In accordance with Public Law 92–195, as amended by Public Law 94–579 and Public Law 95–514, this notice sets forth the public hearing date to discuss the use of helicopters and motorized vehicles to gather wild horses from the Ely District during FY 91.

The hearing will convene at 2 p.m. on Tuesday, January 29, 1991, in the Conference room of the Ely District BLM Office, McGill Highway, Ely, Nevada.

The hearing is open to the public. Interested persons may make oral or written statements. Anyone wishing to make oral comments should contact Robert E. Brown, Ely District Wild Horse Specialist, by January 29, 1991. Written statements must be received by this date also.

DATES: January 29, 1991.

ADDRESSES: Bureau of Land Management, HC33 Box 150, Ely, Nevada 89301–9408.

FOR FURTHER INFORMATION CONTACT: Robert E. Brown, (702) 289–4865.

Dated: December 19, 1990.

Kenneth G. Walker,

District Manager.

[FR Doc. 91–71 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–HC–M

[UT–920–91–4120–10]

Utah and Colorado; Uinta Southwestern Utah Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Regional Coal Team Meeting.

SUMMARY: In accordance with the responsibility outlined in the Federal Coal Management Regulations (43 CFR part 3400), the Regional Coal Team (RCT) for the presently decertified Uinta Southwestern Utah Federal Coal Production Region will hold a meeting to discuss and make recommendations concerning coal leasing and development in the region. The RCT will review a long range coal market analysis prepared for the region, pending applications under the "leasing by applications" program, a development proposal in the Kaiparowits Coal Field in Southern Utah, and any additional coal related activities appropriate at this time.

SUPPLEMENTARY INFORMATION: The long range coal market analysis will be mailed to known interested parties but can also be requested from the BLM through the contact person listed in this notice. One coal lease application presently exists and others may be filed in the near future. Mining and Energy Resources Inc. has applied for a 3,431-acre tract in the Crandall Canyon of Emery County, Utah. Andalex Resources is proposing to develop a coal mine on Federal leases in the Kaiparowits Plateau of southern Utah.

DATES: The Regional Coal Team will meet on March 6, 1991, at 1:30 p.m.

ADDRESSES: The meeting will be held in the Convention Center at the Olympus Hotel, 161 W. 600 So., Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Neilson, Uinta Southwestern Utah Project Manager, Utah State Office, 324 South State Street, suite 301, P.O. Box 45155, Salt Lake City Utah 84145–0155, telephone 801–539–4038.

Dated: December 28, 1990.

James M. Parker,

State Director.

[FR Doc. 91–104 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–010–01–4212–13, CACA–27741PT]

Realty Action; Exchange of Public and Private Lands in Sacramento County, CA

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The following described private land is being considered for acquisition through exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

OFFERED PRIVATE LAND: All that portion of the following described real property located West of the West line of Franklin Boulevard:

All that portion of Lots 29 and 31 of Alluvial Acres, according to the official plat thereof, filed in the office of the Recorder of Sacramento County, California, in Book 14 of Maps, Map No. 1 that lies Southeasterly of the Southwest levee right of way as granted to Alluvial Farms Company, a corporation, to Reclamation District No. 1002, by deed dated November 9, 1916, recorded December 4, 1917, in the office of the Recorder of Sacramento County, in Book 478 of Deeds, Page 165, and all that portion of projected Section 16, 20 and 21, Township 5 North, Range 5 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the intersection of the South line of said Section 21 with the line which bounds Swamp Land Surveys No. 1 and 41 on the East, thence from said point of beginning Westerly along the South line of said Section 21 to the center line of a slough, thence, along the center line of said slough and the meanderings thereof, the following fourteen courses and distances: North 12°06'00" West 357.94 feet, North 37°14'00" West 314.01 feet; North 80°08'00" West 350.18 feet, North 84°36'00" West 776.44 feet, South 55°58'00" West 327.01 feet; North 60°02'00" West 1711.80 feet, South 68°14'00" West 374.73 feet, South 82°26'00" West 311.71 feet; North 26°51'00" West 179.33 feet; North 25°54'00" West 365.73 feet; South 86°00'00" West 603.01 feet; North 70°20'00" West 210.95 feet; North 86°49'00" West 341.89 feet and South 36°52'00" West 525 feet, more or less, to a point on the Easterly boundary of said Swamp Land Survey No. 846, thence along the Easterly boundary of said Swamp Land Survey to the Northeast corner of said Swamp Land Survey, said point being on the Southerly bank of canal and on the Southerly line of Swamp Land Survey No. 3, to the Westerly line of the Northeast one-

quarter of said Section 20, thence Northerly along the Westerly line of the Northeast one-quarter of said Section 20 to the center line of a canal; thence along the center line of said canal and the meanderings thereof, the following seven courses and distances: North 86°40'00" East 361.03 feet, North 63°07'00" East 374.36 feet; North 05°51'00" East 336.29 feet; North 21°48'00" West 795.52 feet and North 01°33'00" West 503.15 feet, more or less, to a point on the line common to said Sections 17 and 20, thence continuing along the center line of said canal to the South line of said Alluvial Acres, thence Easterly along the South boundary of said Alluvial Acres, to the Southeast corner of said Lot 29 of Alluvial Acres, thence Northerly along the Easterly boundary of said Alluvial Acres to the center line of a canal, thence along the center line of said canal and the meanderings thereof, the following six courses and distances: South 66°18'00" East 664 feet, North 58°18'00" East 470.14 feet, North 66°02'00" East 1065.90 feet, South 71°07'00" East 123.65 feet, South 07°50'00" East 80.75 feet and North 89°20'00" East 23 feet, more or less, to the Westerly property line of the Western Pacific Railway Company, thence Southerly along said Westerly property line to a point on the South line of said Survey No. 1009, thence along the South line of said Survey, Westerly to the East line of said Swamp Land Survey No. 41, thence along the East line of said Survey No. 41 to the point of beginning.

Excepting therefrom the parcel conveyed to the State of California in the deed from Agri-Properties 1968, a limited partnership, dated June 25, 1971, recorded October 6, 1971, in Book 7110–06, of Official Records, at Page 4.

Also excepting therefrom all oil, gas and casinghead gas, and other hydrocarbon substances, together with the right for the purpose of exploring and mining therefore and such rights of way and easements necessary for that purpose and all operations connected therewith, as reserved in the deed from Ruby K. Morse, et al, to Western Title Guaranty Company, Sacramento County Division, a Corporation, dated November 23, 1959, recorded November 24, 1959, in Book 3940 of Official Records, at Page 534.

Also excepting therefrom all oil, gas and other hydrocarbon and mineral substances (including rights & reservations thereto) below a depth of 500 feet, or that may be produced, recovered or saved from said land below a depth of 500 feet etc. as reserved in the deed to Karl August Otto Kraus recorded February 5, 1979, in Book 7902–05, Page 811, official Records.

APN: 146 0131 023 and 146 0131 027 containing 492.23 Acres ±, Sacramento County, California

The above described land lies contiguous to a portion of the western boundary of the existing Cosumnes River Preserve in Sacramento County. The parcel will be acquired by the Nature Conservancy who will transfer title to the Bureau of Land Management in exchange for public lands of approximately equal value, found suitable for disposal.

The public lands being considered for exchange have been identified in Notices of Realty Action published in the **Federal Register** on July 11, 1989; October 3, 1989; and November 27, 1989.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire non-Federal land adjacent to the Cosumnes River Preserve, currently jointly managed by The Nature Conservancy and Ducks Unlimited. These lands have been identified for acquisition and protection by the Joint Venture Implementation Board to contribute to the objectives of the Central Valley Habitat Joint Venture, and through it the North American Waterfowl Management Plan. This acquisition will serve the public interest by providing the opportunity for the protection and development of seasonal and permanent wetlands and riparian forests, pursuant to BLM's Wildlife 2000 Program.

FOR ADDITIONAL INFORMATION: Contact Kay Miller, (916) 985–4474 or at the address below.

ADDRESSES: For a period of 45 days from publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, Ca. 95630.

Dated: December 17, 1990.

D. K. Swickard,

Area Manager.

[FR Doc. 91–142 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–40–M

[ES–030–1–4212–18; MIES–041323, MIES–041325, and MIES–041326]

Realty Actions, Sales, Leases, Etc.; Michigan

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Land in Monroe County, Michigan—Direct Sale.

SUMMARY: The following public land has been found suitable for direct sale under section 3 of the Michigan Public Lands Improvement Act of 1988 (The Act) (102 Stat. 2711; Pub. L. 100–537), at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to): (1) The amount paid for the land by the applicant; (2) longevity of applicant's claim; (3) taxes paid on the land; and (4) other equities as the Secretary of the Interior may determine relevant.

The Act was passed by Congress because it recognized that there were long standing title claims against public land in Michigan that could not be resolved by existing Federal authorities. Therefore, Congress authorized the Secretary of the Interior to resolve these title claims and to recognize the equities of the claimants in such lands.

The public lands suitable for direct sale are described as follows:

MIES–041323

T. 7S., R. 8E., Sec. 11, Lot 4; Sec. 12, Lot 4; Sec. 14, Lots 5 and 11; Michigan Meridian, Monroe and LaSalle Townships, Monroe County, Michigan (containing approximately 8.49 acres);

MIES–041325

T. 7S. R. 8E., Sec. 5, Lot 7, Michigan Meridian, Raisinville Township, Monroe County, Michigan (containing approximately 0.88 acres); and

MIES–041326

T. 7S., R. 8E., Sec. 5, Lot 8, Michigan Meridian, Raisinville Township, Monroe County, Michigan (containing approximately 0.94 acres).

This public land is being offered by direct sale to the following applicants:

MIES–041323	CSX Transportation, Inc.
MIES–041325	Veterans Administration.
MIES–041326	Ronald R. & Lillian Ann Burggrave.

The public land will not be offered for sale until at least 30 days after the date of publication of this notice in the **Federal Register.**

The public land described above is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice in the **Federal Register**, whichever occur first.

It has been determined that the parcels of public land contain no known mineral values; therefore, the mineral estates may be conveyed. Acceptance of the direct sale offer will qualify the

purchaser to make application for conveyance of the mineral estates.

The case files concerning these direct sales are available for review at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin 53203.

DATE: For a period up to and including February 4, 1991, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631. In the absence of timely comments, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Duane Marti, Realty Specialist, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631; telephone number (414) 297–4429 or (FTS) 362–4429.

Gary D. Bauer,

District Manager.

[FR Doc. 91–140 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–GJ–M

[CA–060–00–4212–13; CA–24801]

Realty Action; Exchange of Public and Private Lands; Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Exchange of Public and Private Lands, CA–24801.

SUMMARY: The following described public lands, located in Riverside County, are being considered for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 6 S., R. 7 E.,
Section 8: Lot 1, N½SW¼.
Containing 119.83 acres, more or less.

In exchange for these lands, the United States will acquire from Landmark Land Company of California, Incorporated the following offered private lands in Riverside County, California, within the Santa Rosa Mountains National Scenic Area:

San Bernardino Meridian, California

T. 7 S., R. 7 E.,
Section 17: N½N½.
Containing 160 acres, more or less.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire non-federal lands within the Santa Rosa Mountains National Scenic Area (SRMNSA). The SRMNSA provides critical habitat for Peninsular bighorn sheep and other sensitive desert wildlife. The exchange would create a more logical and efficient land management pattern and would enhance the Bureau of Land Management's goal to acquire private lands within critical wildlife habitat areas. The public interest will be served by completing this exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Landmark Land Company of California, Incorporated of funds in an amount not to exceed 25 percent of the total value of the land to be transferred out of Federal ownership.

The land to be transferred from the United States will be subject to the following reservations;

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. Those rights for a canal and service road granted to the Bureau of Reclamation on June 16, 1950, by right-of-way grant LA–083030, pursuant to the Act of December 5, 1924 (43 Stat. 672).

The offered private land will be acquired subject to the following third party rights and reservations:

1. An easement within section 17 for pipelines and incidental purposes as reserved by Southern Pacific Land Company, a corporation in the deed recorded May 4, 1958, in Book 2274, Page 399, of Official Records of Riverside County, California.

