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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:

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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
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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.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 751]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from January 6 through January 12, 1991. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATES: Regulation 751 (7 CFR part 910) is effective for the period from January 6 through January 12, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3920.

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

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

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

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

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

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's revised estimate of the 1990–91 production is 41,644 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Committee's revised estimate for District 1, central California, 1990–91 production at 4,926 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee's revised estimate is 12,018 cars compared to the 9,436 cars produced last year. According to the National Agricultural Statistics Service, 1990–91 lemon production is expected to total 40,200 cars, 8 percent above the 1989–90 season and 1 percent more than the crop utilized in 1988–89. This estimate will be reviewed in following weeks to account for losses in the lemon crop due to the recent devastating freeze.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its initial crop estimate of 42,412 cars, the Committee estimates that about 42.2 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,600 cars, about 44 percent of the total production of 37,881 cars in 1989–90. Fresh exports are projected at 20 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 37.8 percent compared with 34 percent of the 1989–90 crop.

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

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

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

reporting requirements may be passed on to growers.

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

The Committee met publicly on January 2, 1991, in Newhall, California, to consider the current and prospective conditions of supply and demand and, by a 7 to 3 vote and with one abstention, recommended that 425,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. This recommended amount is 126,000 cartons above the estimated projections in the Committee's current shipping schedule.

During the week ending on December 29, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 267,000 cartons compared with 282,000 cartons shipped during the week ending on December 30, 1989. Export shipments totaled 24,000 cartons compared with 116,000 cartons shipped during the week ending on December 30, 1989. Processing and other uses accounted for 423,000 cartons compared with 217,000 cartons shipped during the week ending on December 30, 1989.

Fresh domestic shipments to date for the 1990–91 season total 6,672,000 cartons compared with 6,450,000 cartons shipped by this time during the 1989–90 season. Export shipments total 3,005,000 cartons compared with 3,247,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 6,745,000 cartons compared with 4,713,000 cartons shipped by this time during 1989–90.

For the week ending on December 29, 1990, regulated shipments of lemons to the fresh domestic market were 267,000 cartons on an adjusted allotment of 244,000 cartons, resulting in overshipments of 23,000 cartons. Regulated shipments for the current week (December 30, 1990, through January 5, 1991) are estimated at 310,000 cartons on an adjusted allotment of 352,000 cartons. Thus, undershipments of 42,000 cartons should be carried forward to the week ending on January 12, 1991.

The average f.o.b. shipping point price for the week ending on December 29, 1990, was $13.83 per carton based on a reported sales volume of 267,000 cartons compared with last week's average of $9.28 per carton on a reported sales volume of 341,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $12.00 per carton. The average f.o.b. shipping point price for the week ending on December 30, 1989, was $13.91 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $13.71 per carton.

The Department's Market News Service reported that, as of January 2, the demand for lemons is good and the market is steady. At the meeting, Committee members also reported that demand for lemons is good. Two members commented that there was some resistance on the part of buyers in purchasing the larger sized lemons due to elevated prices. In discussing the effects of the recent freeze, the majority of Committee members commented that more information was needed to assess the full extent of the damage, particularly in District 2. The Committee discussed the pros and cons of implementing volume regulation. Three Committee members supported open movement, indicating that handlers should have the opportunity to ship as much fruit as they deem appropriate. However, the majority of Committee members favored continuing regulation at this time. Thus, the Committee, by a 7 to 3 vote and with one abstention, recommended volume regulation for the week ending on January 12, 1991.

Limiting the quantity of lemons that may be shipped during the period from January 6 through January 12, 1991, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

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

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

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

In addition, market information needed for the formulation of the basis for this action was not available until January 2, 1991, and this action needs to be effective for the regulatory week which begins on January 6, 1991. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

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

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

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

2. Section 910.1051 is added to read as follows:

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

§ 910.1051 Lemon Regulation 751.

The quantity of lemons grown in California and Arizona which may be handled during the period from January 6 through January 12, 1991, is established at 425,000 cartons.

Dated: January 3, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–439 Filed 1–7–91; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 250

[Docket No. R–0696]

Regulation H—Payment of Dividends by State Bank Members of the Federal Reserve System; Miscellaneous Interpretations; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction of effective date.

SUMMARY: This document corrects a final rule document which appeared in the **Federal Register** on December 26, 1990, 55 FR 52982. In that document, the Board added a new section to Regulation H (part 208) and made technical changes to part 250 by redesignating §§ 250.101 through 250.103 as §§ 208.125 through 208.127 in part 208. Part 250 was further amended by removing § 250.104. An effective date for the changes to part 250 was omitted from this document. The changes to part 250 are effective as of December 20, 1990, the same effective date as for § 208.19(b) of the final rule.

EFFECTIVE DATE: The amendments to part 250 are effective as of December 20, 1990.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452–3625), or Lawranne Stewart, Attorney (202/452–3513), Legal Division; or Rhoger Pugh, Manager, Policy Development (202/728–5883), or Charles Holm, Senior Accountant (202/452–3502), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452–3544).

By order of the Board of Governors of the Federal Reserve System, January 3, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–353 Filed 1–7–91; 8:45 am]

BILLING CODE 6210–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

Surety Bond Guarantee, Pilot Preferred Surety Bond Guarantee Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule revises 13 CFR part 115, to conform it to Section 216 of Public Law 101–574, The Small Business Administration Reauthorization and Amendments Act of 1990, approved November 15, 1990 by extending the period of the Pilot Preferred Surety Bond (PSB) Guarantee Program to September 30, 1994. Since this rule merely implements the cited statute, it is published in final form without opportunity for comment.

EFFECTIVE DATE: January 8, 1991.

ADDRESSES: Dorothy Kleeschulte, Assistant Administrator for Surety Bond Guarantees, Small Business Administration, 4040 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: James W. Parker, Jr., Special Assistant for Surety Guarantees, (703) 235–2717.

SUPPLEMENTARY INFORMATION: This rule is not a major rule under the requirements of Executive Order 12291. It will not result in an annual economic effect of $100,000,000 or more because it merely extends the period of the Pilot PSB Program from September 30, 1992 to September 30, 1994. Nor will the rule result in a major increase in costs for consumers, individual industries, Federal, state or local government agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete in domestic or export markets.

SBA certifies, pursuant to the Regulatory Flexibility Act, (5 U.S.C. 601 *et. seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities. There are no alternatives to this rule since the change is mandated by statute. This rule does not duplicate, overlap or conflict with any existing Federal rules.

This final rule does not contain any requirements which are subject to approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. ch. 35).

SBA certifies that this rule does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. Pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)) the SBA finds that notice and public comment procedures are unnecessary because this change in the current regulations has been mandated by statute.

List of Subjects in 13 CFR Part 115

Small business, Surety bonds.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)) and section 308(c) of the Small Business Investment Act (15 U.S.C. 687(c)), part 115, title 13 of the Code of Federal Regulations is amended as follows:

PART 115—SURETY BOND GUARANTEE

1. The authority citation for part 115 is revised to read as follows:

Authority: Title IV, Part B of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b and c, 694a, 694b), the Inspector General Act of 1978 (5 U.S.C. App. 1), Pub. L. 100–590, Title II, Pub. L. 101–574, Sec. 216.

2. Section 115.10 *Policy* is amended by removing from paragraph (e) *Duration of PSB Program* the date "1992" both times it appears, and adding "1994" in lieu thereof.

Dated: December 14, 1990.

June Nichols,

Acting Deputy Administrator.

[FR Doc. 91–207 Filed 1–7–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–277–AD; Amendment 39–6855]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Pratt & Whitney Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Pratt & Whitney engines, which requires an inspection for damage to the engine strut fuel tube and tube support bracket; repair, if necessary; and replacement of an aluminum tube support retainer channel with a similar channel fabricated from inconel. This amendment is prompted by two reports

of a fuel leak caused by a fastener migrating through the aluminum retainer channel and chafing a hole in the fuel supply tube. This condition, if not corrected, could result in a fuel leak within the engine strut and possible fire.

EFFECTIVE DATE: January 22, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kaszycki, Propulsion Branch, ANM-140S; telephone (206) 227-2669. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Two operators have recently reported a fuel leak in the engine strut caused by a tube support bracket fastener chafing a hole in the fuel supply tube on Boeing Model 757 series airplanes equipped with Pratt & Whitney engines. Both leaks were discovered during airplane ground operations. The damage appears to be induced by vibration of the tube support brackets, resulting in fatigue cracks and excessive wear around the aluminum retainer channel fastener holes. If not detected, the fatigue cracking and excessive wear can eventually lead to bracket fastener pulling through the aluminum retainer channel and chafing a hole in the fuel supply tube. In addition to the reported fuel leaks, numerous operators have reported similar vibration damage to the tube support brackets. This condition, if not corrected, could result in a fuel leak within the engine strut and subsequent fire.

The FAA has reviewed and approved Boeing Alert Service Bulletin 757-29A0038, Revision 1, dated November 8, 1990, which describes procedures for inspection for damage of the retainer channel and fuel tube assembly, and replacement of one of the aluminum retainer channels with a similar channel fabricated from inconel.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time inspection of the retainer channel and fuel supply tube for damage, and replacement of the aluminum retainer channel with an inconel equivalent, in accordance with the service bulletin previously described. Any damage detected as a result of the inspection is required to be repaired prior to further flight.

Additionally, this AD requires operators to submit a report to the FAA of any damage detected during the inspection. The FAA is planning to use this information to determine whether further rulemaking action will be necessary to protect the fuel tube within the engine strut.

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes equipped with Pratt & Whitney engines, as listed in Boeing Alert Service Bulletin 757-29A0038, Revision 1, dated November 8, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the possibility of fuel leakage in the engine strut, accomplish the following:

A. Within 45 days after the effective date of this AD, accomplish the following in accordance with Boeing Alert Service Bulletin 757-29A0038, Revision 1, dated November 8, 1990:

1. Visually inspect the retainer channel and fuel tubing within the engine strut for damage. If any damage is detected, repair prior to further flight.

2. Replace the aluminum retainer channel at station 179 with an inconel retainer channel.

B. Within 30 days after accomplishing the inspection required by paragraph A. of this AD, submit a report of inspection findings from those inspections from which it was determined that the aluminum tube support retainer channel was damaged, to the Manager, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055-4056; rapid fax: (206) 227-1181.

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

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective January 22, 1991.

Issued in Renton, Washington, on December 24, 1990.

Darrell M. Federson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-270 Filed 1-7-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-125-AD; Amendment 39-6851]

Airworthiness Directives; Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 757 series airplanes, which requires modification of the engine and cargo compartment fire extinguishing wiring and plumbing to preclude improper connection during maintenance. This action also provides for termination of the required inspections and functional tests of the engine and cargo fire extinguishing systems required by an existing AD following system maintenance. This amendment is prompted by reports of crossed wiring and plumbing in the engine and cargo compartment fire extinguishing system on Boeing Model 757 airplanes. This condition, if not corrected, could result in severe damage to an airplane in the event of an engine or cargo compartment fire.

EFFECTIVE DATE: February 4, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington, 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Kaszycki, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2669. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 757 series airplanes, which requires modification of the engine and cargo compartment fire extinguishing wiring and plumbing to preclude improper connection during maintenance, was published in the **Federal Register** on July 17, 1990 (55 FR 29064). Accomplishment of this modification constitutes terminating action for the repetitive inspections required by AD 89-03-51, Amendment 39-6213 (54 FR 20118, May 10, 1989).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter requested that the compliance period be extended to 48 months from the proposed 24 months, so that the modification may be accomplished during scheduled maintenance. This was requested due to the number of airplanes affected, coupled with the number of manhours required to accomplish the modification. The FAA concurs. AD 89-03-51 requires repetitive inspections and/or functional checks of the system after each performance of maintenance where wiring or plumbing is disconnected until the modification is accomplished. Because the inspections and/or functional checks serve as an interim safety measure, the FAA has determined that the extension of the compliance time to 48 months for the modification will not have an adverse impact on safety. The final rule has been revised accordingly.

Since issuance of the NPRM, the FAA has become aware that the proposed modification has been incorporated on airplanes in production, starting with line number 256. Because AD 89-03-51 applies to all Model 757 series airplanes, those airplanes are currently subject to the repetitive inspection and functional test requirements of that AD. Since the FAA's intent in adopting this AD is to allow the termination of those inspections and tests upon accomplishment of the modification, the final rule has been revised to clarify that the inspections and tests may be terminated for airplanes on which the modification was incorporated in production.

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

There are approximately 254 Model 757-200 series airplanes of the affected design in the worldwide fleet. It is estimated that 104 airplanes of U.S. registry will be affected by this AD, that it will take approximately 82 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated to cost $3,434 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $698,256.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes, certificated in any category. Compliance required within the next 48 months after the effective date of this AD, unless previously accomplished.

To preclude cross connection of engine and cargo compartment fire extinguishing wiring and plumbing during maintenance, accomplish the following:

A. Modify the engine and cargo compartment fire extinguishing system wiring and plumbing in accordance with Boeing Service Bulletin 757-26-0020, dated March 22,

1990. Accomplishment of this modification constitutes terminating action for the repetitive inspections and functional tests required by Airworthiness Directive 89-03-51, Amendment 39-6213, on Boeing Model 757-200 airplanes following maintenance on the engine and cargo compartment fire extinguishing wiring and plumbing.

Note: The modification required by this paragraph was incorporated in production on airplanes, line numbers 256 and subsequent. Accordingly, this paragraph terminates the repetitive inspection and functional test requirements of AD 89-03-51 for those airplanes.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective February 4, 1991.

Issued in Renton, Washington, on December 17, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-272 Filed 1-7-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-270-AD; Amendment 39-6853]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which currently requires inspection of wiring clearances in the aft fairing areas of the left and right strut bulkheads; repair, if necessary; and repositioning of wire bundles and wrapping of wire bundles and hydraulic tubing where insufficient clearances are found. This amendment requires that two additional airplanes be added to the applicability statement of the original AD. This amendment is prompted by a report that two airplanes were inadvertently delivered without the inspection required by the original AD. This condition, if not corrected, could result in a fire caused by ignition of leaking hydraulic fluid by the electrical arcing.