2. An easement for ingress and egress, public utilities and incidental purposes as reserved by F. Hechinger and Doris Hechinger along the north and over the east fifteen feet of section 17 as described in the deed recorded December 9, 1958, as Instrument No. 88728, of Official Records of Riverside County, California.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first.

For detailed information concerning this exchange contact Russell L. Kaldenberg, BLM Palm Springs-South Coast Resource Area, at (619) 323–4421.

For a period of 45 days after publication of this notice in the **Federal Register** interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: December 24, 1990.

Larry D. Foreman,

Acting District Manager.

[FR Doc. 91–118 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–40–M

[WY–930–01–4214–10; WYW 111611]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 10,535.30 acres of public mineral estate in Fremont County to protect the East Fork Elk Winter Range. This notice closes the land for up to 2 years from mining location. The land, where public, will remain open to surface entry, and all of the land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by April 4, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 307–775–6115.

SUPPLEMENTARY INFORMATION: On December 12, 1990, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public mineral estate from location or entry under the mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 42 N., R. 105 W.,
Sec. 2, lots 3–4, S½NW¼,N½SW¼;
Sec. 3, lots 1–4, S½N½, S½;
Sec. 4, lots 1–4, S½N½;
Sec. 5, lots 1–4, S½NE¼, SE¼NW¼, SW¼ SW¼;
Sec. 6, lots 2–7, SW¼NE¼, SE¼NW¼, E½ SW¼, W½SE¼, SE¼SE¼;
Sec. 7, lots 1–3, NE¼, E½NW¼, NE¼ SW¼, N½SE¼, SE¼SE¼;
Sec. 8, W½, W½SE¼;
Sec. 9, NE¼;
Sec. 10, N½;

Sec. 18, lots 1–4, E½, E½W½;
Sec. 19, lots 1, 2, E½E½, NW¼NE¼, E½ NW¼, NE¼SW¼, NW¼SE¼;
Sec. 30, lot 2.
T. 43 N., R. 105 W.,
Sec. 31, lots 3, 4;
Sec. 32, N½, SE¼;
Sec. 33, all;
Sec. 34, all.
T. 42 N., R. 106 W.,
Sec. 1, lots 1–4, S½N½, SW¼;
Sec. 2, lots 1, 2, S½NE¼;
Sec. 11, S½;
Sec. 12, E½, E½W½, NW¼NW¼, E½ SW¼NW¼, E½W½SW¼NW¼;
Sec. 13, E½, NE¼NW¼;
Sec. 14, all;
Sec. 22, SE¼SE¼;
Sec. 23, E½;
Sec. 24, NE¼;
Sec. 25, S½;
Sec. 26, E½, W½W½;
Sec. 27, E½E½.
T. 43 N., R. 106 W.,
Sec. 35, E½NW¼, NE¼SW¼, NW¼SE¼.

The area described aggregates 10,535.30 acres in Fremont County.

The purpose of the proposed withdrawal is to protect the East Fork Elk Winter Range, which was established for the purpose of providing winter habitat for about 3,500 elk which summer on the Shoshone National Forest north of the Wind River.

For the period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that a public meeting will be held in connection with the proposed withdrawal. A notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied on canceled, or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are only those specifically allowed by an authorized officer of the Bureau of Land Management.

Dated: December 26, 1990.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 91–119 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATES: January 11, 1991.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Public Safety Building, room 209, 10 East Church Street, Bethlehem, PA.

FOR FURTHER INFORMATION CONTACT: Deirdre Gibson, Division of Park and Resource Planning, Mid-Atlantic Regional Office, National Park Service, 260 Custom House, 200 Chestnut Street, Philadelphia, PA 19106, 215–597–6486.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100–692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 91–101 Filed 1–3–91; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and explanatory material may be obtained by contacting the Bureau of Reclamation's (Reclamation) Clearance Officer at the address and/or telephone number listed below. Comments and suggestions on the proposal should be made within 30 days directly to the Reclamation clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1006–0003), Washington, DC 20503, telephone 202–395–5897.

Title: Procedure to Process and Recover Value of Rights-of-Use and Administrative Costs.

OMB Approval Number: 1006–0003.

Abstract: Applicants for a right to use land under the jurisdiction of Reclamation must provide certain specified information. The required information will accompany the application and is the basic information necessary to enable Reclamation to determine whether or not the use can be granted. The information to be collected consists of the applicant's name and address, a description of the land on which the use is desired, environmental data, the use to which the land will be put, the length of time the use will be in effect, a map or drawing showing the area on which the desired use is to be located, and the bid price if it is a competitive right-of-use. If the use involves construction, the applicant may also be required to provide detailed construction plans, information needed by Reclamation to meet any environmental or cultural resource requirements, and additional information necessary to assure Reclamation that the proposed use will not conflict with the purpose for which Reclamation administers the land.

Reclamation Form Number: UC–313 (07/84), unnumbered letter, and MB–76 (Revised 8/86).

Frequency: On occasion.

Description of Respondents: Individuals, firms, and agencies desiring to use Reclamation-administered land for any purpose.

Estimated Completion Time: 2 hours.

Annual Respondents: 1900.

Annual Burden Hours: 3800.

Reclamation Clearance Officer: Mr. Antonio Alcon, Information Collection Clearance Officer, Bureau of Reclamation, Denver Office, PO Box 25007, Building 67, Denver Federal Center, Denver, CO 80225, AC 303 236–7011.

Dated: November 26, 1990.

Murlin Coffey,

Chief, Supply and Services Division.

[FR Doc. 91-150 Filed 1-3-91; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Determination

The Advisory Committee on Voluntary Foreign Aid serves as an important link between the U.S. government and the community of private and voluntary organizations engaged in foreign assistance activities. The Committee advises A.I.D. on policies and procedures concerning those organizations; provides information, counsel and assistance to private and voluntary organizations; and fosters public interest in the field of voluntary foreign aid. There continues to be a significant need for such liaison and the related functions of the Committee.

Accordingly, the Administrator determined, pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), that continuation of the Advisory Committee on Voluntary Foreign Aid for a two-year period, beginning December 31, 1990, is necessary and in the public interest.

Dated: December 26, 1990.

Jan W. Miller,

Assistant General Counsel for Employee and Public Affairs, Agency for International Development.

[FR Doc. 91-69 Filed 1-3-91; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-486 Through 494 (Preliminary)]

Coated Groundwood Paper From Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations..

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-486 through 494 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and/or the United Kingdom of coated groundwood paper,[1] provided for in subheadings 4810.21.00 and 4810.29.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by February 11, 1991.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: December 28, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on December 28, 1990, on behalf of the Committee of the American Paper Institute to Safeguard the U.S. Coated Groundwood Paper Industry, New York, NY, and each of its nine individual members.

Participation in these investigations. Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list. Pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list. Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on January 18, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-252-1185) not later than January 17, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

[1] For purposes of these investigations, coated groundwood paper is paper (excluding paperboard) used for writing, printing, or other graphic purposes, coated on both sides with kaolin (China clay) or other inorganic substances, and consisting of more than 10 percent by weight of fibers obtained by a mechanical process.

Written submissions. Any person may submit to the Commission on or before January 22, 1991, a written brief containing information and arguments pertinent to the subject matter of these investigations, as provided in section 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due January 23, 1991. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submission except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than January 25, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due January 28, 1991.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: December 31, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-197 Filed 1-3-91; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 394 (Sub-No. 6)]

Cost Ratio for Recyclables; 1989 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of rate ceilings.

SUMMARY: By decision served December 20, 1989, the Commission proposed a revenue-to-variable cost ratio of 145.1 percent as the 1989 ceiling for rates on nonferrous recyclables under 49 U.S.C. 10731(e). The R/VC ratio was calculated in accordance with established procedures but used the Uniform Railroad Costing System instead of Rail Form A. In response, the Soo Line Railroad Company (Soo) comments that separate R/VC ratio ceilings for individual railroads should apply because URCS develops different variability percentages for different railroads. The Commission has decided to consider the issue raised by Soo in the context of the compliance rules in Ex Parte 394 (Sub-No. 3), Cost Ratios for Recyclables—Compliance Procedures. (See notice of proposed rulemaking published concurrently with this notice.) The national average R/VC ratio of 145.1 percent is affirmed. Individual and regional R/VC ratios are proposed contingent upon changes to the compliance rules in the reopened proceeding.

EFFECTIVE DATES: The affirmance of the national average R/VC ratio is effective on January 4, 1991. The proposed contingent regional and individual carrier ratios will be effective January 24, 1991, unless, within that time, comments are received challenging the accuracy of the individual and regional ratios, in which case a further decision will be issued.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354, (TDD for hearing impaired (202) 275-1721).

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

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

Authority: 49 U.S.C. 10321(a), 10731, 5 U.S.C. 553.

Decided: December 21, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-39 Filed 1-3-90; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 394 (Sub-No. 7)]

Cost Ratio for Recyclables; 1990 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of rate ceilings.

SUMMARY: The Commission has calculated proposed 1990 revenue-to-variable cost ratios as ceilings for rates on nonferrous recyclables under 49 U.S.C. 10731(e). The R/VC ratios were calculated in accordance with established procedures using the Uniform Railroad Costing System (URCS). Because URCS develops different variability percentages for different railroads, the Commission has decided to consider whether separate R/VC ratio ceilings for individual railroads should apply in the context of the compliance rules in Ex Parte 394 (Sub-No. 3), *Cost Ratios for Recyclables—Compliance Procedures.* (See notice of proposed rulemaking published concurrently with this notice.) The proposed national average R/VC ratio is 144.3 percent. Individual and regional R/VC ratios are proposed contingent upon changes to the compliance rules in the reopened proceeding.

EFFECTIVE DATES: January 24, 1991, unless, within that time, comments are received challenging the accuracy of the ratios, in which case a further decision will be issued.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354, (TDD for hearing impaired (202) 275-1721).

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

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

Authority: 49 U.S.C. 10321(a), 10731, 5 U.S.C. 553.

Decided: December 21, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-43 Filed 1-3-91; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-No. 24)]

Intrastate Rail Rate Authority; North Dakota

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of North Dakota to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective on February 3, 1991 and will expire February 2, 1996.

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.

Decided: December 26, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–44 Filed 1–3–91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31812]

Northern Indiana Commuter Transportation District; Acquisition Exemption; Chicago Southshore and South Bend Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 11343 *et seq.* the acquisition, by Northern Indiana Commuter Transportation District (NICTD), of Chicago SouthShore and South Bend Railroad Company's 76.95 miles of rail line (74.65 miles between Kensington, IL, and South Bend, IN, and 2.3 miles of track in the Monon District near Michigan City, IN), subject to standard labor protective conditions.

DATES: The exemption will be effective December 31, 1990. Petitions to revoke the exemption must be filed by February 4, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31812 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) NICTD's representatives:

Kelvin J. Dowd, Slover & Loftus, 1224 17th St. NW., Washington, DC 20036.

Bjarne R. Henderson, Northern Indiana Commuter Transportation District, 33 East U.S. Hwy. 12, Chesterton, IN 45304.

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 that 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: December 27, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald. Commissioner Emmett did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–72 Filed 1–3–91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified herein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue, NW., room S–3014, Washington, DC 20210.

Corrections to General Wage Determination Decisions

Pursuant to the provisions of the Regulations set forth in title 29 of the Code of Federal Regulations, part 1, § 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume(s).

Volume I

Wage Decision No. NY89–3, Modification Nos. 10 Through 11

Pursuant to the Regulations, 29 CFR part 1, § 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut, CT90–1 (Jan. 5, 1990).	p. 63, pp. 65,68.
Georgia: GA90–3 (Jan. 5, 1990)	p. 217, pp. 218–220a.
GA90–22 (Jan. 5, 1990).....	p. 261, p. 262.
GA90–32 (Jan. 5, 1990).....	p. 280a, p. 280b.
New Jersey, NJ90–3 (Jan. 5, 1990).	p. 685, p. 690.
Virginia: VA90–5 (Jan. 5, 1990)	p. 1213, p. 1214.
VA90–15 (Jan. 5, 1990).....	p. 1243, pp. 1244–1246.
VA90–50 (Jan. 5, 1990).....	p. 1329, p. 1330.
West Virginia, WV90–3 (Jan. 5, 1990).	p. 1415, pp. 1418, 1424–1425.

Volume II

Iowa, IA90–1 (Jan. 5, 1990)...	p. 17, pp. 18–21.
Michigan, MI90–7 (Jan. 5. 1990).	p. 495, p. 501.
Nebraska: NE90–3 (Jan. 11, 1990)	p. 725, pp. 726–727.
NE90–10 (Jan. 5, 1990)	p. 741, p. 742.

Volume III

California, CA90–4 (Jan. 5, 1990).	p. 71, pp. 72–100.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 28th day of December 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91–64 Filed 1–3–91; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Attestations Filed by Facilities Using Nonimmigrant Aliens As Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The addresses of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the attestation process: Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–535–0163 (this is not a toll-free number).

Regarding the complaint process: Chief, Farm Labor Programs, Wage and Hour Division. Telephone: 202–523–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on

Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the ADDRESSES section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the ADDRESSES section of this notice.

Signed at Washington, DC, this 28th day of December, 1990.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS

[12/01/90 to 12/21/90]

CEO-name	Phone	Facility name	St.	Approval date
Richard A. Pierson	501-686-6096	University Hosp. of Arkansas, 4301 W. Markham, Little Rock, Arkansas 72205	AR	12/20/90
Jerry Gillman	213-938-3161	Midway Hosp. Medical Center, 5925 San Vicente Blvd., Los Angeles, California 90019	CA	12/20/90
Russell Stromberg	213-419-3624	Centinela Hosp. Med. Center, 555 East Hardy, Inglewood, California 90307	CA	12/20/90
Joe O'Grady-Peyton	617-262-3533	O'Grady-Peyton Int'l USA Inc., 651 Boylston Street, Boston, Massachusetts 02116	MA	12/11/90
Gary Gambuti	212-523-2162	St. Luke's/Roosevelt Hospital, 114th Street, New York, New York 10019	NY	12/20/90
Charles V. Rice	703-222-3900	International Health Services, 5723 Centre Square Drive, Centreville, Virginia 22020	VA	12/20/90

[FR Doc. 91-139 Filed 1-3-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,871]

Fleck, Inc.; Affirmative Determination Regarding Application for Reconsideration

By a letter dated December 5, 1990, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of Fleck, Incorporated, Fayette, Mississippi. The Negative Determination was issued on November 20, 1990 and published in the **Federal Register** on December 11, 1990 (55 FR 50892).

The petitioner states that the Department's denial did not mention wire harnesses or leads and claims that the production of wire harnesses and leads was transferred to Mexico.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 21st day of December 1990.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 91-138 Filed 1-3-91; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91-1; Exemption Application No. D-8199 et al.]

Grant of Individual Exemptions; Philippe Investment Management, Inc. (PIM), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with secation 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Philippe Investment Management, Inc. (PIM), Located in New York, NY

[Prohibited Transaction Exemption 91-1; Exemption Application No. D-8199]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, to the acquisition, sale or redemption of limited partnership units (the Units) between pension plans (the Plans) investing in the International Small

Float Fund (the Limited Partnership) and PIM, the general partner of the Limited Partnership and a party in interest with respect to the Plans, provided:

(a) A Plan pays no more or receives no less for a Unit than the Plan would have paid or received in an arm's length transaction with an unrelated party;

(b) Such acquisition, sale or redemption is expressly authorized in writing by a fiduciary of a Plan who is independent of PIM and who has acknowledged in writing that the Plan is an "accredited investor" as defined in Rule 501 of Regulation D of the Securities Act of 1933 and that the fiduciary has not relied upon the advice of PIM with respect to the acquisition, sale or redemption; and

(c) No fees or commissions are paid by any Plan by reason of the acquisition, sale or redemption or Units in the Limited Partnership.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 17, 1990 at 55 FR 42083.

Correction of Proposed Exemption: The Department received no written comments with respect to the notice of proposed exemption. However, for purposes of technical accuracy, the Department notes that on page 42085 of the proposed exemption, the text of Footnote One erroneously appears as the second paragraph of item 9 of the Summary and Facts and Representations rather than as a Footnote at the bottom of the page. Therefore, the Department hereby amends the proposed exemption to reflect the correct placement of the text of Footnote One.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Anthony Limoncelli, M.D., P.A. Defined Benefit Pension Plan and Trust (the Plan) Located in Port Charlotte, Florida

[Prohibited Transaction Exemption 91–2; Exemption Application No. D–8448]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of certain land to Anthony Limoncelli, M.D., a party in interest with respect to the Plan; provided that the Plan receives the greater of $375,000 or the fair market value at the time of the sale as determined by an independent qualified appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 30, 1990 at 55 FR 45682/45683.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Profit Sharing Plan and Employees Trust of T.F. Ciurej, M.D., P.C., and Pension Plan and Employees Trust of T.F. Ciurej, M.D., P.C., (collectively, the Plans) Located in Omaha, Nebraska

[Prohibited Transaction Exemption 91–3; Exemption Application Nos. D–8393 and D–8394]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain parcels of land (the Land) by the Plans to Terence F. Ciurej, M.D. and Mrs. Linda Ciurej, provided that the Plans receive the greater of $85,062 or the fair market value of the Land at the time of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 14, 1990 at 55 FR 47560/47561.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

PACCO, Inc. Profit Sharing Plan (the Plan) Located In Olympia, Washington

[Prohibited Transaction Exemption 91–4; Exemption Application No. D–8410]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales by the Plan of a parcel of real property and a note to IRECO Incorporated, a party in interest with respect to the Plan, provided the Plan receives no less than fair market value for the real property and the higher of fair market value or the principal balance plus accrued interest for the note at the time of sale.

EFFECTIVE DATE: This exemption is effective as of November 15, 1990.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 17, 1990, at 55 FR 42087.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Cardiovascular & Internal Medicine Associates, Inc. Profit Sharing Plan (the Plan) Located in West Monroe, Louisiana

[Prohibited Transaction Exemption 91–5; Exemption Application No. D–8479]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash of a parcel of real property (the Property) from the individual account in the Plan of James Wade to SKE Partnership, a party in interest with respect to the Plan, provided the Plan receives no less than the greater of $47,500 or fair market value for the Property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 14, 1990, at 55 FR 47561.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Building Service Local 32B–J Pension Fund; Building Service Local 32B–J Health Fund; Building Service Local 32B–J Legal Service Fund; (collectively, the Funds) Located in New York, NY

[Prohibited Transaction Exemption 91–6; Exemption Application No. D–8396, L–8397 and L–8398]

Exemption

The restrictions of sections 406(a) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the leasing of an office building between the Funds and the 101 Limited Partnership (the Landlord), a party in interest with respect to the Funds, pursuant to certain triple net leases, leasehold improvement agreements, and an operating agreement (collectively, the Agreements); provided that neither the Landlord, nor the owners of the Landlord; (a) are fiduciaries with respect to such Funds; or (b) directly or indirectly, influence or exercise any decision making authority in connection with the selection of the

fiduciaries for such Funds or in connection with the decision of such fiduciaries to enter into the Agreements on behalf of the Funds or to exercise any rights or obligations conferred upon the Funds under such Agreements; and provided further that the terms of the Agreements are at least as favorable to the Funds as those obtainable in arm's length transactions between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Notice) published on November 19, 1990, at 55 FR 48185.

Notice to Interested Persons and Comments

The applicant represented to the Department that it had notified by November 28, 1990, all interested persons of the Notice published in the Federal Register on November 19, 1990. In the Notice, the Department invited all interested persons to submit written comments and any requests for a hearing on the proposed exemption. All comments and requests for a hearing were due by December 28, 1990.

As of the close of the comment period, in addition to numerous telephone inquiries from interested persons, the Department had received over ninety letters from interested persons commenting on the proposed transactions. In this regard, the Department sent the applicant copies of the comment letters and requested that the applicant respond to the issues identified therein in writing.

Several interested persons commented that they had received the cover letter informing them of the opportunity to comment and/or request a hearing, but did not receive a copy of the Notice that was published in the Federal Register. The applicant represented that, because of the process utilized in mailing the relevant materials to the 75,000 participants and beneficiaries of the Funds, no more than a fraction of 1% of the total mailing resulted in such an omission of the Notice. Further, the applicant represents that any persons specifically identified as not having received Notice were mailed a duplicate copy.

The majority of commentators expressed concern over the impact of the proposed transactions on their pension and other benefits payable from the Funds. With regard to such commentators' concerns, the applicant responded that the Agreements would have no direct impact on benefits currently payable by the Funds, nor would the exemption in any way exonerate the trustees of the Funds (the Trustees) from their fiduciary responsibilities under the Act with respect to the payment of benefits. In addition, the applicant submitted an affidavit from Ronald Raab, counsel to the Funds, in which Mr. Raab stated that the Trustees carefully considered the costs of the rental and other expenses, including increases associated with the improvements to be paid for by the Funds, prior to executing the Agreements and concluded that such costs and expenses were within the capacity of the Funds to absorb without adversely affecting benefits either presently, or in the future.

Some commentators suggested that, because of the favorable real estate market with respect to lessees at this time, the Funds could have arranged advantageous short-term rentals instead of those proposed. In this regard, the applicant represented that the Trustees carefully considered various options available to them for obtaining additional space to centralize the operations of the Funds and of the Service Employees International Union, Local 32B–J. After careful study and with the help of qualified professional advice, the Trustees concluded that the long-term leasing arrangements involved in the exemption would enable the Funds to obtain a building built to their specifications which is advantageous to the Funds.

The applicant submitted a comment which identified various typographical and spelling errors contained in the Notice as published in the Federal Register. The applicant states that such errors do not change the substantive information contained in the proposed exemption. Accordingly, the Department hereby incorporates those changes into the grant.

Seven commentators, who submitted written comments, also requested that the Department hold a hearing. The Department has determined that these commentators have not identified substantive issues which would merit the holding of a public hearing and that the issues identified have been fully explored in the case record, including the material submitted by the applicant in response to the comments. Thus, the Department has concluded that a hearing is not necessary.

Accordingly, after careful consideration of the entire record, including the written comments and hearing requests submitted by interested persons, the Department has determined to grant the exemption as proposed.

All comments and responses submitted to the Department by the applicant and all other commentators are included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, were made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, room N–5507, U.S. Department of Labor, 200 Constititution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

The Investment Plan for Salaried Employees of Great Northern Nekoosa Corp.; the Investment Plan for Certain Employees of Great Northern Nekoosa Corp.; the Great Northern Nekoosa Corp. Supplemental Retirement Plan; and the Investment Plan for Union of Great Northern Nekoosa Corp. and Affiliated Cos. (collectively, the Plans) Located in Atlanta, GA

[Prohibited Transaction Exemption 91–7;

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plans of three guaranteed investment contracts (the GICs) to the Georgia-Pacific Corporation (Georgia-Pacific), a party in interest with respect to the Plans; provided that the purchase price for the GICs is no less than their fair market value as of the date of the sale transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 14, 1990 at 55 FR 47562.

EFFECTIVE DATE: The exemption is effective as of December 28, 1990.

WRITTEN COMMENTS: The Department received one written comment and no requests for a hearing. The comment was submitted on behalf of Georgia-Pacific (the Applicant) concerning inaccuracies in the Summary of Facts and Representations in the Notice of Proposed Exemption and a change in the proposed date of the subject transaction:

(1) In a paragraph #1 of the Summary, it is stated that, "Investment decisions are made on behalf of the Plans by a benefits administration committee comprised of directors and/or officers of Great Northern." The Applicant represents that the benefits administration committee is comprised

of employees, not directors and/or officers, of Great Northern.

(2) The Applicant notes that an incomplete sentence appears immediately prior to the final sentence of paragraph #2 of the Summary. The complete sentence should have appeared as follows: "In accordance with this feature of the G–P Plan, upon the proposed merger the Great Northern Investment Plan's 91 percent interest in the GICs would be commingled with the guaranteed investment contracts already held by the G–P Plan."