EFFECTIVE DATE: January 14, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Letcher, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2670. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On June 5, 1990, the FAA issued AD 90-13-06, Amendment 39-6633 (55 FR 23889, June 13, 1990), to require inspection of wiring clearances in the aft fairing areas of the left and right strut bulkheads on certain Boeing Model 767 series airplanes; repair of damage, if necessary; and repositioning of wire bundles and wrapping of wire bundles and hydraulic tubing where sufficient clearances cannot be obtained. That action was prompted by reports of nine cases of insufficient clearance between wiring and hydraulic components in the aft fairings of the left and right engine struts. In three of these instances, the chafing of wires serving the alternating current motor pump (ACMP) resulted in electrical arcing. In one case, this arcing caused damage to the supply port boss of a hydraulic reservoir and subsequent leakage of hydraulic fluid. This condition, if not corrected, could result in a fire due to the ignition of leaking hydraulic fluid caused by the electrical arcing.

Since issuance of that AD, the FAA has reviewed and approved Boeing Alert Service Bulletin 767-29A0054, Revision 1, dated May 24, 1990; and Revision 2, dated November 8, 1990; which describe procedures for inspection of wire bundle clearances, relocation of wiring, and wrapping of wire bundles and hydraulic tubing. Additionally, Revision 2 increases the effectivity of the service bulletin to include two additional airplanes. These two airplanes were not included in the applicability of the AD 90-13-06.

Since this condition is likely to exist on other airplanes of the same type design, this AD supersedes AD 90-13-06 to also require inspection and modification of two additional airplanes, in accordance with the service bulletin previously described.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–6633 (55 FR 23889, June 13, 1990), AD 90–13–06, with the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767–29A0054, dated March 26, 1990, and airplanes line numbers 308 and 311, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fire caused by the chafing of wires on hydraulic components, accomplish the following:

A. For airplanes listed in Boeing Alert Service Bulletin 767–29A0054, dated March 26, 1990: Within 500 hours time-in-service after July 2, 1990 (the effective date of Amendment 39–6633, AD 90–13–06), perform the procedures required by paragraph C. of this AD.

B. For airplanes line numbers 308 and 311: Within 500 hours time-in-service after the effective date of this AD, perform the procedures required by paragraph C. of this AD.

C. Inspect the wire bundles in the aft fairing areas of the left and right engine struts to determine if sufficient separation exists between the wire bundles and hydraulic components, in accordance with Boeing Alert Service Bulletin 767–29A0054, dated March 26, 1990; Revision 1, dated May 24, 1990; or Revision 2, dated November 8, 1990. If adequate separation is not present, prior to further flight, repair, adjust the wire bundles, and install protective coverings on the wiring and hydraulic tubing in accordance with the Alert Service Bulletin.

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

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39–6633, AD 90–13–06.

This amendment becomes effective January 14, 1991.

Issued in Renton, Washington, on December 17, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–271 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–ANE–03; Amdt. 39–6810]

Airworthiness Directives; General Electric Company (GE) CF6–80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a clerical error wherein part numbers for the replacement of fuel manifold systems were inadvertently omitted while being transcribed. The above-captioned Airworthiness Directive (AD) was published in the **Federal Register** on November 30, 1990 (55 FR 49611). The noted error is the omission of Part Numbers 1303M31G07 and 1303M32G07, which should have appeared in paragraph (a) of the text of the AD. In all other respects, the original document is correct.

EFFECTIVE DATE: January 8, 1991.

SUPPLEMENTARY INFORMATION: A final rule Airworthiness Directive (AD) applicable to certain General Electric (GE) CF6–80C2 series turbofan engines was published in the **Federal Register** on Friday, November 30, 1990 (55 FR 49611). The following correction is needed:

PART 39—[CORRECTED]

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

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

§ 39.13 [Corrected]

2. Section 39.13 is corrected as follows:

On page 49612 in the third column in paragraph (a) add: "or with P/N 1303M31G07 and 1303M32G07" after "1303M32G06".

Issued in Burlington, Massachusetts, on December 18, 1990.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91–274 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–CE–29–AD; Amendment 39–6283]

Airworthiness Directives; GROB WERKE GmbH & Co. KG (BURKHAKT-GROB) Models G103 "Twin Astir" and G103 "Twin II" Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to GROB WERKE GmbH & Co. KG (BURKHAKT-GROB) Models G103 "Twin Astir" and G103 "Twin II" gliders. This action requires the installation of a special forkhead nut on the aileron control system. A report has been received of the incorrect installation of the aileron connecting bolt that caused a jamming of the aileron control system. The actions specified in this AD are intended to prevent jamming of the aileron control system because of such incorrect installations.

EFFECTIVE DATE: February 8, 1991.

ADDRESSES: GROB Service Bulletin (SB) No. TM 315–38/1, dated December 12, 1989, that is applicable to this AD may be obtained from GROB Systems Incorporated; Aircraft Division, I–75 and Airport Drive, Bluffton, Ohio 45817; telephone (419) 358–9015. This information also may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–29–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Heinz Hellebrand, Brussels Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B- 1000 Brussels, Belgium; telephone (322) 513.38.30 ext. 2718; Facsimile (322) 230.68.99; or Mr. Herman C. Belderok, Small Airplane Directorate, Aircraft Certification Service, FAA, room 1544, 601 E. 12th Street, Kansas City, Missouri 64106; telephone (816) 426–6933.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the installation of a special forkhead nut on GROB WERKE GmbH & Co. KG (GROB) Models G103 "Twin Astir" and G103 "Twin II" gliders was published in the **Federal Register** on August 24, 1990 (55 FR 34720). The proposal resulted from a report from the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal

Republic of Germany, that an unsafe condition may exist on the affected gliders. The LBA reported that an accident investigation revealed that the owner of a GROB "Twin Astir" glider had reinstalled the aileron control connecting bolt in the downward direction. When this bolt is in the downward position, reciprocal interference with the airbrake control connection bolt occurs, which could result in complete functional loss of both the aileron and airbrake control systems.

GROB has issued Service Bulletin (SB) No. TM 315–38/1, dated December 12, 1989, that specifies the installation of a special design forkhead nut and removal of the placard that cautions against the incorrect installation of the connecting bolt. The placard is located on the aileron control lever adjacent to the connecting bolt and was used as an interim fix. The LBA classified this SB as mandatory. These gliders are manufactured in the Federal Republic of Germany and are type certificated for operation in the United States. Under the provisions of a bilateral airworthiness agreement, the LBA shared the above information with the FAA.

The FAA examined the findings of the LBA, reviewed all available information, and determined that AD action was necessary for products of this type design that are certificated for operation in the United States. Consequently, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD that would require the installation of a special forkhead nut on the aileron control system and the removal of the caution placard if installed on certain GROB G103 gliders.

Interested persons were given an opportunity to participate in the making of the amendment. No comments were received on the proposal or on the FAA determination of the related cost. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections.

It is estimated that there are approximately 31 gliders affected by this AD in the U.S. registry, that the installation required by this AD will take approximately 1 hour at $40 an hour, and that parts are available from the manufacturer at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,240.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

GROB Werke GMBH & Co. KG (GROB): Amendment 39–6283; Docket No. 90–CE–29–AD.

Applicability: Models G103 "Twin Astir" (including "Trainer") gliders (Serial Numbers (S/N) 3000 through 3291) and G103 "Twin II" (including "ACRO") gliders (S/N 3501 through 3729), certificated in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To preclude the incorrect installation of the aileron system connecting bolt, accomplish the following:

(a) Modify the aileron control system by installing a GROB forkhead nut (GROB part number 103B–4229) and removing the placard that cautions against incorrect installation of the connecting bolts located on the aileron control lever adjacent to the connecting bolt, if installed, as described in GROB Service Bulletin No. TM 315–38/1, dated December 12, 1989.

(b) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 513.38.30 ext. 2718; Facsimile (322) 230.68.99. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

(c) All persons affected by this directive may obtain copies of the document referred to herein upon request to GROB Systems, Incorporated; Aircraft Division, I–75 and Airport Drive, Bluffton, Ohio 45817; telephone (419) 358–9015; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on February 8, 1991.

Issued in Kansas City, Missouri, on December 17, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–273 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–246–AD; Amdt. 39–6854]

Airworthiness Directives; GQ Security Parachutes, Inc., Model No. 79A1684–( )

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to GQ Security Parachutes, Inc., Model No. 79A1684–( ), parachute canopies approved under Technical Standard Order (TSO) C23b, which currently requires removal of these canopies from service. This amendment requires that certain parachute canopies that were granted an alternate means of compliance with AD 88–05–08 and continued in service, must be inspected for tensile strength. This amendment is prompted by reports that some canopies recertified in accordance with an alternate means of compliance since 1988 and returned to service have now been found to contain deteriorated fabric. This condition, if not corrected, could result in a torn canopy which would prevent safe descent of the parachutist.

EFFECTIVE DATE: January 14, 1991.

ADDRESSES: GQ Security Parachutes, Inc., no longer exists. A copy of all

documents applicable to this AD may be examined at the Federal Aviation Administration (FAA), Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5355.

SUPPLEMENTARY INFORMATION: On March 7, 1988, the FAA issued AD 88–05–08, Amendment 39–5942 (53 FR 19768, May 31, 1988), to require that GQ Security Parachutes, Inc., Model No. 79A1684–( ), parachute canopies approved under TSO C23b be removed from service. That action was prompted by reports that several of the canopies were found to have deteriorating canopy fabric. This condition, if not corrected, could result in a torn canopy, which could prevent safe descent of the parachutist.

Since issuance of that AD, certain parachute canopies, recertified by various FAA-approved alternate means of compliance, have since been reported to contain deteriorated fabric. The FAA concurrence with various alternate means of compliance with AD 88–05–08 was based upon the canopy passing a test for an acidic condition of the fabric only. Other alternate means of compliance demonstrated both a fabric acidity test and a fabric tensile strength test. There are recent reports that some canopies were returned to service after acid-affected fabric had been neutralized but not tested for fabric strength; these canopies contained deteriorated fabric. This situation presents the same potentially unsafe condition addressed by the existing AD: deteriorated fabric could result in a torn canopy, which could prevent the safe descent of the parachutist.

The FAA has reviewed and found acceptable Parachute Industry Association Publication PIA-Technical Standard 108, Parachute Canopy Fabric Tensile Test, *Non-Destructive Method*, dated January 25, 1989, which describes a method of testing the tensile strength of the parachute canopy fabric.

Since this situation is likely to exist or develop on other parachute canopies of the same type design, this AD supersedes AD 88–05–08 to require that, for parachutes which were previously granted an alternate means of compliance and returned to service, the TSO C23b marking be removed or obliterated from the parachute canopy; the canopy must be removed from service until such time that the canopy passes an acidity test and the PIA fabric tensile strength test.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–5942 (53 FR 19768, May 31, 1988), AD 88–05–08, with the following new airworthiness directive:

GQ Security Parachutes, Inc.: Applies to Model No. 79A1684–( ) parachute canopies approved under TSO C23b. Compliance required as indicated, unless previously accomplished.

To prevent the failure of parachute canopy due to deteriorating canopy material, accomplish the following:

A. Prior to further use after June 17, 1988 (the effective date of Amendment 39–5942, AD 88–05–08), remove or obliterate the TSO C23b marking from the parachute canopy and remove the canopy from service.

B. For canopies previously granted an alternate means of compliance with AD 88–05–08 and subsequently returned to service: At the next repack after the effective date of this amendment, remove the canopy from service until the requirements of paragraph B.1. and B.2. of this AD are accomplished.

1. Determine that canopy fabric tensile strength is acceptable in accordance with Parachute Industry Association Publication PIA-Technical Standard 108, Parachute Canopy Fabric Tensile Test, *Non-Destructive Method*, dated January 25, 1989.

2. Test the mesh (netting) material, using Bromocresol Green Solution, to determine if it is acidic. If it is acidic, the canopy cannot be returned to service unless the acidic condition is neutralized.

Note: Washing the canopy in detergent has been found to be effective in acid neutralization.

C. Acidity tests and fabric tensile tests conducted as an approved alternate means of compliance with AD 88–05–08 meet the requirements of paragraphs B.1. and B.2. of this AD.

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

A copy of all documents applicable to this AD may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 Spring Street, Long Beach, California.

This amendment supersedes Amendment 39–5942, AD 88–05–08.

This amendment becomes effective January 14, 1991.

Issued in Renton, Washington, on December 18, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–269 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90-CE-27-AD; Amdt. 39-6849]

Airworthiness Directives; Piper Model PA-24-260 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Piper Model PA-24-260 airplanes. This action requires the installation of a manually controlled heated alternate air induction system. It has been determined that airplane operation in icing conditions can result in ice formations that prevent the opening of the spring-loaded alternate air door. This AD is intended to prevent inadvertent engine stoppage while flying in weather conditions conducive to induction system icing.

EFFECTIVE DATE: February 6, 1991.

ADDRESSES: Piper Service Bulletin 861, dated May 4, 1987, that is applicable to this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4361. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Will H. Trammell, Aerospace Engineer, FAA, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Piper Model PA-24-260 airplanes was published in the **Federal Register** on July 30, 1990 (55 FR 30924). The proposed AD requires the installation of a manually controlled heated alternate air induction system in accordance with the instructions in Piper Aircraft Corporation Service Bulletin (SB) 861, dated May 4, 1987.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received on the proposal.