(3) The Notice stated that the exemption, if granted, would be effective as of October 31, 1990. The Applicant has notified the Department that the transaction did not take place until December 28, 1990 and requests that the exemption be effective as of such date.

After consideration of the entire record, including the Applicant's comment, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 31st day of December 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 91–149 Filed 1–3–91; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL COMMUNICATIONS SYSTEM

Federal Telecommunication Standards

AGENCY: National Communications System, Office of Technology and Standards.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on proposed Federal Telecommunications Standard 1091, "Telecommunications: Federal Building Standard for Telecommunications Pathways and Spaces".

DATES: Comments are due on or before April 4, 1991.

ADDRESSES: Send comments to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: National Communications System, Office of Technology and Standards, Washington, DC 20305–2010, Mr. Nick Andre, telephone (703) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer communication interface. GSA's authority to publish Federal Telecommunication Standards is dependent on the definition of automatic data processing equipment as specified in 40 U.S.C. 759.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Requests for copies of the draft proposed FED–STD 1091 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Beverly Sampson,

Committee Management Liaison Officer, Federal Register Liaison Officer.

Dennis Bodson,

Assistant Manager, NCS Office of Technology & Standards.

[FR Doc. 91–120 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–DG–M

Federal Telecommunication Standards

AGENCY: National Communications System, Office of Technology and Standards.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on proposed Federal Telecommunications Standard 1080, "Telecommunications: Video Coder/Decoder for Audiovisual Services at 56 to 1,920 kbit/s."

DATES: Comments are due on or before April 4, 1991.

ADDRESSES: Send comments to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: National Communications System, Office of Technology and Standards, Washington, DC 20305–2010, Mr. Gary Rekstad, telephone (703) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer communication interface. GSA's authority to publish Federal Telecommunication Standards is dependent on the definition of automatic data processing equipment as specified in 40 U.S.C. 759.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the

needs and views of Federal agencies, industry, the public, and State and local governments.

3. Requests for copies of the draft proposed FED–STD 1080 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Beverly Sampson,

Committee Management Liaison Officer, Federal Register Liaison Officer.

Dennis Bodson,

Assistant Manager, NCS Office of Technology & Standards.

[FR Doc. 91–121 Filed 1–3–91; 8:45 am]

BILLING CODE 3810–DG–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Office of Public Partnership Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office of Public Partnership Advisory Panel (States Program Section) to the National Council on the Arts will be held on January 23–24, 1991, from 9 a.m.–5 p.m. and on January 25 from 9 a.m.–12:30 p.m. in room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be Orientation of New Panelists, Opening Remarks, Budget Review, Application Review Orientation, Application Review, FY 92 States Program Guidelines, 5% Set-Aside Plans and Options, and Policy Discussion re Partnership in the Reauthorization Bill.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: December 27, 1990.

Robbie McEwen,

Acting Director, Council and Panel Operations.

[FR Doc. 91–122 Filed 1–3–91; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on TVA Plant Licensing and Restart; Meeting

The ACRS Subcommittee on TVA Plant Licensing and Restart will hold a meeting on January 24, 1991, at the Amberley Suite Hotel, 4880 University Drive, Huntsville, AL.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, January 24, 1991—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review the planned restart of Browns Ferry Unit 2.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 24, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91–128 Filed 1–3–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–599 ESR AND 50–600 ESR]

Commonwealth Edison Co., Carroll County Nuclear Station, Units 1 and 2; Withdrawal of Application for Construction Permits

By letter dated December 11, 1989, Commonwealth Edison Company (applicant) withdrew their application to construct and operate the Carroll County Nuclear Station, Units 1 and 2. The site is located in northwestern Illinois, about five miles southeast of the city of Savanna and three miles east of the Mississippi River in Carroll County. A Notice of Application for Construction Permits (part I) and Early Site Reviews was published in the **Federal Register** on April 23, 1979 (44 FR 23950).

On October 31, 1990, the NRC's Atomic Safety and Licensing Board granted the applicant's December 11, 1989 request to terminate the construction permit proceeding in its "Order Approving Withdrawal and Terminating Proceeding."

In accordance with the applicant's request and the "Order Approving Withdrawal and Terminating Proceeding," and pursuant to 10 CFR 2.107(c), notice is hereby given that the Commission considers the Carroll County Nuclear Station, Units 1 and 2 construction permit applications to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 27th day of December, 1990.

For the Nuclear Regulatory Commission.

Richard J. Barrett,

Director, Project Directorate III–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–141 Filed 1–3–91; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title*: Employer's Quarterly or Annual Report of Contributions Under the RUIA.

(2) *Form(s) submitted*: DC–1.

(3) *OMB Number*: 3220–0012.

(4) *Expiration date of current OMB clearance*: Three years from date of OMB approval.

(5) *Type of request*: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* Quarterly or Annually.

(7) *Respondents*: Businesses or other for-profit, Small businesses or organizations.

(8) *Estimated annual number of respondents*: 530.

(9) *Total annual responses*: 2,090.

(10) *Average time per response*: .3832 hours.

(11) *Total annual reporting hours*: 801.

(12) *Collection description*: Railroad employers are required to make contributions to the RUI fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 91–123 Filed 1–3–91; 8:45 am]

BILLING CODE 7905-01-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 January 10–11, 1991. The meeting will begin at 9:00 a.m. in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda

1. Briefing of the Council on the current activities of Office of Science and Technology Policy.

2. Briefing of 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 January 10–11 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of materials that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Sally Sherman (202) 395–3902, prior to 3 p.m. on January 9, 1991. Ms. Sherman is also available to provide specific information regarding time, place and agenda for the open session.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 91–126 Filed 1–3–91; 8:45 am]

BILLING CODE 3170-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Gaston and Lincoln Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Gaston and Lincoln Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Roy C. Shelton, District Engineer, Federal Highway Administration, 4505 Falls of the Neuse Road, P.O. Box 26806, Raleigh, North Carolina, 27611, telephone (919 790–2852).

SUPPLEMENTARY INFORMATION: A notice of intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to connect NC 16 in Gaston County, North Carolina to relocated US 321 in Lincoln County, North Carolina, was issued on July 24, 1990 and published in the July 31, 1990 **Federal Register.** The project has since been deleted from the North Carolina Department of Transportation's Transportation Improvement Program, therefore, the FHWA hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on December 26, 1990.

Roy C. Shelton,

District Engineer, Raleigh, North Carolina.

[FR Doc. 91–124 Filed 1–3–91; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 28, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0666.
Form Number: 673(IN).
Type of Review: Extension.
Title: Statement for Claiming Benefits Provided by Section 911 of the Internal Revenue Code.
Description: Form 673(IN) is completed by a citizen or resident of the United States and is furnished to his or her employer in order to exclude from income tax withholding all or part of the wages paid the citizen or resident for services performed outside the United States.
Respondents: Individuals or households.
Estimated Number of Respondents: 50,000.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 25,000 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–129 Filed 1–3–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 28, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New Collection.
Title: U.S. Estate Tax Return for Qualified Domestic Trusts.
Description: Form 706QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by the Internal Revenue Code section 2056A. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 80.
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—1 hour, 12 minutes.
Learning about the law or the form—40 minutes.
Preparing the form—1 hour, 30 minutes.
Copying, assembling, and sending the form to IRS—1 hour, 3 minutes.
Frequency of Response: Annually.
Estimated Total Recordkeeping/ Reporting Burden: 354 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–130 Filed 1–3–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Reivew

Date: December 27, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0038.
Form Number: ATF F 5030.6.
Type of Review: Extension.
Title: Authorization to Furnish Financial Information and Certificate of Compliance (Right to Financial Privacy Act of 1978).
Description: The Right to Financial Privacy Act of 1978 limits access to records held by financial institutions and provides for certain procedures to gain access to the information. ATF F 5030.6 serves as both a customer authorization for ATF to receive information and as the required certification to the financial institution.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 2,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.

OMB Number: 1512–0131.
Form Number: ATF F 5400.14/5400.15, Part III.
Type of Review: Extension.
Title: Renewal of Explosives License or Permit.
Description: This information collection activity is used for the renewal of explosives licenses and permits. This short renewal form is used in lieu of a more detailed application.
Respondents: Businesses or other for-profit, Small businesses or organization.
Estimated Number of Respondents: 2,500.
Estimated Burden Hours Per Respondent: 20 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 825 hours.

*OMB Number:*1512–0490.
Form Number: ATF F 4473 LV (5300.24 & .25).

Type of Review: Extension.
Title: Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.
Description: This form is used by low volume firearms dealers to record acquisition and disposition of firearms and to determine the eligibility of transferees to receive firearms. It becomes part of a licensee's permanent record and may be used to trace firearms.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 92,750.
Estimated Burden Hours Per Respondent: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 171,588 hours.
Clearance Officer: Robert Masarsky (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 91–131 Filed 1–3–91; 8:45 am]
BILLING CODE 4810–31–M

Renewal of the Advisory Committee for the Preservation of the Treasury Building

The Department of the Treasury, pursuant to the Federal Advisory Committee Act of October 6, 1972, Public Law 92–463, as amended, and with approval of the Secretary of the Treasury, announces the renewal of the Charter of the Advisory Committee for the Preservation of the Treasury Building.

The primary purpose of the committee is to consult with and advise the Secretary of the Treasury and his staff, upon request, regarding various rehabilitation projects in the Main Treasury Building. The committee will also undertake active solicitation to raise funds, as well as to encourage donors to contribute works of art and furnishings of historic importance to the Department of the Treasury.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the Department of the Treasury has renewed the Charter of the Advisory Committee for the Preservation of the Treasury Building for a period of two years beginning December 27, 1990.

Dated: December 27, 1990.

Linda M. Combs,
Assistant Secretary (Management).
[FR Doc. 91–125 Filed 1–3–91; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 3
Friday, January 4, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, January 9, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Consumer Advisory Council appointments. (This item was originally announced for a closed meeting on December 19, 1990.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 31, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91–171 Filed 1–2–91; 9:48 am]
BILLING CODE 6210–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 8:00 a.m.—Thursday, January 10, 1991.

PLACE: Federal Reserve System, Martin Building, Dining Room L, C Street Entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Acting Secretary, (202) 376–2400.

AGENDA:

I. Call to Order
II. Approval of September 17, 1990, Minutes
III. Confirmation of Committee Appointees
  a. Personnel Committee
  b. Budget Committee
IV. Audit Committee Report
  a. Interim Review, July 31, 1990
  b. FY 1990 Audit Report
  c. Selection of Auditors: Proposals
V. Budget and Financial Reports
  a. FY'91 Proposed Revised Budget Request
  b. FY'90 Internal Financial Statements
VI. Personnel Committee Report
VII. Acting Executive Director's Quarterly Management Report.
—Approval of Modification of FY'91 Goals
—Approval of FY'90 Public Relations Plan

Closed Session

VII. Personnel Matters
IX. Adjourn

Martha A. Diaz-Ortiz,
Acting Secretary.

[FR Doc. 91–237 Filed 1–2–91; 3:40 pm]
BILLING CODE 7570–09–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 7, 1991.

A closed meeting will be held on Tuesday, January 8, 1991, at 2:30 p.m. An open meeting will be held on Thursday, January 10, 1991, at 10 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b)(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 8, 1991, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, January 10, 1991, at 10:00 a.m., will be:

1. Consideration of an application by the Clearing Corporation for Options and Securities for registration as a clearing agency under Section 17A of the Securities Exchange Act of 1934. For further information, please contact Jerry Carpenter at (202) 272–7470.

2. Consideration of whether to adopt amendments to rule promulgated under Section 16 of the Securities Exchange Act of 1934 and related forms. These amendments concern the filing of ownership reports by officers, directors and principal security holders ("insiders"), as well as the exemption of certain tranactions by those persons from the short-swing profit recovery provisions of Section 16 and related provisions of the Investment Company Act of 1940 and the Public Utility Holding Company Act of 1935. These amendments are intended to clarify insider reporting obligations and the application of Section 16 to specified transactions. For further information, please contact Brian J. Lane or Richard P. Konrath at (202) 272–2589.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272–2200.

Dated: December 31, 1990.

Margaret H. MacFarland,
Deputy Secretary.

[FR Doc. 91–161 Filed 1–2–91; 8:56 am]
BILLING CODE 8010–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–91–01]

TIME AND DATE: Thursday, January 10, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
  Certain Microporous Nylon Membranes and Products

Containing Same (D/N 1602)
5. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: December 28, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–166 Filed 1–2–91; 8:57 am]

BILLING CODE 7020–02–M

Federal Register

Friday
January 4, 1991

Part II

Environmental Protection Agency

40 CFR Part 52

Reconsideration of Certain Federal RACT Rules for Illinois; Notice of Partial Stay and Reconsideration and Proposed Stay

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3894-8]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of partial stay and reconsideration.

SUMMARY: Today's action announces a three-month stay of certain federal rules requiring Reasonably Available Control Technology (RACT) to control volatile organic compounds (VOCs) in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814, June 29, 1990). The effectiveness of the following rules, including the applicable compliance dates, is stayed for three months pending reconsideration: (1) The emission limitations and standards for "top coat" and "final repair coating" operations at Diesel-Electric Locomotive Coating Lines in Cook County, Illinois (55 FR 26868–9, codified at 40 CFR 52.741(e)(1)(i)(M) (*2*) and (*3*)), as well as the July 1, 1991 compliance date (55 FR 26872, codified at 40 CFR 52.741(e)(5)); (2) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes and Miscellaneous formulation manufacturing processes only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois (55 FR 26883–4, codified at 40 CFR 52.741 (u) and (v)), as well as the July 1, 1991 compliance date (55 FR 26883–4, codified at 40 CFR 52.741(u)(4) and (v)(4)); and (3) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes only as applied to Allsteel, Incorporated's adhesive lines at their metal furniture manufacturing operations in Kane County, Illinois (55 FR 26883, codified at 40 CFR 54.41(u)), as well as the July 1, 1991 compliance date (55 FR 26883, codified at 40 CFR 52.741(u)(4)).[1] EPA is issuing this stay pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration.

Elsewhere in the Proposed Rules Section of today's **Federal Register** EPA proposes, under Clean Air Act sections 110(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a)(1), to temporarily stay the effectiveness of these rules and applicable compliance dates beyond the three months provided by this stay, but only if and as necessary to complete reconsideration of the rules in question.

EFFECTIVE DATES: Effective January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 1987, the State of Wisconsin filed a complaint in the United States District Court for the Eastern District of Wisconsin seeking that EPA, among other actions, revise the Illinois and Indiana ozone implementation plans in conformance with section 172 (b) and (c) of the Clean Air Act (*Wisconsin* v. *Reilly*, No. 87–C–0395, E.D. Wis. Sep. 22, 1989). As a result of a court-approved settlement agreement, signed by EPA and the States of Illinois and Wisconsin on September 22, 1989, EPA agreed to reduce emissions of Volatile Organic Compounds (VOCs), an ozone precursor, by promulgating revisions to the VOC Reasonably Available Control Technology (RACT) rules contained in the Illinois State Implementation Plan (SIP) for ozone.

The settlement agreement set a tight deadline for the completion of the rulemaking, requiring EPA to promulgate final revisions to correct the VOC RACT rules in the Illinois SIP by March 18, 1990. While that date was later extended to June 8, 1990, it left EPA with little time to complete an especially demanding and complex task.[2] On June 29, 1990, EPA promulgated final federal rules (55 FR 26814) requiring RACT to control the emission of VOCs in six counties in the Chicago metropolitan area: Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

Subsequently, ten petitions for review of EPA's June 29, 1990 revisions to the Illinois SIP were filed in the United States Court of Appeals for the Seventh Circuit. General Motors Corporation, Viskase Corporation, and Allsteel, Incorporated, the three parties directly affected by today's action, were among those filing petitions for review. On September 13, 1990, the Court, on its own motion, consolidated the ten petitions as *Illinois Environmental Regulatory Group ("IERG"), et al.* v. *Reilly*, No. 90–2778.[3] Since then, a number of other motions have been filed with the court. Among these is a motion EPA filed on November 2, 1990, to hold briefing in abeyance for the issues addressed in today's action. In that motion EPA represented to the court its intent to undertake the administrative stay and reconsideration that is the subject of the Agency action herein.

In addition to filing their petitions for review in the Seventh Circuit, each of the parties directly affected by today's action has requested some form of administrative relief from the Agency. General Motors Corporation filed a petition for administrative reconsideration dated August 28, 1990. General Motors requested that EPA reconsider, among other action, the emission standards applicable to the company's locomotive "top coat" and "final repair coating" operations. By a letter dated July 23, 1990, Viskase Corporation requested, among other action, that EPA stay and reconsider the rule applicable to them. On November 23, 1990, Allsteel, Incorporated filed a formal request that EPA stay the compliance date of all the federal rules until a reasonable time after the court's decision in the IERG case. As to the issues discussed in this notice EPA is, by today's action, convening a proceeding for reconsideration. However, EPA is not, by today's notice, acting on other issues raised in the parties' petitions for reconsideration.

II. Rules to be Stayed and Reconsidered

Three of the petitioners in *IERG* v. *Reilly* (see above) have questioned whether EPA complied with certain procedural requirements in promulgating the federal RACT rules within the time frame afforded by the settlement agreement. EPA intends to reconsider certain rules in light of issues raised by these three petitioners, as described below.[4]

A. General Motors Corp.

EPA intends to reconsider the locomotive coating lines rule based on petitioner General Motors Corporation's ("GM's") claims that EPA violated section 307(d)(6)(C) of the Clean Air Act in promulgating emission standards for

[1] Except as to these three particular rules as they pertain to these three sources, all other regulations are still in effect.

[2] For example, the rulemaking established regulatory requirements governing the emissions of approximately 1000 sources. In addition, EPA reviewed approximately four linear feet of public comments prior to promulgation of the final rule.

[3] By an order dated December 7, 1990, the Court, on its own motion, severed the appeals of General Motors Corporation, Viskase Corporation, and Allsteel, Incorporated from the consolidated case.

[4] By staying these rules and convening a proceeding for reconsideration, EPA in no manner concedes that it violated any provision of the Clean Air Act or the Administrative Procedure Act.

"top coat" and "final repair coating" operations at existing Diesel-Electric Locomotive Coating Lines in Cook County, Illinois, by basing its rule in part on information or data that was not placed in the public docket as of the date of the rule's promulgation (55 FR 26814, 26868–69, codified at 40 CFR 52.741(e)(1)(i)(M) (*2*) and (*3*)).

In setting emission standards for GM's locomotive topcoat and final repair coatings operations EPA relied generally on the Control Techniques Guidelines (CTG) for Miscellaneous Metal Parts or Products. See 55 FR 26840–42. As additional verification of the CTG derived emission standards, EPA examined the emission standards and control technology at a General Electric ("GE") facility in Erie, Pennsylvania, the only other locomotive manufacturing facility in the United States. However, almost all of the GE information reviewed was claimed by GE to be confidential information. EPA treated the information as confidential and denied GM's request to examine the information.

EPA has evaluated the GE information in accordance with EPA's regulations governing confidential information (40 CFR subpart B). EPA is now reconsidering the emission limitations for GM's locomotive topcoat and final repair coating operations in light of this confidentiality determination and will take appropriate regulatory action, following the applicable notice and comment procedures of section 307(d) of the Clean Air Act.

B. Viskase Corp.

During the course of the rulemaking in question Viskase Corporation ("Viskase") submitted comments in which it sought to demonstrate that site-specific emission limitations and standards, instead of the standards proposed by EPA, should be applied to the operations at their cellulose food casing manufacturing facility in Bedford Park, Illinois. The site-specific limitations would require an emissions reduction which is less than the 81 percent emissions reduction required by the Miscellaneous fabricated product manufacturing processes and Miscellaneous formulation manufacturing processes provisions EPA applied to Viskase's operations. Because of the short time limits for rulemaking established by the settlement agreement, EPA was unable to review and respond fully to Viskase's comments before promulgating the final federal RACT rules. Thus, EPA deferred the effective date of the regulations applicable to Viskase for six months, a period that EPA believed would be sufficient to allow it to respond to the comments and make whatever changes to the rule were necessary (55 FR 26846).

EPA has concluded that it will not be able to complete its review of the site-specific comments submitted by Viskase in the time allotted in the final rule, i.e., before the expiration of the rule's deferred effective date. Moreover, EPA believes these comments to be significant, warranting further review and response pursuant to section 307(d)(6)(B) of the Clean Air Act. In order to complete the review of the comments without subjecting Viskase to the hardship of an imminent compliance deadline, EPA will reconsider the regulatory requirements applicable to Viskase in light of those comments, in accordance with section 307(d) of the Clean Air Act.

C. Allsteel, Inc.

With respect to one issue, Allsteel Incorporated ("Allsteel"), is in a situation similar to that of Viskase. Allsteel provided comments in which it sought to demonstrate that site-specific emission limitations, instead of the standards proposed by EPA, should be applied to the "adhesive lines" at Allsteel's metal furniture manufacturing operations in Kane County, Illinois. EPA was unable to respond fully to those comments. The site-specific limitations would require an emissions reduction which is less than the 81 percent emissions reduction required by the Miscellaneous fabricated product manufacturing processes provisions EPA applied to the adhesive lines at Allsteel's operations. Accordingly, as in the case of Viskase, EPA deferred the effective date of the rule with respect to this issue for six months, in order to allow EPA additional time to consider Allsteel's comments (55 FR 26842).

EPA has concluded that it will not be able to complete its review of the site-specific comments submitted by Allsteel within the time allotted in the final rule, i.e., before expiration of the rule's deferred effective date. Moreover, EPA believes these are significant comments warranting review and response pursuant to section 307(d)(6)(B) of the Clean Air Act. In order to review these particular site-specific comments without subjecting Allsteel to the hardship of an imminent compliance deadline, EPA will reconsider the regulatory requirements applicable to Allsteel in light of those comments, in accordance with section 307(d) of the Clean Air Act.

III. Issuance of Stay

EPA hereby issues a three-month administrative stay of the effectiveness of the following rules, including the applicable compliance dates, promulgated as final federal rules requiring RACT to control VOCs in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814 June 29, 1990): (1) The emission limitations and standards for "top coat" and "final repair coating" operations at Diesel-Electric Locomotive Coating Lines in Cook County, Illinois (55 FR 26868–9, codified at 40 CFR § 52.741(e)(1)(i)(M)(*2*) and (*3*)), as well as the July 1, 1991 compliance date (55 FR 26872, codified at 40 CFR 52.741(e)(5)); (2) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes and Miscellaneous formulation manufacturing processes only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois (55 FR 26883–4, codified at 40 CFR 52.741 (u) and (v)), as well as the July 1, 1991 compliance date (55 FR 26883–4, codified at 40 CFR 52.741 (u)(4) and (v)(4)); and (3) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes only as applied to Allsteel, Incorporated's adhesive lines at their metal furniture manufacturing operations in Kane County, Illinois (55 FR 26883, codified at 40 CFR 54.741(u)), as well as the July 1, 1991 compliance date (55 FR 26883, codified at 40 CFR 52.741(u)(4)).

EPA will reconsider the above rules, as discussed above and, following the notice and comment procedures of section 307(d) of the Clean Air Act, will take appropriate action. If the reconsideration results in emission limitations and standards which are stricter than the existing and applicable Illinois rules, EPA will propose a compliance period of one year from the date of final action on reconsideration. Note that a one year compliance period was the general compliance period provided in the federal RACT rules (55 FR 25814). As a general matter, EPA will provide an adequate period for compliance upon completion of its final action on reconsideration. In essence, EPA will seek to ensure, as described above, that the affected parties are not unduly prejudiced by the Agency's reconsideration. Note that, like the rules themselves, any EPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of Clean Air Act section 307(d).

EPA recognizes the interests of the State of Wisconsin in this matter.[5] The regulatory requirements that will be stayed, pursuant to today's action, were undertaken in the context of a settlement agreement between EPA and the States of Wisconsin and Illinois. See Background discussion above. In recognition of those obligations, EPA will reconsider the rules in question as expeditiously as practicable.