One commenter responded in favor of the AD. The second commenter stated that the AD was unnecessary since the manufacturer had designated the applicable Piper service bulletin as mandatory. The FAA does not concur because AD action must be taken in order to legally require aircraft to conform to manufacturer's service bulletins. The last commenter emphasized that the accomplishment of the requirements of the AD and the service bulletin should not authorize a pilot to fly into an area where icing conditions are known to be prevalent. The FAA concurs with this comment and the AD is revised to state that the installation of the heated alternate air door does not constitute approval for flight into icing conditions. The intent of this AD is to help prevent inadvertent engine stoppage while flying in weather conditions conducive to induction system icing. The FAA has determined that air safety and the public interest require the adoption of this amendment as proposed except for minor editorial corrections and the addition of the above comment.

It is estimated that 732 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 7.5 hours per airplane to accomplish the required actions at about $40 per hour, and that parts cost about $554 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $625,128.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Piper Aircraft Corporation: Amendment 39-6849. Docket No. 90-CE-27-AD.

Applicability: Model PA-24-260 airplanes (serial number (S/N) 24-3642, S/N 24-4000 through 24-4255, S/N 24-4257 through 24-4782, and S/N 24-4784 through 24-4803), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent inadvertent engine stoppage while flying in weather conditions conducive to induction system icing, accomplish the following:

(a) Modify the airplane by the installation of a manually controlled heated alternate air door in the engine air induction system in accordance with the instructions in Piper Service Bulletin No. 861, dated May 4, 1987.

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

(c) The installation of the heated alternate air door does not constitute approval for flight in icing conditions.

(d) An alternate method of compliance that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; telephone (407) 567-4361; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on February 6, 1991.

Issued in Kansas City, Missouri, on December 11, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-276 Filed 1-7-91, 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AGL-15]

Modification to Control Zone and Transition Areas; South Bend, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the South Bend, IN, control zone and transition area by updating the latitude/longitude coordinates for Michiana Regional Airport. The geographic position (GP) of the airport upon which the control zone and transition area is based has changed.

EFFECTIVE DATE: April 4, 1991.

FOR FURTHER INFORMATION CONTACT: Angeline Perri, Airspace Management Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7571.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of these amendments to §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations is to modify the latitude and longitude coordinates of the Michiana Regional Airport since the GP of the airport has changed. The physical dimensions of the controlled airspace will remain unaltered by this modification. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor amendments to the description of the airport GP, a matter in which the public would not be particularly interested.

Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6G, dated September 4, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

South Bend, IN [Amended]

Change the coordinates of the Michiana Regional Airport from "lat. 41° 42' 15" N., long. 86° 18' 50" W." to "lat. 41° 42' 24" N., long. 86° 19' 01" W."

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

South Bend, IN [Amended]

Change the coordinates of the Michiana Regional Airport from "lat. 41° 42' 15" N., long. 86° 18' 50" W." to "lat. 41° 42' 24" N., long. 86° 19' 01" W."

Issued in Des Plaines, Illinois, on December 21, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 91-277 Filed 1-7-91; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD5-90-074]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Emergency temporary rule.

SUMMARY: At the request of the Federal Highway Administration, the Coast Guard is issuing temporary regulations to govern operation of the Woodrow Wilson Bridge across the Potomac River, mile 103.8, between Alexandria, Virginia, and Oxon Hill, Maryland. These temporary regulations are identical to, and are an extension of, the temporary regulations now in effect. These temporary regulations are needed to permit the bridge owner to complete extensive ongoing repairs necessary for the safe and reliable operation of the bridge. This action provides for the reasonable needs of navigation.

EFFECTIVE DATE: This temporary rule is effective from January 25, 1991, until April 1, 1991, unless amended or terminated before that date.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION: The permanent regulations for this drawbridge are contained in 33 CFR 117.255. On August 2, 1990, a temporary deviation from those regulations was published in the **Federal Register** (55 FR 31384) to facilitate emergency repairs to the bridge's electrical systems. That emergency deviation expired on September 21, 1990. On September 20, 1990, temporary regulations were issued which modified the restrictions on bridge openings authorized by the temporary deviation; they were effective on September 22, 1990. Those temporary regulations were published in the **Federal Register** October 1, 1990 (55 FR 39962) and they will remain in effect until January 25, 1991. In conjunction with the temporary regulations that were effective on September 22, 1990, the Coast Guard published supplementary information on the temporary regulations with a request for comments in the October 1, 1990 **Federal Register** (55 FR 39963). Comments were received through October 16, 1990. Although many comments were received, the majority of them related to the matter of a change to the current published permanent regulations, and not to the temporary regulations for which comments were being solicited. In general, there were no comments of a new or significant nature relating to the temporary regulations to cause the Coast Guard to amend the temporary regulations at issue.

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M.K. Cain, Project Attorney.

Discussion of Temporary Regulations

This temporary regulation provides an opening schedule identical to that provided by the temporary regulation which is currently in effect until January 25, 1991. The Federal Highway Administration advises that the trouble shooting, design of repair systems and actual completion of repairs needed to return the bridge to safe, reliable

operation, cannot be accomplished within the time frame allowed by the current temporary regulation. The temporary regulation is intended to provide time to complete needed repairs to the continuing electrical and mechanical problems associated with the operation of this bridge. As recently as December 7, 1990, the bridge again experienced a combination of mechanical and electrical problems during an early morning scheduled opening for a large commercial ship. As a result of the malfunction, the bridge could not open for the ship, and the ship was forced to drop anchor and maneuver in the channel for hours before the bridge could open. This obviously was a safety hazard for both ship and bridge and could have resulted in catastrophe should navigational conditions have been more unfavorable. Because of the critical need for repairs to this bridge, and the continued reliable operation of the bridge until those repairs are completed, good cause exists for publishing this temporary regulation without publication of a notice of proposed rulemaking. Delaying this rule for publication of a notice of proposed rulemaking would be contrary to the public interest. The Coast Guard believes these temporary restrictions will not unduly restrict vessel passage through the bridge, as vessel operators and the marine industry can plan transits to conform with this temporary regulation.

Federalism Assessment

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

Economic Assessment and Certification

This temporary regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this temporary regulation on commercial navigation or on any industries that depend on waterborne transporation should be minimal. Since the economic impact of this temporary regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This temporary regulation has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.255 is temporarily amended by revising paragraphs (a) (1) and (2) and by adding paragraph (a) (3) through (7) to read as follows. This is a temporary rule and will not appear in the Code of Federal Regulations.

§ 117.255 Potomac River.

(a) * * *

(1) Shall open for all vessels with a 2-hour advance notice on weekdays from 12 midnight to 4 a.m., and on Saturdays, Sundays, and Federal Holidays from 12 midnight to 6 a.m.

(2) Shall open for all vessels with a 2-hour advance notice on weekdays at 12 noon, and on weekends and Federal holidays falling on Fridays or Mondays at 12 noon and 9 p.m.

(3) Shall open for commercial vessels over 1800 gross tons on weekdays from 10 a.m. to 1 p.m. and from 9 p.m. to 12 midnight and on Saturdays, Sundays and Federal Holidays from 9 p.m. to 12 midnight with a 2-hour advance notice.

(4) Advance notification for all openings other than those provided for in paragraph 5 below should be directed to the operator in the bridge tower by telephone at (202) 727-5522 or by marine radio VHF Channel 13 or 16.

(5) Commercial vessels requiring transit at other than any of the above times due to tidal stages may receive special permission from Commander, Fifth Coast Guard District, Portsmouth, VA, and must provide a 24-hour advance notice, followed by a 1-hour advance confirmation of arrival.

(6) Need not open for any vessel from 6:30 a.m. to 9 a.m. and 4 p.m. to 6:30 p.m., Monday through Friday except Federal Holidays.

(7) This temporary regulation is effective beginning on January 25, 1991, and will terminate on April 1, 1991, after which time the existing paragraphs (a) (1) and (2) of Section 117.255 shall again be effective.

Dated: December 21, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 91-199 Filed 1-7-91; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL-3871-2]

National Primary Drinking Water Regulations; Analytical Techniques; Coliform Bacteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 19, 1989, EPA promulgated revised National Primary Drinking Water Regulations (NPDWRs) for total coliforms (54 FR 27544, June 29, 1989) pursuant to section 1412 of the Safe Drinking Water Act (SDWA). As part of those regulations, EPA promulgated four analytical methods for total coliforms and one method for fecal coliforms. Today's action amends those regulations by providing two analytical methods for the detection of *Escherichia coli (E. coli)* for determining compliance with the maximum contaminant level (MCL) in § 141.63(b). This action also modifies the procedure described in § 141.21(f)(5) of the revised regulations for transferring total coliform-positive colonies on membrane filters to EC medium to determine whether fecal coliforms are present.

EFFECTIVE DATE: January 8, 1991. The incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of January 8, 1991.

ADDRESSES: The public comments and supporting documents cited in the reference section of this notice and the proposed notice (55 FR 22752, dated June 1, 1990) are available for review at EPA's Drinking Water docket, 401 M Street SW., Washington, DC 20460. For access to the docket materials, call (202) 382-3027 on Monday through Friday,

excluding Federal holidays, between 9 a.m. and 3:30 p.m. Eastern Time for an appointment.

FOR FURTHER INFORMATION CONTACT: Paul S. Berger, Ph.D., Office of Drinking Water (WH–550D), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–3039; or the Safe Drinking Water Hotline, telephone (800) 426–4791; callers in the Washington, DC area and Alaska may reach the Hotline at (202) 382–5533. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 5 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

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I. Statutory Authority

The SDWA requires EPA to promulgate NPDWRs which include MCLs or treatment techniques (section 1412). NPDWRs also contain "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels * * *" (section 1401(1)(D)). In addition, section 1445(a) of the SDWA authorizes the Administrator to require monitoring to assist in determining whether persons are in compliance with the requirements of the SDWA. EPA's promulgation of analytical techniques is authorized under these sections of the SDWA. EPA has promulgated analytical techniques for all currently regulated drinking water contaminants; persons must use one of the approved analytical techniques for determining compliance with the MCLs (see 40 CFR 141.21–30). Today's action promulgates additional analytical methods for coliform bacteria.

II. Regulatory Background

On June 19, 1989, EPA promulgated revised regulations for total coliforms (54 FR 27544, June 29, 1989), with an effective date of December 31, 1990. Paragraph 141.21(e) of those regulations requires public water systems to test all total coliform-positive cultures for the presence of either fecal coliforms or *E. coli*. The regulations specified the analytical method for testing for fecal coliform presence (paragraph 141.21(f)(5)), but not for *E. coli* presence. In the preamble to the regulations, EPA stated that the Agency would propose analytical methods for *E. coli* in a subsequent **Federal Register** notice. On June 1, 1990, EPA proposed three analytical methods for *E. coli*. Today's action promulgates two of them.

In addition, today's notice approves for use a slight modification in the procedure for detecting fecal coliforms that will facilitate transfer of total coliform-positive colonies on membrane filter to EC medium.

III. Discussion of Final Rule

A. Analytical Methods for E. coli

EPA reviewed all public comments on the proposed rule (55 FR 22752, June 1, 1990). The Agency is addressing the more important of these comments in today's notice. All public comments are addressed in the comment-response document for this rule, which is available in EPA's Drinking Water docket.

The tests being promulgated today are based on the ability of *E. coli* to produce the enzyme beta-glucuronidase, which hydrolyzes the 4-methylumbelliferyl-beta-D-glucuronide (MUG) contained in the medium to form 4-methylumbelliferone, which fluoresces when exposed to ultraviolet light (366 nm). Few noncoliforms are coliforms other than *E. coli* produce the enzyme beta-glucuronidase. Consequently, fluorescence should be a differential indicator for the presence of *E. coli* in a water sample.

The methods promulgated today will be the sole indication for many systems of fecal contamination of drinking water. Comments received during the comment period suggest that between one-third and one-twentieth of all *E. coli* strains are MUG-negative. While most investigators believe that the "false negative" rate is nearer the lower number, the uncertainty weighs heavily in the Agency's evaluation of the adequacy of all of the MUG-based methods for the detection of *E. coli* in drinking water discussed below. We note that considerable information was submitted subsequent to the comment period. Every effort has been made to consider that information for this final rule.

1. Minimal Medium ONPG–MUG (MMO–MUG) Test

A number of commenters supported the MMO–MUG test. Draft and published studies were provided by several commenters. Others stated the false-negative rate was unacceptable. The primary issues identified by the commenters relate to the performance of Colilert in situations where low densities of stressed *E. coli* are present.

A public comment from the University of California-Irvine included the results of a University of California study which suggests that the MMO–MUG test is poor in recovering *E. coli* in disinfected drinking water. In the study cited (Clark et al., unpublished), the investigators tested 83 samples of chlorinated water taken over the course of a year from an uncovered finished water reservoir for the presence of *E. coli*. They also tested 33 samples of untreated surface water for *E. coli*.

With reservoir water, a conventional method (Fecal Coliform Membrane Filter Procedure followed by API 20E test strips) detected *E. coli* in 43 samples. Colilert (the MMO–MUG test) detected *E. coli* in 8 samples. With untreated surface water, the conventional method detected *E. coli* in 26 samples, while Colilert detected this bacterium in 21 samples. These data suggest that disinfection or some other factor in the reservoir water leads to false-negative results in Colilert at low *E. coli* densities. The investigators above also found that *E. coli* detection by Colilert increased from 0%, when *E. coli* was detected at a level of one colony/100 ml by the conventional method, to 50%, when more than ten *E. coli*/100 ml were detected. These data give the Agency considerable cause for concern, since they imply that the MMO–MUG test may fail to detect low densities of injured *E. coli*.

In another study (Hall & Moyer, 1990), over six hundred drinking water wells were sampled to evaluate the occurrence of total coliforms and *E. coli*. For testing *E. coli*, EC Medium was compared to the MMO–MUG test. EC-positive samples were speciated.

In the fecal coliform/*E. coli* portion of the study, thirty-three samples contained *E. coli* by one of the two methods. Twelve were positive by both techniques, five were positive by Colilert alone, and sixteen of the EC medium positive/Colilert negative samples were confirmed to contain *E. coli*. This broad survey implies a

confirmed false-negative rate for Colilert of 48 percent. Colilert failures occurred at all reported densities.