IV. Authority for Stay and Reconsideration

The administrative stay and reconsideration of the rules and associated compliance periods announced by this notice are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for three months if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for an objection to the emission limitations being stayed for coating operations at GM's locomotive manufacturing facility arose after the public comment period. GM filed a post-promulgation motion for summary remand in the United States Court of Appeals for the Seventh Circuit. It was after reviewing the legal issues set forth in the memorandum supporting that motion that EPA reviewed its rulemaking action and concluded that additional action on the information submitted by General Electric was warranted. In addition, the alleged procedural error GM has claimed, while perhaps not dispositive, is of sufficient significance to EPA's rulemaking so as to be of central relevance to the outcome of the rule. For example, EPA may conclude that GM should be afforded an opportunity to comment on some of the information that GE claimed was confidential.

The grounds for the objection to the emission limitations applicable to both Viskase's cellulose food casing manufacturing facility and Allsteel's adhesive lines at their metal furniture manufacturing operations arose after the comment period due to the very nature of the procedural issues in question. In essence, it was not until after the promulgation of the final rules that EPA realized that the six-month deferral of the effective date of those rules would be insufficient to allow full consideration of the two companies' site-specific comments and to complete rulemaking in light of those comments. Further, the issues are of central relevance to the outcome of the rules. For example, if EPA finds the comments submitted by these two parties to be persuasive, then EPA may, through rulemaking, revise the previously promulgated rules.

V. Proposed Additional Temporary Stay

EPA may not be able to complete the reconsideration (including any appropriate regulatory action) of the rules stayed by this notice within the three month period expressly provided in section 307(d)(7)(B). If EPA does not complete the reconsideration in this timeframe then it will be necessary to temporarily extend the stay of the effectiveness of the emission limitations and applicable compliance dates until EPA completes final rulemaking action upon reconsideration. In the Proposed Rule Section of today's **Federal Register** EPA proposes a temporary extension of the stay beyond the three months provided, only if and as necessary to complete reconsideration of the rules in question.

List of Subjects in 40 CFR Part 52

Air pollution control, ozone.

Dated: December 21, 1990.

William K. Reilly,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.741 is amended by adding paragraph (z) to read as follows:

§ 52.741 Control Strategy: Ozone Control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

* * * * *

(z) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart the effectiveness of the following rules, only to the extent described below, is stayed from January 4, 1991, to April 4, 1991: (1) 40 CFR 52.741(e)(1)(i)(M) (*2*) and (*3*), and 40 CFR 52.741(e)(5); (2) 40 CFR 52.741 (u) and (v), including 40 CFR 52.741 (u)(4) and (v)(4), only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois; and (3) 40 CFR 54.741(u), including 40 CFR 52.741(u)(4), only as applied to Allsteel, Incorporated's adhesive lines at their metal furniture manufacturing operations in Kane County, Illinois.

[FR Doc. 91–40 Filed 1–3–91; 8:45 am]

BILLING CODE 6560–50–M

[5] On October 16, 1990, EPA conferred with representatives of the Wisconsin Attorney General's office regarding the possible need for EPA to undertake reconsideration of the regulatory requirements applicable to the three parties in question here.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3894-9]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed stay.

SUMMARY: In the Rules Section of today's **Federal Register**, EPA is announcing a three-month stay and reconsideration of certain federal rules requiring Reasonably Available Control Technology (RACT) to control volatile organic compounds (VOCs) in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814 June 29, 1990). That action stays, during reconsideration, the effectiveness of the following rules, including the applicable compliance dates: (1) The emission limitations and standards for "top coat" and "final repair coating" operations at Diesel-Electric Locomotive Coating Lines in Cook County, Illinois (55 FR at 26868–9, to be codified at 40 CFR 52.741(e)(1)(i)(M)(*2*) and (*3*)), as well as the July 1, 1991 compliance date (55 FR 26872, codified at 40 CFR 52.741(e)(5)); (2) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes and Miscellaneous formulation manufacturing processes only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois (55 FR 26883–4, codified at 40 CFR §§ 52.741(u) and (v), as well as the July 1, 1991 compliance date (55 FR 26883–4, codified at 40 CFR 52.741(u)(4) and (v)(4)); and (3) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes only as applied to Allsteel, Incorporated's adhesive lines at their metal furniture manufacturing operations in Kane County, Illinois (55 FR 26883, codified at 40 CFR 54.741(u)), as well as the July 1, 1991 compliance date (55 FR 26883, codified at 40 CFR 52.741(u)(4)). EPA is issuing this stay pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration.

This notice proposes, pursuant to Clean Air Act sections 110(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a)(1), to temporarily stay the effectiveness of these rules, and applicable compliance dates, beyond the three months expressly provided in section 307(d)(7)(B), but only if and as necessary to complete reconsideration (including any appropriate regulatory action) of the rules in question. Pursuant to the rulemaking procedures set forth in the Clean Air Act section 307(d), 42 U.S.C. 7607(d), EPA hereby requests public comment on this proposed temporary extension of the three-month stay.

DATES: Comments on this proposal must be received by February 4, 1991 at the address below. A public hearing, if requested, will be held in Chicago, Illinois. Requests for a hearing should be submitted to Randolph Cano by February 4, 1991 at the address below. Interested persons may call Mr. Cano at (312) 886–6036 to see if a hearing will be held and the date and location of any hearing. Any hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below.

ADDRESSES: Written comments on this proposed action should be addressed to Randolph O. Cano, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

Docket: Pursuant to sections 307(d)(1)(B) and (N), of the Clean Air Act, 42 U.S.C. 7607(d)(1)(B) and (N), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a public docket for this action, 5A–91–1 [docket no.] which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following addresses. We recommend that you contact Randolph O. Cano before visiting the Chicago location and Gloris Butler before visiting the Washington, DC location. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, Twenty Sixth Floor, Southeast, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6036.

U.S. Environmental Protection Agency, Docket No. 5A–91–1, Public Information Reference Unit (pm–211D), room 2904, Waterside Mall, 401 M Street SW., Washington, DC 20460, (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch, U.S. Environmental Protection Agency, Region V, (312) 886–6036 and at the address indicated above.

SUPPLEMENTARY INFORMATION: In the Rules Section of today's **Federal Register**, EPA announces that, pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), it is convening a proceeding for reconsideration of certain Federal rules requiring Reasonably Available Control Technology (RACT) to control volatile organic compounds (VOCs) in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814 June 29, 1990). Readers should refer to that notice for a complete discussion of the background and rules affected.[1] In that notice EPA also announces a 3-month stay of those rules during reconsideration. However, EPA may not be able to complete reconsideration (including any appropriate regulatory action) of the rules within the 3-month period expressly provided by Clean Air Act section 307(d)(7)(B). If EPA does not complete the reconsideration in this timeframe then it will be necessary to temporarily extend the stay of the emission limitations and applicable compliance dates until EPA completes final rulemaking action upon reconsideration. By this action, EPA proposes a temporary extension of the stay beyond the 3 months provided, only if and as necessary to complete reconsideration of the rules in question. If EPA takes final action to impose this stay, the stay would extend until the effective date of EPA's final action following reconsideration of these rules.

By this notice EPA hereby proposes, pursuant to Clean Air Act sections 110(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a), a temporary administrative stay of the effectiveness of the following rules, including the applicable compliance dates, promulgated as final Federal rules requiring RACT to control VOCs in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814 June 29, 1990): (1) the emission limitations and standards for "top coat" and "final repair coating" operations at Diesel-Electric Locomotive Coating Lines in Cook County, Illinois (55 FR 26868–9, to be codified at 40 CFR 52.741(e)(1)(i)(M) (*2*) and (*3*)), as well as the July 1, 1991 compliance date (55 FR 26872, codified at 40 CFR 52.741(e)(5)); (2) the emissions limitations and standards for Miscellaneous fabricated product manufacturing processes and Miscellaneous formulation manufacturing processes only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois (55 FR 26883–4, codified at 40 CFR 52.741 (u) and (v)), as well as the July 1, 1991 compliance date (55 FR 26883–4, codified at 40 CFR 52.741 (u)(4) and (v)(4)); and (3) the emissions

[1] In that discussion and as referenced here, EPA makes expressly clear that, by its actions today, including this proposal, EPA in no manner concedes that it violated any provision of the Clean Air Act or Administrative Procedure Act.

limitations and standards for Miscellaneous fabricated product manufacturing processes only as applied to Allsteel, Incorporated's adhesive lines at their metal furniture manufacturing operations in Kane County, Illinois (55 FR 26883, codified at 40 CFR 54.741(u)), as well as the July 1, 1991 compliance date (55 FR 26883, codified at 40 CFR 52.741(u)(4)).[2] In turn, pursuant to the rulemaking procedures set forth in section 307(d) of the Clean Air Act, EPA hereby requests comment on such a proposed extension.

EPA is proposing this temporary administrative stay of the rules and associated compliance dates in order to complete reconsideration of these rules, as discussed above. EPA intends to complete its reconsideration of the rules and, following the notice and comment procedures of section 307(d) of the Clean Air Act, take appropriate action. If the reconsideration results in emission limitations and standards which are stricter than the existing and applicable Illinois rules, EPA will propose a compliance period of 1 year from the date of final action on reconsideration. Note that a 1 year compliance period was the general compliance period provided in the Federal RACT rules (55 FR 26814). As a general matter, EPA will provide an adequate period for compliance upon completion of its final action on reconsideration. In essence, EPA will seek to ensure that the affected parties are not unduly prejudiced by the Agency's reconsideration. Note that, like the rules themselves, any EPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of Clean Air Act section 307(d).

EPA recognizes the interests of the State of Wisconsin in this matter.[3] The regulatory requirements that are affected by today's proposal were undertaken in the context of a settlement agreement between EPA and the States of Wisconsin and Illinois. In recognition of those obligations, EPA will reconsider the rules in question as expeditiously as practicable.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Dated: December 21, 1990.

William K. Reilly,

Administrator.

[FR Doc. 91–41 Filed 1–3–91; 8:45 am]

BILLING CODE 6560–50–M

[2] Except as these three particular rules as they pertain to these three sources, all other regulations will remain in effect.

[3] On October 16, 1990, EPA conferred with representatives of the Wisconsin Attorney General's office regarding the possible need for EPA to undertake reconsideration of the regulatory requirements affected by today's proposed action.

federal register

Friday
January 4, 1991

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25753; Amdt. No. 91-221]

RIN 2120-AD89

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action deletes the requirement that a non-Mode S transponder installed in an aircraft prior to July 1, 1992, be manufactured before January 1, 1991. This rule will permit the installation of a non-Mode S transponder until July 1, 1992, regardless of the date that transponder was manufactured. After July 1, 1992, any transponder newly installed in an aircraft must be a Mode S transponder. This action is necessary to avoid predicted shortfalls in the supply of non-Mode S transponders after January 1, 1991. It responds to revised manufacturing and sales projections for non-Mode S transponders presented as comments to a petition for rulemaking. That petition was received from the Aircraft Owners and Pilots Association, Experimental Aircraft Association, and Helicopter Association International, and was published in the **Federal Register** on June 16, 1989.

EFFECTIVE DATE: January 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Kagehiro, Air Traffic Rules Branch, ATP-230, Airspace-Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the amendment number of the document.

Background

Currently, § 91.215(a) of the Federal Aviation Regulations (FAR) provides, in part, that any air traffic control (ATC) radar beacon transponder installed in a U.S.-registered civil aircraft through and including July 1, 1992, must meet the performance and environmental requirements of any class of the following technical standard orders (TSO's): TSO-C74b or TSO-C74c as appropriate, provided that the equipment was manufactured before January 1, 1991; or the appropriate class of TSO-C112 (Mode S). After July 1, 1992, all newly installed aircraft transponders must meet the requirements of the TSO for airborne Mode S transponder equipment.

Definition of "Manufacturing Cutoff Date"

Hereafter, the term "non-Mode S transponder manufacturing cutoff date" will refer to the requirement that a newly installed non-Mode S transponder be manufactured before a certain date. This term does not imply that the provisions of § 91.215(a) explicitly restrict avionics manufacturers from producing non-Mode S transponders after the cutoff date. Manufacturers may continue to produce non-Mode S transponders beyond the cutoff date (currently January 1, 1991). However, operators of U.S.-registered civil aircraft are currently restricted from installing any non-Mode S transponder that is manufactured on or after the cutoff date; therefore, the practical effect would be the elimination of a domestic market for non-Mode S transponders on and after January 1, 1991. Because there would be little economic incentive for avionics manufacturers to produce non-Mode S transponders for U.S.-registered civil aircraft after the cutoff date, the effect would be similar to an actual restriction on the manufacture of non-Mode S transponders for domestic purposes.

Related Agency Actions

On September 17, 1985, the FAA published Notice No. 85-16, Air Traffic Control Radar Beacon System and Mode S Transponder. Requirements in the National Airspace System (50 FR 37674, FAA Docket No. 23799). That notice proposed to require that all transponders newly installed in U.S.-registered civil aircraft on and after January 1, 1992, meet the performance and environmental requirements of the TSO for Mode S transponders. Before January 1, 1992, a non-Mode S transponder could be installed in an aircraft provided the transponder was manufactured prior to January 1, 1987. The 5-year period between the cutoff date for manufacturing non-Mode S transponders and the date after which all newly installed transponders must be Mode S transponders was proposed, in part, to accommodate the development, testing, and production of a Mode S transponder and to facilitate the depletion of inventories of non-Mode S transponders. The FAA believed that avionics manufacturers would be able to stockpile sufficient quantities of non-Mode S transponders to meet the demand for automatic altitude reporting transponders prior to the availability of a Mode S transponder for the general aviation market.

Certain commenters to Notice 85-16 expressed concern that adequate supplies of non-Mode S transponders may not be available for the entire 5-year period between the non-Mode S transponder manufacturing cutoff date and the date after which all newly installed transponders must be Mode S transponders. These commenters believed that the price difference between a basic non-Mode S transponder and a Mode S transponder would result in a continuing demand for non-Mode S transponders until January 1, 1992, even if a Mode S transponder were available before that date. Further, the commenters believed that avionics manufacturers could not stockpile an adequate supply of non-Mode S transponders to meet the demand for such transponders for the entire 5-year period due to production limitations and high inventory costs. The commenters surmised that if non-Mode S transponders were unavailable, many operators having no expectation of flying in airspace with a transponder requirement would forego equipping their aircraft with a transponder rather than install a higher-priced Mode S transponder. To alleviate these concerns, the commenters recommended that the non-Mode S transponder manufacturing cutoff date be changed to January 1, 1990. The commenters believed that the manufacturers would be able to stockpile sufficient numbers of non-Mode S transponders to meet the demand over a 2-year period. Further, a 2-year period would correspond to the typical new product development cycle of 18 to 24 months and would ensure that manufacturers shift their resources to the development of a Mode S transponder for general aviation aircraft in sufficient time to meet the January 1, 1992, deadline.

The final rule was published on February 3, 1987 (52 FR 3380, FAA Docket No. 23799) (the "Mode S rule"). In response to the above comments to Notice 85-16, the manufacturing cutoff date for non-Mode S transponders was changed from January 1, 1987, to January 1, 1990. The date after which any newly

installed transponder must be a Mode S transponder was left as January 1, 1992.

AOPA/EAA/HAI Petition

On December 28, 1988, the FAA published in the Federal Register a summary of a petition for rulemaking received from the Aircraft Owners and Pilots Association (AOPA), Experimental Aircraft Association (EAA), and Helicopter Association International (HAI) (53 FR 52428, FAA Docket No. 25753). The petitioners asked the FAA, in part, to allow non-Mode S transponders manufactured prior to January 1, 1994, rather than prior to January 1, 1990, to be installed in aircraft. They also asked the FAA to continue to allow installation of non-Mode S transponders regardless of the date that such transponders were manufactured, or until the inventory of non-Mode transponders was depleted, rather than until January 1, 1992. The FAA received approximately 12,000 comments to the AOPA/EAA/HAI petition, including comments from avionics manufacturers and industry representatives. The manufacturers stated that a basic Mode S transponder for general aviation aircraft may not be available on a full-production basis until approximately May 1992. The manufacturers further suggested that the date after which all newly installed transponders must be Mode S transponders be revised to accommodate delays in the development of a Mode S transponder. Further, the commenters recommended that the non-Mode S transponder manufacturing cutoff date be delayed for one year until January 1, 1991, to mitigate the possibility of a non-Mode S transponder shortage.

Information supplied from avionics manufacturers and other commenters relating to sales projections and production of non-Mode S transponders and Mode S transponder development schedules supported the belief that: (1) A Mode S transponder for general aviation aircraft may not be available by January 1, 1992; and (2) manufacturers could increase production of non-Mode S transponders to stockpile sufficient reserves of such transponders until a Mode S transponder becomes available.

Based on the comments to the AOPA/EAA/HAI petition, the FAA, on June 12, 1989, revised § 91.215(a) of the FAR to allow certain aircraft operators to install non-Mode S transponders until July 1, 1992, rather than January 1, 1992 (54 FR 25680; June 16, 1989). The FAA believed this action was necessary to ensure that Mode S transponders would be available by the date that all newly installed transponders must be Mode S transponders. The non-Mode S transponder manufacturing cutoff date was revised from January 1, 1990 to January 1, 1991. Consistent with the intent of the Mode S rule, a different date was specified for the manufacturing cutoff date for non-Mode S transponders to provide time for the development of a general aviation type Mode S transponder and to facilitate the depletion of inventories of non-Mode S transponders.

Mode C Rule

On June 21, 1988, the FAA published the ATC Transponder with Automatic Altitude Reporting Capability Requirement Final Rule (the "Mode C rule") (53 FR 23356). This rule established the requirement for a transponder with automatic altitude reporting capability for aircraft operations within certain airspace. Hereafter, "Mode C transponder equipment" refers to a non-Mode S transponder having Mode 3/A 4096 code capability and automatic pressure altitude reporting equipment having a Mode C capability. July 1, 1989, was the effective date of the Mode C transponder equipment requirement for aircraft operations: (1) In the altitude stratum at and above 10,000 feet mean sea level and below the floor of a positive control area, excluding the airspace at and below 2,500 feet AGL; and (2) in the vicinity of a terminal control area primary airport (the Mode C "veil"). Although the effective date of the Mode C rule for aircraft operations in a Mode C veil was a full year after the publication date of the rule, many operators apparently delayed their decision to install Mode C transponder equipment in their aircraft until the FAA had acted on the above AOPA/EAA/HAI petition. In the rule issued on June 12, 1989, the FAA partially granted and partially denied the petition. The FAA revised, as noted above, certain portions of § 91.215(a) regarding the Mode S transponder installation deadline and the manufacturing cutoff date for non-Mode S transponders, but denied that portion of the petition which sought to revise the Mode C transponder equipment requirement for operations in the Mode C veil. As a result, there was a last-minute rush by operators to purchase and install Mode C transponder equipment before the July 1, 1989, deadline. Avionics shops that sell and install transponder equipment experienced shortages of Mode C transponder equipment due to the large increases in demand for such equipment.

The increase in demand for Mode C transponder equipment overwhelmed the ability of avionics shops to maintain supplies of such equipment and perform the required installations. Since the avionics shops did not carry significant inventories of Mode C transponder equipment, the transponder equipment had to be backordered from the manufacturers, resulting in significant delays for operators attempting to install Mode C transponder equipment. Further, the sudden increase in demand for non-Mode S transponders and altitude reporting equipment had depleted existing inventories of non-Mode S transponders that the manufacturers had been attempting to stockpile in anticipation of the non-Mode S transponder manufacturing cutoff date.

In response to concerns by aircraft operators over significant delays in purchasing and/or installing Mode C transponder equipment, the FAA, on June 30, 1989, published a policy statement regarding the issuance of ATC authorizations to deviate from the Mode C transponder requirement for aircraft operations within a Mode C veil (54 FR 27836). The policy statement established a 90-day transition period to accommodate delays in purchasing and installing Mode C transponder equipment for those operators attempting to equip their aircraft in compliance with the Mode C rule.

The manufacturers subsequently admitted that the overwhelming demand for non-Mode S transponders and altitude reporting equipment during the period immediately before and after the July 1, 1989, effective date had not been fully accounted for in their projections. Further, the manufacturers' ability to stockpile non-Mode S transponders was based on their expectation of increasing production of non-Mode S transponders to a level slightly exceeding projected sales of such transponders to slowly build an inventory by the manufacturing cutoff date. Since the actual demand for non-Mode S transponders had exceeded projected levels, particularly during the last two quarters of 1989, efforts by manufacturers to meet the actual demand for non-Mode S transponders have depleted existing stocks of such transponders and impaired the ability to build up an inventory. Although the demand for non-Mode S transponders and altitude reporting equipment has since leveled off, the Mode C rule and the ensuing demand for non-Mode S transponders and altitude reporting equipment have adversely impacted the manufacturers' efforts to stockpile sufficient quantities of non-Mode S transponders to meet the projected

demand for such transponders after January 1, 1991.

Revised Sales Projections and Production of Non-Mode S Transponders

On June 12, 1990, representatives from Bendix/King General Aviation Avionics Division, a subsidiary of Allied Signal Aerospace Company and a representative from its industry association met with the FAA to present an overview of industry Mode S product offerings. The information in this presentation was based on material presented at the 1990 Aircraft Electronics Association National Convention. Included in the presentation was information relating to Bendix/King's revised manufacturing, sales, and inventory projections for non-Mode S transponders from the second quarter of 1990 through the second quarter of 1992. Based on current transponder production levels and the predicted continued demand for non-Mode S transponders until July 1, 1992, Bendix/King is now projecting a shortfall of non-Mode S transponders starting from the third quarter of 1991 through the second quarter of 1992. Information from other avionics manufacturers indicates that they do not intend to stockpile significant numbers of non-Mode S transponders due to high inventory costs. This suggests that there may be significant shortfalls in the supply of non-Mode S transponders after January 1, 1991.

Need for Rulemaking

The FAA determined that a reconsideration of the January 1, 1991, manufacturing cutoff date for non-Mode S transponders is necessary. Information relating to sales projections and production of non-Mode S transponders on which the FAA, in part, based its determination to revise the manufacturing cutoff date for non-Mode S transponders (54 FR 25680; June 16, 1989), has been significantly revised by recent comments and presentations to the agency. The FAA now believes that those previous projections are inadequate for the following reasons:

(1) Previous projections did not account for the unprecedented demand for non-Mode S transponders during the last half of 1989. As a result of this demand, existing inventories of non-Mode S transponders were depleted and the ability of the manufacturers to stockpile sufficient reserves of non-Mode S transponders was impaired. Avionics manufacturers have now revised their sales projections and production figures and are concluding that they lack the time and resources to stockpile sufficient reserves of non-Mode S transponders to meet the expected demand for such transponders after January 1, 1991.

(2) Based on the recent experience gained from the July 1, 1989, Mode C transponder equipment requirement for operations in a Mode C veil, the FAA believes that a similar increase in demand for non-Mode S transponders may result from the forthcoming December 30, 1990 Mode C transponder equipment requirement for operations in the vicinity of airport radar service areas (ARSA's) and certain designated airports.

(3) The FAA is anticipating another increase in demand for non-Mode S transponders during the time period immediately preceding the July 1, 1992, Mode S transponder installation deadline.

The FAA believes there is a strong possibility of a shortage of basic non-Mode S transponders after January 1, 1991. Should non-Mode S transponders be unavailable after January 1, 1991, the FAA is concerned that aircraft operators, desiring or having need to operate within airspace having a Mode C transponder equipment requirement, would not be able to do so or would choose to forego equipping their aircraft with transponder equipment and thereby not realize the safety benefits attributable to the operation of aircraft with altitude-reporting transponders.