While Hall and Moyer (1990) only reported data at 24 and 48 hours of incubation, the 48 hour false-negative rate for Colilert was still 33 percent. This level is well above what the Agency would consider acceptable, and provides further evidence that some strains of *E. coli* are either unable to grow in MMO–MUG or they will die-off in the 24 to 48 hour time frame. Late comments received on the Hall & Moyer data suggest that improved performance may have been observed if the Colilert tubes had been evaluated after 28 hours of incubation, but no data were provided to support these claims. The Agency believes the 48 hour results identify a maximum performance level in this study with respect to false-negatives for *E. coli*.

Another publication suggests that MMO–MUG may not be efficient in recovering injured *E. coli* In this study (Lewis and Mak, 1989), the investigators compared the Membrane Filter (MF) Technique with the Colilert test on 950 chlorinated drinking water samples. Only six of the samples were *E. coli*-positive by either Colilert or by an API 20E identification of a total coliform-positive colony. In four of these six samples, Colilert appeared to generate false-positive (i.e., *E. coli* were not isolated from Colilert-positive tubes) or false-negative (i.e., *E. coli* were present in Colilert-negative tubes) results. In the remaining two samples where *E. coli* were found by API 20E analysis of the membrane filter total coliform colonies, Colilert also generated negative results for *E. coli* (again suggesting the possibility of false-negative results). These data, limited as they are, further suggest that some *E. coli* strains in disinfected water are MUG-negative.

Covert, et. al. (1989) also expressed concern about the performance of Colilert for the enumeration of *E. coli*. While this study primarily was an evaluation of the potential for false positives with MMO–MUG, five tubes were confirmed to have *E. coli* present. Two of the five tubes were MUG-negative (false negatives). Covert concluded that "More definitive studies are needed to evaluate the adequacy of the AC defined substrate in detection of environmental isolates of *E. coli*.".

Other commenters submitted studies that they believed to support the MMO–MUG test. The Agency's evaluation of these studies is explained in greater detail in the comment response document contained in the docket. The more important points made by the studies which were adequately documented by the commenters are summarized below.

Foremost among the studies cited in support of the Colilert test is the nine city study funded by the American Water Works Association Research Foundation (AWWARF) and by a grant from the Agency. This study compared the performance of Colilert with the EC medium. EC medium positive results were speciated by API 20E. The study included only eighty-two samples from disinfected drinking water. Only one drinking water sample was determined to have *E. coli* present by both methods. The data are of only limited use in predicting the method's performance on the over 200,000 water systems potentially subject to this rule.

The above study conducted for AWWARF did include additional data on disinfected secondary wastewater treatment effluents. The Agency finds these data of limited use in evaluating the false negative performance of Colilert for a number of reasons. First, no information was provided to establish that adequate disinfectant had been applied to ensure the injury of the *E. coli* organisms present. Secondly, treatment of such water would be expected to result in the formation of chloramines. Chloramines may disinfect by a different mechanism than free chlorine and not result in organism stress sufficient to interfere with the organisms' ability to utilize MUG. Finally, secondary wastewater effluents might be expected to contain a more diverse population of *E. coli* strains than would be observed in isolated contamination events, such as those that the test must monitor in drinking water applications.

A second study cited in support of the approval of MMO–MUG is the work of Kromoredjo and Fujioka (unpublished draft). This study examined the occurrence of *E. coli* in an extremely contaminated distribution system in Indonesia. Colilert observed the presence of *E. coli* in twenty-two locations out of the forty-six studied, as did a method utilizing lauryl tryptose broth plus MUG. Only total coliform densities are reported in the article, but three of the samples contained low densities of total coliforms (and presumably of *E. coli*). The Agency is hesitant to attach too much significance to these results, however, since no more than three data points were in the low density region of concern and because the *E. coli* may have been unstressed.

Additional data were submitted by the Louisville Water Company, as part of their comments. Ninety dechlorinated water samples were spiked with raw water or with cultures. EC medium+MUG and LTB+MUG were compared to Colilert. While the data generally supported the commenter's assertion that the three methods performed analogously overall, there was a substantial difference in performance at the three *E. coli*/100 ml, or less, level. At that level, EC+MUG detected *E. coli* in eight of ten samples while Colilert detected *E. coli* in only five of ten. The Agency believes that these results do not support the comment.

One study cited by the commenters (Edberg and Edberg, 1988) concluded that Colilert was effective in detecting injured *E. coli*. However, the article is generally based on the testing of a single strain of *E. coli* in non-disinfected waters. Further, the article raises the question of what optical density actually corresponds to a clearly observable positive reaction in the Colilert tubes. The text of the article and an independent paper submitted by the same commenter (Adams (1990)) seem to suggest that a much higher optical density is required to observe fluorescence with confidence than suggested by the tables of the Edberg article. Assuming that the higher optical density is required, leads the Agency to conclude that the method was only marginally capable of detecting the presence of 1CFU of *E. coli*/100 ml at 24 hours. Adams, in his paper, indicated that enriched media would be predicted to fluoresce at twelve hours when starting from an analogous *E. coli* density. This timeframe provides a much more adequate margin of safety for the performance of a 24 hour test.

Taken together, the cited data leave the Agency with a great deal of uncertainty as to the performance of the MMO–MUG method. Given the many uncertainties associated with the method, the Agency does not believe that it is appropriate to approve Colilert for the detection of *E. coli* at this time.

Nevertheless, the Agency remains optimistic about the eventual resolution of the outstanding issues. MMO–MUG tests offer considerable potential benefits in terms of ease of application. EPA is currently conducting several disinfection studies to make a better judgment on MMO–MUG tests, and their performance on waters with low densities of injured *E. coli*. These studies will include both pure culture and field studies. Once the Agency has reviewed the new data, it will present the data in a notice of availability and seek public comment. Based on the data and the public comments, EPA will determine whether to approve an MMO–MUG test for *E. coli* detection, or to

allow the subculturing of *E. coli*-negative tubes to another medium for confirmation of results.

Today's action does not impact EPA's prior approval of the MMO–MUG test for the detection of total coliforms. Nevertheless, the total coliform rule requires the testing of all total coliform-positive cultures for either fecal coliforms or *E. coli*. Unless one can determine *E. coli* in the total coliform positive cultures, the utility of the MMO–MUG test is severely limited for application in the total coliform rule. The Agency does not believe that the data provide a basis for justifying transfer from total coliform-positive/*E. coli*-negative tubes to other media. As a consequence, the MMO–MUG test will not be appropriate for determining compliance with the revised total coliform rule. Its use is limited to those applications where only total coliforms are monitored (e.g., section 141.71(a)(1) of the surface water treatment requirements).

2. EC Medium Plus MUG

After reviewing the public comments, EPA continues to believe that EC Medium + MUG is satisfactory for *E. coli* detection and is therefore approving the use of this test, as proposed, under the revised total coliform rule. The EC medium has been used for decades to detect the presence of fecal coliforms. There is no doubt that the *E. coli* will grow in the EC medium. The only new aspect is the inclusion of MUG to distinguish *E. coli* from other fecal coliforms.

Commenters on the proposed EC Medium + MUG test cautioned that the presence of lactose in the medium could inhibit the MUG reaction, and therefore should be omitted. The commenters, however, did not submit any data, although one of them cited an abstract of a study (Feng *et al.*, 1990) in which several negative or weak MUG assays in an unspecified lactose medium became positive when they used a lactose-free glycerol phosphate-MUG medium.

EPA recognizes that some *E. coli* strains may not produce a MUG-positive reaction with a lactose-containing medium such as EC Medium + MUG. However, as stated in the proposed rule, Rippey et al. (1987) found the false-negative rate to be reasonably low (11% and 5% from two studies). EPA also found the false-negative rate to be low (7.5% when incubated at 44.5 °C) in an in-house study. Consequently, the Agency does not believe that lactose inhibition is sufficient to reject EC Medium + MUG.

One commenter contended that data on recovery in treated water were insufficient. The Agency disagrees with the commenter. EC medium has been extensively demonstrated to recover fecal coliforms over many decades of testing. The addition of MUG to the medium merely makes it possible to observe a reaction specific to *E. coli*. EPA further believes that the potential difficulties observed by Clark et al. and by Hall and Moyer (1990) for the MO–MUG test in the detection of *E. coli* in disinfected water should not be a problem for EC Medium + MUG. In the EC medium + MUG test, tens of millions of organisms are being transferred to the medium rather than the handful in the MMO–MUG test.

Two commenters stated that non-specific fluorescence interferes with fluorescence readings in EC Medium + MUG. The Agency recognizes that some batches of EC Medium + MUG do autofluoresce, but believes that the low level of such fluorescence in uninoculated media can be distinguished from the bright fluorescence resulting from *E. coli* growth. This problem could be solved by the use of MUG-positive *E. coli* controls during sample processing in the laboratory.

Other commenters contended that the rule should require laboratories to verify fluorescent tubes by gas production. EPA disagrees. The Agency believes that the literature on MUG suggests that the false-positive rate is small. For example, Rippey et al. (1987) found that 210 non-*E. coli* isolates recovered from shellfish, only one was MUG-positive in EC Medium + MUG. In addition, some *E. coli* are anaerogenic, i.e., they do not produce gas in lactose-based media such as EC Medium + MUG.

EPA also disagrees with another commenter who claimed that EC Medium + MUG had no advantage over EC Medium alone (i.e., fecal coliform test). EC Medium + MUG is considerably more specific for *E. coli* detection than is EC Medium without MUG, and systems may prefer to use the more specific medium, given the consequences of a positive test.

In the proposed rule, EPA specifically requested comment on the appropriate incubation temperature and time for EC Medium + MUG. Commenters did not respond solely in terms of appropriate conditions for EC Medium + MUG, but generally addressed all MUG-based media. Commenters stated that (1) All MUG tests should be incubated at 44.5 °C and (2) the MUG test may lose some specificity if incubated for 48 hours. Based upon the discussion of data in the proposed rule, and the public comments, the Agency is approving the proposed incubation time and temperature for EC Medium + MUG, i.e., 24 # 2 hours at 44.5± 0.2 °C.

Commenters also addressed laboratory certification issues concerning EC Medium + MUG, including non-specific fluorescence (see above) and verification of MUG-negative and MUG-positive results. EPA is developing laboratory certification criteria for use with the revised total coliform rule and surface water treatment requirements that deal with these and other issues. The Agency's certification program, for example, includes a criterion that would have the laboratory verify some portion of the MUG-negative and MUG-positive results. Autofluorescence is also addressed. To receive a description of the Agency's certification program, write to the U.S. Environmental Protection Agency, ORD Publications, P.O. Box 19963, Cincinnati, OH 45219–0963, and request a copy of the Manual for the Certification of Laboratories Analyzing Drinking Water (EPA 570/9–9/008).

3. Nutrient Agar Plus MUG

After reviewing the public comments, EPA continues to believe that Nutrient Agar + MUG is satisfactory for *E. coli* detection and is therefore approving the use of this test, as proposed, under the revised total coliform rule.

Several commenters contended that data on the Nutrient Agar + MUG test were insufficient, especially with regard to false-positive and false-negative information. EPA disagrees. The Agency conducted a recent investigation in which a total of 182 *E. coli* isolates from 12 samples of environmental water were tested in Nutrient Agar + MUG (USEPA, 1990). After four hours of incubation, 92% of the *E. coli* fluoresced. After 24 hours, 95% of the *E. coli* fluoresced. EPA believes that the false-negative rate after four hours is reasonably low (8%).

In another recent study, EPA evaluated 15 environmental water samples using Nutrient Agar + MUG (USEPA, 1990). After four hours incubation, MUG-positive sheen colonies (i.e., total coliform- and *E. coli*-positive) were transferred to MacConkey's agar and isolates were identified by the API 20E system. Of 129 MUG-positive colonies identified, 115 were *E. coli*. Thus, the false-positive rate was 11%. Of 150 MUG-negative colonies identified, 8 were *E. coli*. Thus the false-negative rate was 5%. In EPA's opinion, sufficient information is known about

false-positive and false-negative rates, and, as suggested by this study, they are reasonably low.

EPA believes the potential difficulties observed for the MMO–MUG test in the detection of *E. coli* in disinfected water should not be a problem for Nutrient Agar + MUG, for the same reason described for EC Medium + MUG.

One commenter contended that four hours was too short an incubation time for Nutrient Agar + MUG. This commenter cited conclusions drawn from an unsupplied study which examined the false-positive and false-negative rates as a function of incubation time for the Nutrient Agar + MUG test. In this study, 97 colonies of *E. coli* were isolated on m-Endo agar from 28 surface source water samples. Colonies were transferred via membrane filters to Nutrient Agar + MUG. The commenter found that 26% were MUG-negative (i.e., false-negative) in four hours. After 24 hours of incubation, the false-negative rate was 2%. However, the commenter also asserted that of the 28 water sources tested, seven samples had non-*E. coli* colonies that exhibited fluorescence (i.e., false-positives) when the medium was incubated for 24 hours. Unfortunately, the commenter did not provide data on the total number of non-*E. coli* colonies observed, so his observation about the false-positive rate could not be verified.

EPA confirmed that 14 environmental *E. coli* isolates provided by the previous commenter were MUG-negative after an incubation time of four hours, but MUG-positive after 24 hours, using Nutrient Agar + MUG. After further testing, however, the Agency found that all 14 isolates had identical API–20E profiles. This result is unusual and suggests to EPA that these 14 isolates are of the same clonal origin and are, in fact, separate isolates of a single strain. In contrast, in the EPA study mentioned above (USEPA, 1990), the Agency found 27 different API–20E profiles for the 167 MUG-positive *E. coli* isolates.

This same commenter also claimed that an article by Adams et al. (1990) supports the position that four hours is too short an incubation time, since there is a period of induction required for the β-glucuronidase system of *E. coli* that is at least four hours with a high percentage of strains. Thus, the MUG reaction, which depends upon the presence of the β-glucuronidase, for many *E. coli* would be considerably longer than four hours.

EPA believes the commenter has misinterpreted the data of Adams et al. (1990). This article indicates that the time interval required for β-glucuronidase activity to be detected is the number of hours required for the bacterial population to reach a density which allowed at least 2.8% of the substrate to be hydrolyzed. Although the authors of the article did state that an induction period is required for synthesis of the enzyme system, they provide no data indicating the time interval required for enzyme induction. In the test being approved by today's action, a membrane filter containing a total coliform colony(ies) from the total coliform test is transferred to Nutrient Agar + MUG. Each total coliform colony being transferred contains tens of millions of bacterial cells or higher. EPA believes that this bacterial population is sufficiently dense to allow detection of β-glucuronidase activity within four hours. Therefore, the article provides very little support for the comment that a significant number of *E. coli* would not be detected in four hours by the Nutrient Agar + MUG test.

Based on the Mates and Shaffer (1989) data discussed in the proposed rule and on EPA's recent findings, the Agency believes that a four-hour incubation is satisfactory for *E. coli* detection using Nutrient Agar + MUG. Although EPA recognizes that a few *E. coli* strains require a 24-hour incubation period to produce a MUG reaction, the Agency is not requiring laboratories to incubate beyond four hours, given the low number of strains that are slow MUG-producers and the potential for confusion caused by the diffusion of the fluorescence into the surrounding medium with time (see below).

In the previously cited EPA studies, the fluorescence appeared as a halo around the sheen colony. This fluorescent halo diffused outward into the surrounding medium as the incubation time increased. After 24 hours, the fluorescence sometimes covered the entire agar surface, while the fluorescence on the *E. coli* colony had faded. Also in the previous studies, EPA found that some small non-sheen colonies (i.e., noncoliforms) fluoresced on the Nutrient Agar + MUG medium, so laboratories should take care that only sheen colonies are examined for fluorescence. As stated previously, EPA is developing laboratory certification criteria for the revised total coliform rule and surface water treatment requirements, and will include criteria for examining fluorescence and other quality assurance issues regarding Nutrient Agar + MUG that were addressed by commenters.

One commenter indicated that 50 μg/ml of MUG in nutrient agar was just as effective as the proposed concentration of 100 μg/ml, and provided a study (Damare et al., 1985) in which 50 μg/ml was satisfactory for Peptone Tergitol Glucuronide agar. Another commenter, however, found that fluorescence was more intense with 100 μg/ml of MUG, compared to 50 μg/ml, when Buffered MUG Agar was used. EPA conducted a recent study (USEPA, 1990) which found that 100 μg/ml produced slightly brighter fluorescence than 50 μg/ml. As a result of the EPA data and the fact that Mates and Shaffer (1989) used 100 μg/ml, the Agency will approve a MUG concentration of 100 μg/ml for Nutrient Agar + MUG.

4. Other Methods

a. *Lauryl tryptose broth (LTB) plus MUG.* Several commenters suggested EPA approve LTB + MUG. One commenter provided data that were described in section IIIA1 above. In this study of 90 spiked dechlorinated finished water samples, he found that no statistical difference existed in *E. coli* recoveries among the MMO–MUG test, LTB + MUG at 35 °C, and EC + MUG at 44.5 °C.

Another commenter provided a published article (Feng and Hartman, 1982) which evaluated LTB + MUG. These investigators found that 97% of the 120 pure *E. coli* cultures tested were MUG-positive. None of the other species of total coliforms tested were MUG-positive. Of the non-coliforms tested, only some *Salmonella* strains (17%) and *Shigella* strains (40%) were MUG-positive. These data indicate that the false-positive and false-negative rates for LTB + MUG are low. However, the investigators found that LTB + MUG recovered only 31% of chlorine-injured (0.5 mg/1 initial, 8 minutes) *E. coli* B, suggesting that the false-negative rate for injured *E. coli* is relatively high.

Chang et al. (1989) have also examined the false-negative rate for LTB + MUG. They summarize data from 20 published articles. Most of the articles reported that the percentage of *E. coli* which cannot produce β-glucuronidase (and are therefore MUG-negative, or false-negative) is low (0 – 13%), but the one paper which examined *E. coli* strains from the rat intestinal tract, reported that about 89% were β-glucuronidase-negative. Chang et al. (unpublished draft) examined the β-glucuronidase activity in strains of *E. coli* of human fecal, human urine, or animal origin obtained from the ECOR collection, a set of *E. coli* isolates from many countries. They found that 9/29, or 31%, of the human fecal strains incubated at 37 °C were MUG-negative, as measured in LTB + 50 μg/ml MUG.

This false-negative rate is relatively high.

In a study performed by EPA, investigators subcultured 240 *E. coli* isolates from 12 environmental water samples into tubes containing LTB + MUG and EC + MUG. After incubation (48 hours, 35 °C, 207 (86%) were MUG-positive in both LTB + MUG and EC + MUG. When the 33 MUG-negative isolates from LTB + MUG were subcultured into EC + MUG and incubated (24 hours, 44.5 °C), the number of MUG-negative *E. coli* isolates decreased to 18 (7.5%). The investigators concluded that EC + MUG at an incubation temperature of 44.5 °C recovered more *E. coli* than LTB + MUG at 35 °C.

EPA has decided to defer approval of LTB + MUG at this time because of questions on the false-negative rate and most suitable incubation temperature. LTB + MUG may have a greater problem with catabolite repression of MUG activity than EC + MUG, since it is not as well buffered as is EC + MUG medium. Given the data, the Agency will continue to investigate the use of LTB + MUG. The Agency may alter its position when additional comparison data become available, especially for chlorine-injured *E. coli*.

b. *Other tests.* One commenter suggested that EPA consider approving lactose-free lauryl tryptose broth or EC broth (or medium containing β-D-galactosidase and tryptophan) in conjunction with an indole test to detect *E. coli*. The commenter stated that even 0.5% lactose was sufficient to impose a strong catabolite repression on MUG hydrolyis, and therefore lactose should be omitted from the medium. This commenter submitted a number of published studies in which investigators used indole to detect *E. coli*.

EPA is deferring approval of this method because of conflicting published data on the false-positive rate for the indole test. Unfortunately, the Agency does not have sufficient information to determine whether the conflicting data is merely a function of incubation temperature.

Several commenters suggested that EPA approve the Coliquik test for *E. coli* detection. The Coliquik test is similar, but not identical, to the Colilert test in formulation and protocol. The Agency, however, is not aware of any comparison data between Coliquik and other tests, except for *E. coli* data that have appeared in abstract form and a draft publication by Clark et al., which was submitted as part of a public comment. In this study, Coliquik recovered more *E. coli* than did the Colilert test (17 vs. 8 positive samples), but both of these tests recovered far fewer *E. coli* than did the m-FC test (43 positive samples).

Because of the lack of comparison data on Coliquik for total coliforms and *E. coli*, and the poor recovery efficiency described by Clark et al., EPA is not approving Coliquik for use in detecting *E. coli* at this time.

Another commenter suggested that EPA approve the Presence-Absence Coliform Test + MUG. The Agency has already approved the Presence-Absence Coliform Test for total coliform detection (54 FR 27544; June 29, 1989), but has no comparison data on its suitability for *E. coli* detection with the addition of MUG to the medium. For this reason, EPA is not approving the use of this test in today's notice.

QA Laboratories recommended that EPA approve a two-step membrane filter procedure that employs lactose monensin glucuronate agar for detection of total coliforms and buffered MUG agar for the detection of *E. coli*. As a part of their supporting data, the commenter submitted collaborative test results of the method, and the subsequent method published by the Association of Official Analytical Chemists (AOAC) for the enumeration of total coliforms and *E. coli* in foods. While the supporting data indicate the method is very specific for *E. coli* (99.5%), the commenter did not provide EPA with data on environmental water samples, including drinking water. Accordingly, the Agency is not approving the use of this method in today's rule.

Two commenters suggested that EPA approve the API strips, Enterotubes, or other bacterial identification systems for *E. coli* detection. As was mentioned in the proposed rule, EPA excluded these types of tests because of the time the laboratory would need to obtain results. The process is isolating a pure culture from the total coliform-positive culture, inoculating the identification system, and incubating the culture would take about 48 hours or more, necessitating a delay in warning the public if *E. coli* were present. Because of the acute risks associated with *E. coli* contamination, EPA is unwilling to allow such an extended delay, and is consequently not approving these type of tests in today's rule.

B. Change to Analytical Method for Fecal Coliforms

Five commenters supported the proposed method of transferring colonies from a total coliform-positive membrane to EC medium via a cotton swab. One of these commenters contended that transfer of the entire membrane filter into a broth medium such as EC Medium (the only transfer procedure approved by the June 29, 1989 notice) would be cumbersome, time-consuming, and vulnerable to contamination.

Two commenters suggested that EPA approve the inoculation of an individual total coliform colony into EC Medium, rather than swab of the entire surface. One of them stated that if the laboratory swabbed the entire membrane surface, material from the swab might affect the activity of MUG or create too heavy an inoculum such that epi-fluorescence or aberrant MUG reactions might result. The commenter, however, did not provide EPA any data to support his contention.

EPA is approving the proposed procedure for transferring colonies from a total coliform-positive membrane filter by swabbing the entire surface. The Agency also agrees with the comment that laboratories have the option of transferring individual total coliform-positive colonies, rather than swabbing the entire membrane surface, since the transfer of individual colonies would minimize the concerns expressed above. Therefore, today's rule approves both procedures. Although the proposed rule only addressed § 141.21(f)(5), which pertains to the transfer of colonies on a membrane filter to EC Medium for detection of fecal coliforms, EPA believes these transfer procedures would be equally suitable for inoculation of EC + MUG.

C. Effective Date

This rule is effective on the date of publication, rather than the normal minimum time of 30 days from publication. EPA believes this rule should be effective immediately because it relieves a restriction in the revised total coliform rule, which became effective on December 31, 1990. In that rule, all total coliform-positive samples must be tested for the presence of either fecal coliforms or *E. coli*. To date, EPA has only approved the fecal coliform test, which may result in false determinations of fresh fecal contamination in some water systems. The Agency believes that today's rule would benefit systems by allowing them to use a more precise method for determining the presence of fresh fecal contamination, i.e., *E. coli*. For this reason, EPA believes it has good cause to make the rule immediately effective.

IV. Regulation Assessment Requirements

A. Executive Order 12291

Executive Order 12291 requires EPA to judge whether a regulation is "major" and, if so, to prepare a regulatory impact analysis. A rule is considered major if it has an economic impact of $100 million or more, causes a significant increase in cost or prices, or any of the other adverse effects described in the Executive Order. Since the objective of this rule is merely to make additional analytical methods available for use in complying with the regulation for total coliforms, EPA has determined that this action is not a major rule within the meaning of the Executive Order. Water systems/laboratories may use the new methods or continue using previously-approved methods. Water systems which choose to use an *E. coli* test in lieu of the fecal coliform test will likely experience fewer false-positive results, thereby generally reducing their overall costs of compliance. Therefore, there will not be any adverse economic impacts.

This notice was submitted to the Office of Management and Budget for its review under the Executive Order.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. If there is a significant effect on a substantial number of small systems, means should be sought to minimize the effects.

The Small Business Administration defines a small water utility as one which serves fewer than 50,000 people. Under this definition, this rule would affect about 200,000 small systems.

This final rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have a significant economic impact on small entities. The rule specifies analytical methods that laboratories must use if they choose to test a total coliform-positive culture for *E. coli*, rather than fecal coliforms. The requirement for a system/laboratory to test all total coliform-positive cultures for either fecal coliforms or *E. coli* was promulgated in an earlier notice (54 FR 27544; June 29, 1989). Since the use of the *E. coli* tests is optional, and EPA is not promulgating any new requirement, the Agency believes that the impact of this notice would not have a significant effect on a substantial number of small entities.

C. Paperwork Reduction Act

This rule contains no information collection requirements and consequently is not covered by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. Science Advisory Board, National Drinking Water Advisory Council, and Secretary of Health and Human Services

In accordance with sections 1412(d) and (e) of the Safe Drinking Water Act, the Agency consulted with the Science Advisory Board, National Drinking Water Advisory Council, and the Secretary of Health and Human Services and took their comments into account in developing this rule.

V. References

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List of Subjects in 40 CFR Part 141

Chemicals, Microorganisms, Incorporation by reference, Indians—land, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: December 31, 1990.

F. Henry Habicht,

Acting Administrator.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–41, 300g–5, 300g–6, 300j–4 and 300j–9.

2. Section 141.21 is amended by revising paragraph (f)(5), by redesignating paragraph (f)(6) as paragraph (f)(7), and by adding a new paragraph (f)(6) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(5) Public water systems must conduct fecal coliform analysis in accordance with the following procedure. When the MTF Technique or Presence-Absence (PA) Coliform Test is used to test for total coliforms, shake the lactose-positive presumptive tube or P–A vigorously and transfer the growth with a sterile 3-mm loop or sterile applicator stick into brilliant green lactose bile

broth and EC medium to determine the presence of total and fecal coliforms, respectively. For EPA-approved analytical methods which use a membrane filter, transfer the total coliform-positive culture by one of the following methods: remove the membrane containing the total coliform colonies from the substrate with a sterile forceps and carefully curl and insert the membrane into a tube of EC medium (the laboratory may first remove a small portion of selected colonies for verification), swab the entire membrane filter surface with a sterile cotton swab and transfer the inoculum to EC medium (do not leave the cotton swab in the EC medium), or inoculate individual total coliform-positive colonies into EC Medium. Gently shake the inoculated tubes of EC medium to insure adequate mixing and incubate in a waterbath at 44.5±0.2 °C for 24±2 hours. Gas production of any amount in the inner fermentation tube of the EC medium indicates a positive fecal coliform test. The preparation of EC medium is described in *Standard Methods for the Examination of Water and Wastewater*, 1985, American Public Health Association, 16th Edition, Method 908C—p. 879, paragraph 1a. Public water systems need only determine the presence or absence of fecal coliforms; a determination of fecal coliform density is not required.