The Adopted rule

Accordingly, the FAA is revising § 91.215(a) of the FAR to permit aircraft operators to install a non-Mode S transponder through July 1, 1992, regardless of the date that transponder was manufactured. By eliminating the manufacturing cutoff date for non-Mode S transponders, avionics manufactures will have the ability to adjust non-Mode S transponder production levels accordingly to the actual demand for such products through July 1, 1992. This action will ensure that non-Mode S transponders are produced and sold according to market conditions and that adequate supplies of non-Mode S transponders will be available through July 1, 1992.

Eliminating the manufacturing cutoff date for non-Mode S transponders will not affect the overall transition of the general aviation aircraft fleet from non-Mode S to Mode S transponders. The date after which any transponder that is newly installed in an aircraft must be a Mode S transponder is not being revised by this action. Should the FAA consider revising the Mode S transponder installation requirement, a determination would be made through a separate rulemaking action.

This action is intended solely to minimize the possibility of a shortage of non-Mode S transponders prior to July 1, 1992. This action is not intended to affect an individual operator's decision to purchase and install a Mode S transponder. In fact, avionics manufacturers' revised sales projections of Mode S transponders suggest that there will not be a significant demand for Mode S transponders by general aviation aircraft operators until July 1, 1992. Since the manufacturers' sales projections of Mode S transponders reflected only those sales of Mode S transponders to operators who would be inclined to install Mode S transponders even if non-Mode S transponders were available, the FAA believes that eliminating the manufacturing cutoff date for non-Mode S transponders will have little impact on the number of operators who will purchase and install Mode S transponders prior to July 1, 1992.

Regulatory Evaluation Summary

Cost Benefit Analysis

This action deletes the requirement that any non-Mode S transponder installed in an aircraft prior to July 1, 1992, be manufactured before January 1, 1991, and permits the installation of a non-Mode S transponder until July 1, 1992, regardless of the date that transponder was manufactured. (A more detailed description on the need of this rule is contained in the background section of the preamble).

This rule will not impose any costs, but it is necessary because of the projected shortage of basic non-Mode S transponders. In the absence of this action, some aircraft operators may elect not to equip their respective aircraft with transponders because of a shortage of basic non-Mode S transponders and the relatively higher cost of Mode S transponders. This type of situation would circumvent the intent of the Mode S rule. This particular rule will help to eliminate the projected shortage of basic non-Mode S transponders.

International Trade Impact Statement

This rule will not impose a competitive disadvantage to either U.S. air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either U.S. or foreign air carriers.

Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the fact that the rule will not impose any additional cost on aircraft operators.

Federalism Implications

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

Effective Date

This amendment is adopted as a final rule in response to revised projections of sales and inventory levels of non-Mode S transponders, and to issues raised in and comments received on the AOPA/EAA/HAI petition (53 FR 52428), FAA Docket No. 25753. I find that further notice and comment, and delay in granting the relief requested, are unnecessary and contrary to the public interest, and this amendment is excepted from the general notice and comment requirements pursuant to 5 U.S.C. 553(b). Because this amendment relieves a restriction, the amendment is effective upon publication pursuant to 5 U.S.C., 553(d)(1).

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291, but that it is significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

The Amendment

Accordingly, pursuant to the authority delegated to me, part 91 of the Federal Aviation Regulations (14 CFR part 91) is amended as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by P.L. 100–223) through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq; E.O. 11514; P.L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

§ 91.215 [Amended]

2. Paragraph (a)(1)(i) of § 91.215 is amended by removing the words ", provided that the equipment was manufactured before January 1, 1991", which appear after the words "Any class of TSO–C74b or any class of TSO–C74c as appropriate".

Issued in Washington, DC on December 28, 1990.

James B. Busey,

Administrator.

[FR Doc. 90–30554 Filed 12–28–90; 4:35 pm]

BILLING CODE 4910–13–M

federal register

Friday
January 4, 1991

Part IV

Department of Agriculture

Cooperative State Research Services

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Solicitation of Proposals for Fiscal Year 1991

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Solicitation of Proposals for Fiscal Year 1991

Purpose: Notice is hereby given that under the authority contained in section 1417(a)(3)(B) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by section 1608 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3152(b)(6)), the Cooperative State Research Service (CSRS) through its Higher Education Programs (HEP), will award competitive grants, subject to the availability of funds, to colleges and universities for doctoral fellowships to meet national needs for the development of professional and scientific expertise in the food and agricultural sciences.

Eligibility: Please note that the authorizing legislation for the National Needs Graduate Fellowship Program allows the award of grants to colleges and universities only; awards cannot be made to research foundations established by the college or university.

Available funds: The amount known to be available at this time for this purpose in Fiscal Year 1991 is approximately $3,400,000.

Targeted areas: Food and agricultural sciences areas appropriate for fellowship applications are those in which shortages of expertise have been determined and targeted by CSRS–HEP for national needs doctoral fellowship support. Please note that due to the funding level of this program over the last four fiscal years, CSRS will support the six national need areas funded in past years on a rotating basis of three need areas per fiscal year. The targeted national need areas to be supported in FY 1991 are: Biotechnology—Plant; Engineering—Food, Forest Products, or Agricultural; and Water Science. Approximately one-third of the available funds will be allocated to each of the three national need areas. CSRS plans to support the remaining three national need areas (Biotechnology—Animal; Human Nutrition and/or Food Science; and Marketing or Management—Food, Forest Products, or Agribusiness) in FY 1992. Although this procedure limits the participation of an applicant to alternating years, it increases the likelihood that the applicant will obtain funding under the program each time a grant application is submitted.

Proposal limitations: For the Fiscal Year 1991 program, a proposal may request funding in only one (1) national need area. A proposal may request a minimum of two (2) fellowships and a maximum of four (4) fellowships in the national need area for which funding is requested. While no limitation is placed on the number of proposals an institution may submit, not more than two (2) proposals may be submitted by the same college or equivalent administrative unit within an institution. Additionally, total funds awarded to an institution under the program in Fiscal Year 1991 shall not exceed $324,000.

Financial and other limitations: Each institution funded will receive $54,000 for each doctoral fellowship awarded. However, it is anticipated that total program funds available will not be evenly divisible by $54,000. Therefore, one fellowship will be supported on a partial basis with a lesser amount of funds. Except in the case of the partially funded fellowship, fellowship monies must be used to: (1) Support the same doctoral fellow for three (3) years at $17,000 per year; and (2) provide for an institution annual cost-of-education alowance of $1,000, not to exceed a total of $3,000 over the three-year duration of the fellowship. Please note that beginning in FY 1991 the yearly stipend is increased from $15,000 to $17,000 in an attempt to keep the USDA support at a level that is competitive with fellowships offered outside the food and agricultural sciences community.

While proposals must document institution willingness to recruit and train at least 2–4 fellows in a national need area, CSRS may fund fewer fellows than requested in a proposal.

This program is highly competitive, and at the present time it is anticipated that funding will be available to support approximately 63 doctoral fellows through seven grants in each of the three targeted areas.

Application information: An Application Kit has been developed which provides the forms, instructions, and other relevant information needed by institutions to apply to the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program described herein. Applicants should be alert to the instruction that proposals must be typed, double-spaced, on one side of the page only, and paginated. Additionally, applicants are cautioned to comply with the 20-page limitation for part 3 (National Need Narrative) of the proposal and the inclusion of summary faculty vitae through the use of Form CSRS–708.

Copies of the Application Kit may be requested from: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303, Aerospace Building; 14th and Independence Avenue, SW.; Washington, DC 20250–2200; telephone number (202) 401–5048.

Six (6) copies of a proposal and one (1) copy of the institution's latest graduate catalog must be received by the Awards Management Division no later than the close of business February 19, 1991.

Please Note: Proposals submitted through the mail should be sent to the address listed above. Hand-delivered proposals (including those submitted via express mail or a courier service) should be brought to Room 303, Aerospace Building, 901 D Street SW., Washington, DC 20024. Proposals transmitted via a facsimile (FAX) machine will not be accepted.

Applicable regulations: This program is subject to the provisions found at 7 CFR part 3402 (52 FR 4712, February 13, 1987, as amended by 55 FR 2214, January 22, 1990). In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended; the Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017; and the New Restrictions on Lobbying, 7 CFR part 3018, apply to this program.

Supplementary information: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.210.For the reasons set forth in the Final Rule related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, when the authority to administer this program resided in the Agricultural Research Service, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0024.

Done at Washington, DC, this 28th day of December 1990.

Clare I. Harris,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 91–90 Filed 1–3–91; 8:45 am]

BILLING CODE 3410–22–M

federal register

Friday
January 4, 1991

Part V

The President

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Federal Register
Vol. 56, No. 3
Friday, January 4, 1991

Presidential Documents

Title 3—

The President

Executive Order 12741 of December 31, 1990

Extending the President's Education Policy Advisory Committee

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to extend the President's Education Policy Advisory Committee, it is hereby ordered that section 4(b) of Executive Order No. 12687 is amended by deleting the date "December 31, 1990," and inserting in lieu thereof the date "December 31, 1991,".

THE WHITE HOUSE,
December 31, 1990.

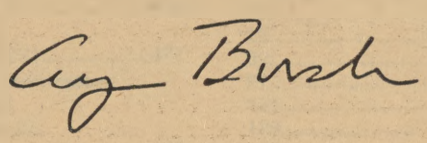
[FR Doc. 91-249
Filed 1-3-91; 9:44 am]
Billing code 3195-01-M

Presidential Documents

Notice of January 2, 1991

Continuation of Libyan Emergency

On January 7, 1986, by Executive Order No. 12543, President Reagan declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Libya. On January 8, 1986, by Executive Order No. 12544, the President took additional measures to block Libyan assets in the United States. The President transmitted a notice continuing this emergency to the Congress and the **Federal Register** in 1986, 1987, 1988, and 1989. Because the Government of Libya has continued its actions and policies in support of international terrorism, the national emergency declared on January 7, 1986, and the measures adopted on January 7 and January 8, 1986, to deal with that emergency, must continue in effect beyond January 7, 1991. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Libya. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
Washington, January 2, 1991.

[FR Doc. 91-247
Filed 1-3-91; 9:27 am]
Billing code 3195-01-M

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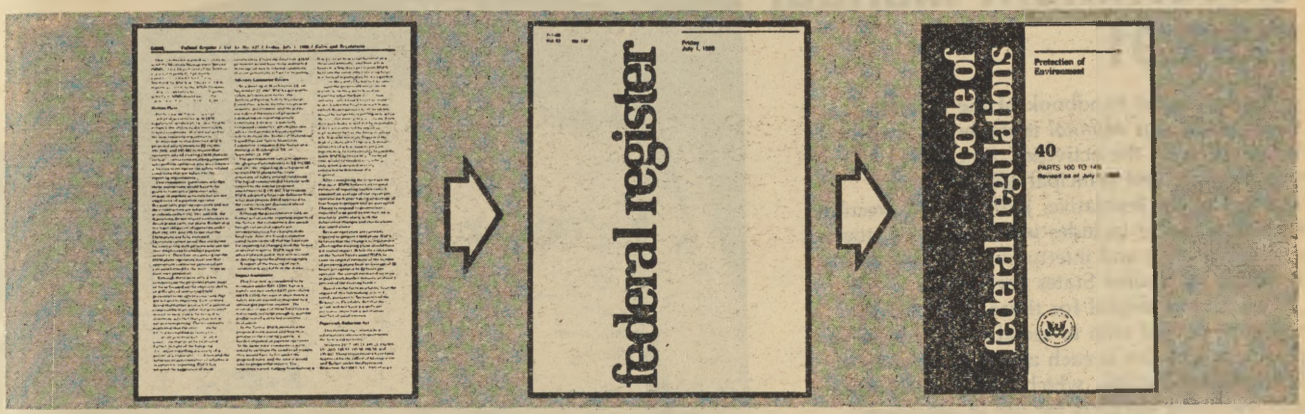
Note: The list of Public Laws for the second session of the 101st Congress has been completed and will resume when bills are enacted into law during the first session of the 102d Congress, which convenes on January 3, 1991.

A cumulative list of Public Laws for the second session was published in Part II of the **Federal Register** on December 10, 1990.

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**



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