(6) Public water systems must conduct analysis of *Escherichia coli* in accordance with one of the following analytical methods:

(i) EC medium supplemented with 50 μg/ml of 4-methylumbelliferyl-beta-D-glucuronide (MUG) (final concentration). EC medium is described in *Standard Methods for the Examination of Water and Wastewater*, 1985, American Public Health Association et al., 16th edition, p. 879. MUG may be added to EC medium before autoclaving. EC medium supplemented with 50 μg/ml of MUG is commercially available. At least 10 ml of EC medium supplemented with MUG must be used. The inner inverted fermentation tube may be omitted. The procedure for transferring a total coliform-positive culture to EC medium supplemented with MUG shall be as specified in paragraph (f)(5) of this section for transferring a total coliform-positive culture to EC medium. Observe fluorescence with an ultraviolet light (366 nm) in the dark after incubating tube at 44.5±0.2 °C for 24±2 hours; or

(ii) Nutrient agar supplemented with 100 μg/ml 4-methylumbelliferyl-beta-D-glucuronide (MUG) (final concentration). Nutrient Agar is described in *Standard Methods for the Examination of Waste and Wastewater*, 1985, American Public Health Association et al., 16th edition, p. 874. This test is used to determine if a total coliform-positive sample, as determined by the Membrane Filter Technique or any other method in which a membrane filter is used, contains *E. coli*. Transfer the membrane filter containing a total coliform colony(ies) to nutrient agar supplemented with 100 μg/ml (final concentration) of MUG. After incubating the agar plate at 35 °C for 4 hours, observe the colony(ies) under ultraviolet light (366 nm) in the dark for fluorescence. If fluorescence is visible, *E. coli* are present.

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3. Section 141.21 is amended by revising the first sentence of newly designated paragraph (f)(7) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(7) The following materials are incorporated by reference in this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. * * *

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[FR Doc. 90-451 Filed 1-7-91; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Parts 261, 271, 302

[FRL 3895-8]

Hazardous Waste and Superfund Programs; Amendment to Preambles Published at 54 FR 33418 (August 14, 1989) and 54 FR 50968 (December 11, 1989)

AGENCY: Environmental Protection Agency.

ACTION: Amendment to preambles.

SUMMARY: In the preambles to regulations promulgated on August 14, 1989 (54 FR 33418) (establishing reportable quantities (RQ's) under CERCLA for certain substances) and December 11, 1989 (54 FR 50968) (listing certain wastes from the production of chlorinated aliphatic hydrocarbons as a hazardous waste under RCRA), the Environmental Protection Agency ("EPA") stated that it classifies tetrachloroethylene (perchloroethylene) as a "probable" (weight-of-evidence Group B2) human carcinogen. Today's notice amends the preambles to both rules and elaborates upon the Agency's current position regarding the weight-of-evidence classification of perchloroethylene. It also amends the preamble to the December 11 rule by deleting perchloroethylene from the substances referred to at 54 FR 50974, without qualification, as Group B2 carcinogens.

As is set forth in greater detail below, the Agency stated in a 1985 Health Assessment Document that "the overall weight of evidence classification for [perchloroethylene] would be Group C, i.e., a possible human carcinogen." In 1986, EPA issued a draft addendum to the 1985 Health Assessment Document that would place perchloroethylene in weight-of-evidence Group B2. The draft addendum has not been finalized to date. The Agency is currently deliberating concerning the weight-of-evidence classification for perchloroethylene. EPA will follow the process set forth below to bring those deliberations to a conclusion.

FOR FURTHER INFORMATION CONTACT: Mr. John Austin, Listing Section, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460; telephone (202) 382-4789.

SUPPLEMENTARY INFORMATION:

I. Background

On December 11, 1989, EPA promulgated a rule that listed condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production by free radical catalyzed processes of chlorinated aliphatic hydrocarbons having carbon chain lengths of one to five as a hazardous waste (EPA Hazardous Waste No. F025) under the Resource Conservation and Recovery Act (RCRA). The rule also designated Waste No. F025 as a hazardous waste and set a reportable quantity (RQ) for that waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). 54 FR 50968, 50974. The preamble to the rule discussed EPA's rationale for characterizing Waste No. F025 as hazardous. In describing the various constituents of that waste, EPA identified perchloroethylene as a weight-of-evidence Group B2 carcinogen.

On August 14, 1989, EPA promulgated a rule that, among other things, established an adjusted RQ of 100 lb. for perchloroethylene under CERCLA. 54 FR 33418, 33424. The preamble to that rule stated that the Agency's current position is that perchloroethylene "should fall into the B2 category based on sufficient animal evidence of carcinogenicity," but that this position is "based on a draft carcinogenicity assessment that has not yet been finalized." The preamble also stated, "Pending the results of the

Agency's final carcinogenicity assessment, the B2 classification and 100 lb. RQ adjustment for perchloroethylene will be maintained in this final rule." *Id.* at 33424.

II. Methodology for Adjusting RQs

The Agency's methodology for setting RQ adjustments under CERCLA is summarized in the August 14, 1989 **Federal Register** notice, 54 FR 33420–1. The methodology for adjusting RQs begins with an evaluation of the intrinsic physical, chemical, and toxicological properties of each hazardous substance. The intrinsic properties examined include potential carcinogenicity. The evaluation of hazardous substances for potential carcinogenicity initially involves a qualitative assessment of the available scientific literature on the substance. The data are reviewed to determine the degree of certainty or "weight-of-evidence" that the substance is a human carcinogen. The substance is then classified in an overall weight-of-evidence category (A, B, C, D or E).

Group B (probable human carcinogen) is divided into two subgroups, B1 and B2. Group B1 includes substances for which the weight of evidence of human carcinogenicity based on epidemiological studies is "limited." Group B2 includes hazardous substances for which there is "no data," "inadequate evidence" or "no evidence" of human carcinogenicity from epidemiological studies, but for which the weight of evidence of carcinogenicity based on animal studies is "sufficient." 54 FR 33421. Group C (possible human carcinogen) includes substances with "limited" evidence of carcinogenicity in animals and "no data," "inadequate evidence," or "no evidence" from human epidemiological studies. *Id.*

III. Discussion of Weight-of-Evidence Classification of Perchloroethylene

EPA issued a Health Assessment Document for Tetrachloroethylene (Perchloroethylene) in July 1985 (EPA/600/8–82/005F). The July 1985 document stated, "[t]he overall weight of evidence classification for PCE [perchloroethylene] would be Group C, *i.e.*, a possible human carcinogen." *Id.* at 1–4. The Agency noted that the National Toxicology Program (NTP) was then completing perchloroethylene inhalation bioassays for rats and mice, and stated that when the results of these bioassays became available, "consideration will be given to updating the carcinogenicity evaluation in this assessment document." *Id.* at 1–5.

In March 1986 EPA issued a draft addendum to the July 1985 Health Assessment Document. Draft Addendum to Health Assessment Document for Tetrachloroethylene (Perchloroethylene), EPA/600/8–82/005FA (March 1986) (External Review Draft). The draft addendum reviewed the findings of the draft National Toxicology Program Technical Report on the Toxicology and Carcinogenesis Studies of Tetrachloroethylene in F344/N rats and B6C3F1 mice. The draft addendum stated, "The evidence in rats and mice, together with the inconclusive evidence in humans as reported in 1985 Health Assessment Document for Tetrachloroethylene, results in the placement of PCE in EPA's weight-of-evidence Group B2, meaning that it should be considered a probable human carcinogen." *Id.* at 1–2. The Agency circulated the draft addendum for comment on technical accuracy and policy implications. The draft addendum has not been finalized to date; as described below, EPA is continuing its deliberations concerning the weight-of-evidence classification for perchloroethylene.

A review of the draft addendum on perchloroethylene, including the 1985 NTP inhalation bioassay, was subsequently conducted by the Halogenated Organics Subcommittee of the Science Advisory Board ("SAB"). In a letter to the Administrator, the Subcommittee stated, "It is reasonable to describe the weight of the epidemiological evidence in humans as conforming to the EPA guideline for carcinogen risk assessment definition of 'inadequate.' The Subcommittee concludes that the animal evidence of carcinogenicity is 'limited' because of positive results in only one strain of mouse of a type of tumor that is common and difficult to interpret. Thus, the Subcommittee concludes that perchloroethylene belongs in the overall weight-of-evidence category C (possible human carcinogen)." (EPA, Science Advisory Board: Environmental Health Committee Halogenated Organics Subcommittee report from N. Nelson and R. Griesemer to L. Thomas, January 27, 1987).

The Administrator responded to the Subcommittee's letter on August 3, 1987. The Administrator's response included a memorandum from EPA staff scientists addressing the issues raised by the Halogenated Organics Subcommittee of the SAB. That memorandum concluded that the available data, while subject to alternative interpretations, led EPA staff to believe that perchloroethylene should fall more readily into the B2 category, probably carcinogenic to humans, based on sufficient animal but inadequate human evidence of carcinogenicity. (Letter regarding classification of perchloroethylene as a Category B2 compound with attachment, "EPA Staff Comments on Issues Regarding the Carcinogenicity of Perchloroethylene (perc) Raised by the SAB." Lee M. Thomas, Administrator to Dr. Norton Nelson, Chairman, Executive Committee, Science Advisory Board, August 3, 1987).

The SAB met subsequently as a whole and examined the cancer classification of perchloroethylene. The SAB observed that, in view of the weight of evidence and associated scientific uncertainty, perchloroethylene could not be made to fit "neatly into only one risk category." The SAB concluded at that time that the overall weight of evidence for perchloroethylene lies on the continuum between EPA's Group B2 and C (U.S. EPA, Science Advisory Board: Environmental Health Committee Halogenated Organics Subcommittee report from N. Nelson, R. Griesemer and J. Doull to L. Thomas, March 9, 1988).

On May 22, 1989, EPA published a notice in the **Federal Register** that proposed, among other things, to set a Maximum Contaminant Level Goal (MCLG) under the Safe Drinking Water Act for perchloroethylene at zero, based in part upon a B2 classification. 54 FR 22062, 22090–1. The Agency solicited public comment on the issue of whether perchloroethylene should be classified as a B2 or C compound. EPA is scheduled to issue a final rule setting a MCLG for perchloroethylene on December 31, 1990.

EPA is currently deliberating concerning the weight-of-evidence classification for perchloroethylene and the issues raised and advice offered by the SAB concerning perchloroethylene. When these deliberations are completed, EPA will provide a formal reply to the SAB, under the signature of the Administrator or an appropriate designee, which informs the SAB of the Agency's response to the SAB's issues and advice and states the Agency's final position on the weight-of-evidence classification of perchloroethylene. At the time this reply is prepared, EPA's Office of Health and Environmental Assessment will be preparing an addendum to the health assessment document reviewing the hazard characterization of perchloroethylene that will further document EPA's final position concerning the weight-of-evidence classification of perchloroethylene. This document and the Agency's reply to the SAB will be

separate and distinct from any regulatory evaluations and risk management decisions concerning perchloroethylene.

IV. Revisions to December 11, 1989 Notice and August 14, 1989 Notice

For the foregoing reasons, perchloroethylene is hereby deleted from the substances referred to at 54 FR 50974 as Group B2 carcinogens. The preambles to the regulations promulgated on August 14, 1989 (54 FR 33418) and December 11, 1989 (54 FR 50968) are amended, insofar as they discuss the weight-of-evidence classification of perchloroethylene, as set forth above. Because a final position on that classification was not relevant to either of these actions, this notice does not affect the listing of Waste No. F025, the establishment of an RQ for that waste, or the identification of perchloroethylene as a hazardous constituent of Waste No. F025 for purposes of the December 11, 1989 rule. This notice also does not affect the 100 lb. RQ for perchloroethylene that was established in the August 14, 1989 rule.

Dated: December 28, 1990.

F. Henry Habicht II,

Deputy Administrator.

[FR Doc. 91-143 Filed 1-7-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 901078-0345]

Foreign Fishing; Pacific Coast Groundfish Fishery

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

ACTION: Notice of 1991 groundfish fishery specifications and management measures.

SUMMARY: NOAA announces the 1991 specifications and management measures for groundfish taken in the U.S. exclusive economic zone and state waters off the coasts of Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan (FMP). The specifications include the level of the acceptable biological catch, harvest guidelines and quotas, and their distribution between domestic and foreign fishing operations. The management measures for 1991 are designed to keep landings within the harvest guidelines or quotas, if any, and to achieve the goals and objectives of the FMP and its implementing regulations. These actions are authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan. The intended effect of these actions is to establish allowable harvest levels of Pacific coast groundfish and to implement management measures designed to achieve but not exceed those harvest levels.

EFFECTIVE DATE: January 1, 1991, until modified, superseded, or rescinded.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) 206-526-6140; or Rodney R. McInnis (Southwest Region, NMFS) 213-514-6199.

SUPPLEMENTARY INFORMATION: Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on November 15, 1990, and final implementing regulations were filed with the Office of the Federal Register on December 31, 1990. The amended FMP requires that management specifications for groundfish be evaluated each calendar year, that harvest guidelines or quotas be specified for species or species groups in need of additional protection and that management measures designed to achieve the harvest guidelines or quotas be published in the **Federal Register** and implemented by January 1, the beginning of the fishing year.

The process for adopting acceptable biological catch (ABC) levels, harvest guidelines and quotas, and management measures was initiated by the Pacific Fishery Management Council (Council) at its September 1990 meeting. Proposed actions were published in the **Federal Register** on November 7, 1990 (55 FR 46841) and written public comments were requested by November 21, 1990. None was received. The Council also accepted public comment at its November 13-16, 1990, meeting before recommending final specifications and management measures to be effective on January 1, 1991. The Council considered advice from its Groundfish Advisory Subpanel, Groundfish Management Team (GMT), Scientific and Statistical Committee, and Enforcement Consultants in recommending these specifications and management measures to NMFS. This **Federal Register** notice announces the final specifications and management measures recommended by the Council and approved by the Secretary for implementation on January 1, 1991. The specifications and management measures announced herein may be modified during the year, according to the procedures of Amendment 4 to the FMP.

I. Final Specifications of ABC, Harvest Guidelines and Quotas, and Apportionments to DAH, DAP, JVP, and TALFF

The management specifications include the ABC, the designation and amounts of harvest guidelines or quotas for species that need individual management, and the apportionment of the harvest guidelines or quotas between domestic and foreign fisheries. (Under Amendment 4, annual quotas replace numerical optimum yield (OY) specifications.) For those species needing individual management that will not be fully utilized by domestic processors, or that can be caught without severely impacting species that are fully utilized by domestic processors, the harvest guidelines or quotas may be apportioned to domestic annual harvest (DAH, which includes domestic annual processing (DAP) and joint venture processing (JVP)) and the total allowable level of foreign fishing (TALFF).

The final 1991 management specifications are listed in Tables 1 and 2, followed by a discussion of each species with an ABC, harvest guideline or quota designation, or amount that varies from that proposed at 55 FR 46841. Table 1 has been reorganized (jack mackerel is moved under the roundfish category, the "other rockfish" category is renamed the *Sebastes* complex, and thornyheads is moved under the rockfish category); this reorganization is made only for ease in interpretation and has no affect on the specifications or management measures announced herein. Unless noted here, the specifications are the same as proposed.

As in the past, fish caught in state ocean waters (0-3 nautical miles offshore) as well as fish caught in the exclusive economic zone (EEZ, 3-200 nautical miles offshore) are included in these specifications.

TABLE 1.—FINAL SPECIFICATIONS OF ABC FOR 1991 FOR THE WASHINGTON, OREGON, AND CALIFORNIA REGION BY INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION AREAS

[In thousands of metric tons]

Species	Area					
	Vancouver [1]	Columbia	Eureka	Monterey	Conception	Total
Roundfish:						
Lingcod	1.0	4.0	0.5	1.1	0.4	7.0
Pacific Cod			[2]	[2]	[2]	3.2
Pacific Whiting						[3] 253.0
Sablefish						[4] 8.9
Jack Mackerel						[5] 52.6
Rockfish:						
Pacific Ocean Perch	0.0	0.0	[2]	[2]	[2]	0.0
Shortbelly						[4] 13.0
Widow						[4] 7.0
Thornyheads	[2]				[2]	7.9
Sebastes complex:						
Bocaccio	[2]	[2]	[2]			0.8
Canary	0.8	1.5	0.6	[2]	[2]	2.9
Chilipepper						[4] 3.6
Yellowtail	1.2	3.1	0.3	[2]	[2]	4.6
Remaining Rockfish	0.9	3.7	1.9	4.3	3.3	14.0
Flatfish:						
Dover Sole	2.4	6.1	8.0	5.0	1.0	22.5
English Sole						[4] 1.9
Petrale Sole	0.6	1.1	0.5	0.8	0.2	3.2
Other Flatfish	0.7	3.0	1.7	1.8	0.5	7.7
Other Fish [6]	2.5	7.0	1.2	2.0	2.0	14.7

[1] U.S. portion.
[2] These species are not common or important in the areas footnoted. Rockfish species with this footnote are included in the "remaining rockfish" category for the areas footnoted only. Other groundfish species with this footnote are included in the "other fish" category for the areas footnoted.
[3] ABC for the U.S. and Canada combined.
[4] Total—All INPFC areas off Washington, Oregon, and California.
[5] Includes area beyond the EEZ (200 nm). Only jack mackerel in the EEZ north of 39° N. latitude are managed by the FMP.
[6] "Other fish" includes sharks, skates, ratfish, morids, grenadiers, and groundfish species (except for rockfish) in those areas designated by footnote 2

TABLE 2.—FINAL HARVEST GUIDELINE (HG) AND QUOTA SPECIFICATIONS AND THEIR APPORTIONMENT TO DAP, JVP, DAH, AND TALFF IN 1991

[In thousands of metric tons]

Species	HG or quota	DAP	JVP [1]	DAH	Reserve	TALFF [1]
I. Quota:						
Pacific Whiting [2]	228.0	228.0	0	228.0	0.0	0.0
Shortbelly Rockfish	13.0	0.0	10.4	10.4	2.6	0.0
Jack Mackerel [3]	46.5	0.0	25.0	25.0	9.3	12.2
II. Harvest guideline:						
Sablefish [4]	8.9	8.9	0.0	8.9	0.0	0.0
Pacific Ocean Perch [5]	1.0	[5] 1.0	0.0	[5] 1.0	0.0	0.0
Widow Rockfish	7.0	7.0	0.0	7.0	0.0	0.0
Bocaccio	1.1	1.1	0.0	1.1	0.0	0.0
Yellowtail Rockfish	4.3	4.3	0.0	4.3	0.0	0.0
Thornyheads [4]	7.9	7.9	0.0	7.9	0.0	0.0
Dover Sole [4]	22.5	22.5	0.0	22.5	0.0	0.0
Sebastes Complex [5]	11.1	11.1	0.0	11.1	0.0	0.0

[1] In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: Sablefish 0.173 percent; Pacific ocean perch 0.062 percent; rockfish excluding Pacific ocean perch 0.738 percent; flatfish 0.1 percent; jack mackerel 3.0 percent; and other species 0.5 percent. In foreign trawl and joint venture fisheries, "other species" means all species, including nongroundfish species, except Pacific whiting, sablefish, Pacific ocean perch, other rockfish (that is, rockfish excluding Pacific ocean perch), flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See 50 CFR 611.70(c) for application of incidental retention allowance percentages to joint venture fisheries.
[2] Based on 90 percent of the 253,000 mt ABC for the United States and Canada combined.
[3] The harvest guideline is derived by subtracting the expected harvest outside of 200 nm (6,100 mt) from the 52,600 mt ABC that applies both inside and outside of 200 nm. The JVP estimate applies only to jack mackerel caught in the EEZ north of 39° N. latitude.
[4] Sablefish, thornyheads, and Dover sole may be managed together as the "deepwater complex."
[5] For the Vancouver and Columbia INPFC areas combined. The harvest guideline for the *Seoastes* complex (all rockfish managed under the FMP except Pacific ocean perch, shortbelly rockfish, widow rockfish, and thornyheads) is derived by adding the sum of the ABCs in the Vancouver and Columbia areas for the species in the complex (i.e., canary rockfish, yellowtail rockfish, and the remaining rockfish category from Table 1).

The 1991 final ABCs are changed from the 1990 levels for the following species: Pacific whiting, widow rockfish, bocaccio, canary rockfish, yellowtail rockfish, Dover sole, and jack mackerel. An ABC also is established for the first time for thornyheads (*Sebastolobus* spp.) because of the substantial landings in recent years and the recent availability of a stock assessment.

As was proposed, widow rockfish, sablefish, and Pacific ocean perch will be managed with harvest guidelines in 1991 rather than with quotas as in 1990, and harvest guidelines are established for bacaccio, thornyheads, and Dover sole for the first time.

The final 1991 specifications of ABC, harvest guidelines and quotas, and apportionments are the same as proposed at 55 FR 46841 with the following exceptions: ABCs are changed for Pacific whiting, sablefish, bocaccio, thornyheads, and jack mackerel; harvest guidelines are changed for sablefish, Pacific ocean perch, bocaccio, and thornyheads; and, quotas and their apportionment to domestic and foreign operations are changed for Pacific whiting and jack mackerel. These changes are explained below.

Pacific whiting. The preliminary ABC for Pacific whiting in the United States and Canada combined was 279,000 mt. A technical modification resulted in a reduction to 253,000 mt for both areas in 1991, slightly above the 245,000 mt combined ABC in 1990.

The final quota for Pacific whiting remains at 90 percent of the combined ABC for the United States and Canada. Therefore, the U.S. quota is 228,000 mt, 90 percent of the revised U.S.-Canada ABC of 253,000 mt.

Domestic processors, including at-sea processing vessels, have requested more than 300,000 mt of Pacific whiting in 1991. Because these requests exceed the available quota of 228,000 mt, the entire quota is designated for DAP, leaving no surplus for JVP or TALFF and no reserve. Domestic processors will be surveyed later in the year, after which surplus DAP, if any, may be reappointed to JVP.

For incidental retention allowance percentages that would be applied in the joint venture for Pacific whiting, refer to the regulations at 50 CFR 611.70 and footnote 1 of table 2 in this notice.

Sablefish. A technical revision resulted in an increase to the proposed ABC for sablefish from 8,800 mt to 8,900 mt, the same as in 1990. Consequently, the harvest guideline, which was proposed to equal ABC, also is increased from 8,800 mt to 8,900 mt.

Bocaccio. The preliminary ABC range for bocaccio was 800–1,700 mt because the GMT was not able to fully review this new assessment prior to the September Council meeting which preliminary specifications were recommended to the Secretary. Further review indicated that the rationale in the stock assessment for the lower level was sound, and the final ABC was set at 800 mt.

The Council was concerned about the economic consequences of suddenly reducing harvest levels from about 2,000 mt annually from 1985–1990 to 800 mt in 1991. (Although the ABC has been 6,100 mt since 1985, landings have been well below that level.) The fishery previously had been managed with a liberal trip level limit of 40,000 pounds that applied to the *Sebastes* complex as a whole, without singling out bocaccio. However, bocaccio typically are caught with other species in the *Sebastes* complex, so a 60 percent reduction could not be achieved without a substantial and sudden reduction in total landing of the *Sebastes* complex. Consequently, the Council felt that a phase-in of more severe restrictions was warranted instead of a severe reduction to 800 mt in one year. To lessen the economic impacts of reduced harvest levels, the Council recommended a harvest guideline of 1,100 mt for 1991. Before adopting this recommendation, the Council determined that allowing landings approximately 300 mt greater than the ABC would not result in overfishing as long as landings do not exceed 1,300 mt. To guard against overfishing, Amendment 4 requires that the following criteria be addressed when setting a harvest guideline above an ABC:

(a) *Exploitable biomass and spawning biomass relative to MSY levels.* All data sources indicate a declining resource, and the stock synthesis model estimates that total biomass has fallen from about 75,000 mt in 1978 to 7,000–14,000 mt in 1990. A significant fraction of the observed decline is due to poor recruitment since 1978. The spawning biomass in 1991 is only 13.5 percent of the average, unfished level, and less than the level that produces MSY.

(b) *Fishing mortality rate relative to MSY.* The fishing mortality rate that would achieve landings at 1,100 mt is higher than necessary to produce MSY. The recommended exploitation rate that would produce MSY in the longterm is about 11.4 percent, the overfishing rate is 18.4 percent, and the intermediate rate that produces 1,100 mt in 1991 is 15.7 percent.

(c) *If part of a multispecies fishery, the relative contribution of the species to the total catch.* Bocaccio are found predominantly in the Monterey and Conception INPFC areas, and typically are caught with other rockfish species in the *Sebastes* complex (all rockfish managed by the FMP except widow, shortbelly, Pacific ocean perch, and thornyheads). Bocaccio comprised 18 percent of trawl landings of the *Sebastes* complex in 1989, and a similar percentage occurs in the hook-and-line fishery.

(d) *The impact, if any, of the increase on other groundfish species or species groups.* Boccacio is the only species in the *Sebastes* complex south of Coos Bay in need of protection. The harvest of 1,100 mt of bocaccio in 1991, 300 mt above its ABC, is not expected to have a negative impact on any other groundfish species or species group.

(e) *The magnitude of incoming recruitment.* Recruitment has been poor since 1978, which accounts for much of the observed decline in biomass. The spawning biomass in 1991 is probably less than 25 percent of the average unfished level.

(f) *The impact of harvest higher than ABC on the potential for future harvest to achieve the goals and objectives of the FMP.* The total biomass in 1991 is estimated at approximately 7,000 mt. The ABC of 800 mt is 11.4 percent of this biomass. Exceeding the ABC by 300 mt in the short-term will cause only a small reduction in stock biomass, and an undetectable change in stock's ability to produce strong recruitment. The recommendation to set the harvest guideline greater than ABC applied to 1991 only.

Thornyheads. This will be the first year an individual ABC and harvest guideline have been specified for thornyheads. The Council recommended increasing the proposed ABC and harvest guideline for thornyheads from 5,900 mt to 7,900 mt. The Council did not accept the GMT's recommendation of 5,900 mt because of certain weaknesses in the stock assessment, the first prepared for this species group. Observations of fish density were not adequate for the Eureka area where much of the fishery occurs. Biological data were solely for one species, shortspine thornyhead, whereas the fishery also harvests longspine thornyheads. While both these species are believed to be slow growing and long-lived, age determination methods have not been verified, compromising the efforts to determinate appropriate exploitation rates for future years. Consequently, the Council recommended that the ABC for 1991 be set approximately at the 1989 level of landings, 7,900 mt, with the intention that the stock assessment be reexamined by 1992. The 1991 ABC and harvest guideline of 7,900 mt are substantially lower than landings in 1990, which are projected to exceed 10,000 mt.

Jack mackerel (north of 39° N. latitude). Because of increased interest in development of a joint venture trawl fishery for this species, the Council reexamined the best available information on jack mackerel. (The FMP governs fishing for jack mackerel north of 39° N. latitude only). These data indicated that the current, nearly unfished stock could accommodate a short-term yield for ages 16+ of 52,600 mt, based on a constant exploitation

rate (equal to natural mortality) applied to estimates of current spawning biomass (1.5 million short tons). The biomass and short-term yield are expected to decline slowly under this level of exploitation, with a long-term average yield for this age range expected to be near 19,000 mt. The Council was unable to distinguish between biomass inside and outside the EEZ. Consequently, the 1991 ABC of 52,600 mt applies to waters both inside the EEZ north of 39° N. latitude and seaward of the EEZ as well.

The Council recommended a quota of 46,500 mt for jack mackerel in the EEZ north of 39° N. latitude, which was derived by subtracting the expected harvest outside the EEZ (6,100 mt) from the 52,600 mt ABC (that applied to the EEZ north of 39° N. latitude and seaward of the EEZ). Consequently the quota for jack mackerel was increased from 12,00 mt in 1990 to 46,500 mt in 1991.

The reserve, 20 percent of the quota, is 9,300 mt, JVP is 25,000 mt, and 12,200 mt remains for TALFF.

Incidental retention allowance percentages applied to the joint venture for jack mackerel north of 39° N. latitude provisionally would be the same as for the Pacific whiting joint venture (see footnote 1 of Table 2), but could be modified if better information becomes available. Unless otherwise specified, the incidental percentage for Pacific whiting taken in a joint venture for jack mackerel is 3 percent, the same as for jack mackerel taken in Pacific whiting joint venture. Incidental allowances in a directed foreign fishery for jack mackerel will be determined if needed.

Pacific ocean perch (POP). The ABC for POP remains at zero, as proposed, because POP is managed under a rebuilding schedule established in the original FMP. However, the harvest guideline of 1,000 mt is lower than proposed (1,540 mt), and is intended to be a better estimate of incidental catches in 1991. For simplicity of management, the harvest guideline is applied to the Vancouver and Columbia areas combined, whereas separate quotas were specified for each subarea in the past.

II. 1991 Management Measures

The following management measures for the 1991 groundfish fishery have been designated as "routine" under Amendment 4 of the FMP. This designation means that the identified management measure may be implemented and adjusted for a specified species or species groups and gear type after consideration at a single Council meeting and after publication in Federal Register, as long as the purpose of the limit is the same as originally established when these species and gears were designated as routine.

Trip landing and frequency limits for the *Sebastes* complex (including yellowtail rockfish), the deepwater complex (sablefish, Dover sole, and thornyheads), and widow rockfish provide for biweekly or twice-weekly trip limit options (as alternatives to weekly limits) that enable fishermen to choose landing frequencies and amounts consistent with the fishing capacities of their particular vessels. Fishermen choosing these options have been required to notify the state of landing under procedures established by state laws. However, the State of California has not enacted such procedures. Until required by State or Federal regulation, biweekly and twice-weekly notifications to the State of California are not necessary for landings in that state. Nonetheless, fishermen must abide by the amounts of trip limits specified in this notice, and may choose to make biweekly and twice-weekly deliveries under the landing frequency and amount restrictions that apply to those options. Choice of a weekly, biweekly and twice-weekly option is binding on the vessel for which the option is chosen for each successive two-week period beginning January 2, 1991, and ending December 31, 1991.

General Definitions and Provisions. The following definitions and provisions apply to the 1991 management measures, unless otherwise specified in a subsequent notice:

(1) A trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel per fishing trip. A trip limit may apply to a specified period of time: one landing in a one-week period, one landing in a two-week period, or two-landings in a one-week period.

(1) *One-week period* means 7 consecutive days beginning 0001 hours Wednesday and ending 2,400 hours Tuesday, local time.

(2) *Two-week period* means 14 consecutive days beginning 0001 hours Wednesday and ending 2,400 hours Tuesday, local time.

(3) All weights are round weights or round weight equivalents.

(4) Percentages are based on round weights, and apply only to legal groundfish on board.

(5) Legal fish means groundfish taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 663, the Magnuson Act, any notice issued under subpart B of part 663, or any regulation or permit promulgated under the Magnuson Act.

(6) The fishery management area for these species is the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, and bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico. All groundfish possessed 0–200 nautical miles offshore, or landed in, Washington, Oregon, or California are presumed to have been taken and retained from 3–200 nautical miles offshore Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

Commercial Fishing

A. Widow Rockfish

In response to the reduced harvest guideline for widow rockfish (from 9,800–10,000 mt in 1990 to 7,000 mt in 1991), the Council recommended the most restrictive trip limits yet for implementation at the beginning of the fishing year. The Council acknowledged the possibility that this would occur when it set the quota higher than the ABC in 1990. Except for the amount of the trip limit (and some editorial revisions), this management measure is substantially the same as in 1990.

Secretarial action: The Secretary concurs with the Council's recommendation, and announces the following management measures for widow rockfish:

(1) *Weekly trip limit.* The trip limit for widow rockfish is 10,000 pounds in a one-week period. Only one landing of widow rockfish above 3,000 pounds may be made per vessel in that one-week period, and that landing may not exceed 10,000 pounds.

(2) *Biweekly trip limit option.* If the fishery management agency of the state where the fish will be landed is notified as required by state law (WAC 220–44–050: OAR 635–04–033), the trip limit for widow rockfish is 20,000 pounds in a two-week period. After notification is given, and while it remains in effect, only one landing of widow rockfish above 3,000 pounds may be made per vessel in that two-week period, and that landing may not exceed 20,000 pounds. Notification and revocation procedures appear in paragraph E.

(3) There is no limit on the number of landings of widow rockfish under 3,000 pounds.

(4) Unless retention or landing of widow rockfish has been prohibited, a vessel that has landed its weekly (or

biweekly) limit may continue to fish on the next week's (or two week's) limit so long as the fish are not landed (offloaded) until the next legal one week (or two week) period.

(5) *Transition between 1990 and 1991.* Because the fishery for widow rockfish closed on December 12, 1990, taking and retaining, or landing, widow rockfish is prohibited until January 1, 1991.

B. Sebastes Complex (Including Yellowtail and Bocaccio Rockfish)

North of Coos Bay. Although the harvest guidelines for both the *Sebastes* complex and yellowtail rockfish are slightly higher in 1991 than 1990, the Council recommended a reduced weekly trip limit of 5,000 pounds for yellowtail rockfish at the beginning of the year to keep landings within the harvest guideline and to minimize the need for, or to delay, imposition of an even lower limit later in the year. The weekly trip limit for the *Sebastes* complex north of Coos Bay remains at 25,000 pounds. Except for the amount of the trip limit for yellowtail rockfish (and some editorial revisions), these management measures, including biweekly and twice-weekly landing options, are substantially the same as in 1990.

South of Coos Bay. The Council did not recommend a harvest guideline for the *Sebastes* complex south of Coos Bay, but it did recommend a harvest guideline of 1,100 mt for bocaccio, which is caught with the complex, mostly in the Monterey and Conception INPFC subareas. The trip limit for the *Sebastes* complex south of Coos Bay therefore is reduced from 40,000 pounds to 25,000 pounds, in order to slow the harvest of bocaccio, and the trip limit for bocaccio is 5,000 pounds. At this time, there is no limit on the number of landings that may be made.

Secretarial action: The Secretary concurs with the Council's recommendations and announces the following management measures for the *Sebastes* complex, including yellowtail rockfish north of Coos Bay and bocaccio south of Coos Bay:

(1) *General.*—(a) *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and *Sebastolobus* spp. (thornyheads or idiot rockfish). Yellowtail rockfish (*S. flavidus*) are commonly called greenies. Bocaccio (*S. paucispinis*) are commonly called rock salmon.

(b) There is no limit on the number of landings of the *Sebastes* complex under 3,000 pounds.

(c) Coos Bay means 43°21'34" N. latitude, which is the latitude of the north jetty at Coos Bay, Oregon.

(2) *Restrictions on the Sebastes Complex Caught North of Coos Bay.*—(a) *Weekly trip limit.* Except for the biweekly and twice-weekly trip limits provided in paragraphs (2)(b) and (2)(c), the trip limit for the *Sebastes* complex north of Coos Bay is 25,000 pounds (including no more than 5,000 pounds of yellowtail rockfish) in a one-week period. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that one-week period, and that landing may not exceed the weekly trip limit in this paragraph.

(b) *Biweekly trip limit.* If the fishery management agency of the state where the fish will be landed is notified as required by state law (WAC 220–44–050: OAR 635–04–033), the trip limit for the *Sebastes* complex north of Coos Bay is 50,000 pounds (including no more than 10,000 pounds of yellowtail rockfish) in a two-week period. After notification is given, and while it remains in effect, only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in each two-week period, and that landing may not exceed the biweekly trip limit in this paragraph. Notification and revocation procedures appear in paragraph E.

(c) *Twice-weekly trip limit.* If the fishery management agency of the state where the fish will be landed is notified as required by state law (WAC 220–44–050: OAR 635–04–033), the trip limit for the *Sebastes* complex north of Coos Bay is 12,500 pounds (including no more than 2,500 pounds of yellowtail rockfish). After notification is given, and while it remains in effect, only two landings of the *Sebastes* complex above 3,000 pounds may be made per vessel in a one-week period, and each landing may not exceed the twice-weekly trip limit in this paragraph. Notification and revocation procedures appear in paragraph E.

(d) Unless retention or landing of the *Sebastes* complex or yellowtail rockfish has been prohibited, a vessel that has landed a weekly (or biweekly or twice-weekly) limit may continue to fish on the limit for the next fishing period (weekly, biweekly, or twice-weekly) so long as the fish are not landed (offloaded) until the next fishing period.

(e) *Transition between 1990 and 1991.* (i) If fishing under the weekly trip limit, only one landing of the *Sebastes* complex above 3,000 pounds may be made during the week of December 26, 1990–January 1, 1991.

(ii) If fishing under the biweekly trip limit, only one landing of the *Sebastes* complex above 3,000 pounds may be made during the two-week period from December 19, 1990–January 1, 1991, or December 26, 1990–January 8, 1991. Biweekly trip limit options in effect in the State of Oregon on December 26, 1990 will continue until revoked, as provided in paragraph E. The State of Washington requires a new biweekly notification to be filed before the next two-week period beginning January 2, 1991, or January 9, 1991; otherwise the weekly trip limit will be applied.

(iii) If fishing under the twice-weekly trip limit, only two landings of the *Sebastes* complex above 3,000 pounds may be made during the week of December 26, 1990–January 1, 1991. Twice-weekly trip limit options in effect in the State of Oregon on December 26, 1990, will continue until revoked, as provided in paragraph E. The State of Washington requires a new twice-weekly notification to be filed before the next one-week period beginning January 2, 1991; otherwise the weekly trip limit will be applied.

(3) *Restrictions on the Sebastes Complex Caught South of Coos Bay.* The trip limit for the *Sebastes* complex south of Coos Bay is 25,000 pounds, including no more than 5,000 pounds of bocaccio. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Coos Bay.

(4) *Operating both North and South of Coos Bay on a Fishing Trip.* (a) Unless the owner or operator of the fishing vessel has notified the State of Oregon as required by paragraph (5)(b), no person fishing for any groundfish species during a single fishing trip may fish both north and south of Coos Bay, or fish in one area and possess or land fish in the other area, if more than 3,000 pounds of the *Sebastes* complex is landed from that fishing trip. If fishing is conducted both north and south of Coos Bay, or if fish are caught north of Coos Bay and possessed or landed south of Coos Bay during the fishing trip, then the restrictions on the *Sebastes* complex caught north of Coos Bay apply. If fishing is conducted south of Coos Bay only, and fish are possessed or landed north of Coos Bay, then the restrictions on the *Sebastes* complex caught south of Coos Bay apply.

(b) Except as provided in paragraph (4)(c), notification must be submitted to one of the following offices of the Oregon Department of Fish and Wildlife, by telephone or in writing, prior to leaving port on a fishing trip: Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; or P.O. Box 5430, Charleston, OR 97420, telephone

503–888–5515, between 8 a.m. and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; or 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462.

(c) A vessel owner or operator at sea who has not made notification under this paragraph and who wishes to do so, or who wants to change the notification for the current fishing trip, may do so by radiotelephone. (This radio telephone message must be confirmed in writing by the vessel owner or operator to the address in subparagraph (b) above immediately or return to port; corrections and confirmations must be sent to the same address as the original message.) In this event, the provisions in paragraph (2) of the *Sebastes* complex caught north of Coos Bay will apply to all of the *Sebastes* complex taken in that trip, no matter where the fish are caught.

C. Pacific Ocean Perch (POP)

The harvest guideline for POP is lower than in 1990 and is designed to accommodate only incidental catches. Trip limits will not be relaxed to allow any target fishing on POP in 1991, even if the harvest guideline is not projected to be reached.

Secretarial action: The trip limit for POP is the same as in 1990, and is repeated below (with some editorial changes).

The trip limit for Pacific ocean perch coastwide (Washington, Oregon, and California) is 3,000 pound or 20 percent of all legal fish on board, whichever is less. If less than 1,000 pounds of Pacific ocean perch are onboard, the 20 percent provision does not apply.

Note: Twenty percent of all legal fish on board including Pacific ocean perch is equivalent to 25 percent of all legal fish on board other than Pacific ocean perch.

D. Sablefish and the Deepwater Complex (Sablefish, Dover Sole, and Thornyheads)

Although the optimum yield (OY) quota for sabelfish is changed to a harvest guideline by this notice (Table 2), the trawl and nontrawl allocations for sablefish remain quotas as in 1990. Consequently, if one gear quota is exceeded, it will not automatically be subtracted from the other gear's quota.

Sablefish—nontrawl. An increasing proportion of the sablefish nontrawl quota has been taken by large vessels capable of fishing in rough winter weather between January and March. Operators of smaller vessels (mostly from Oregon, Washington, and northern California) testified that they are compelled to compete during the winter although they believe it unsafe. Consequently, the Council recommended that the regular sablefish season be delayed until April, an action that was proposed in a separate **Federal Register** notice (55 FR 52055, December 19, 1990). However, recognizing (1) that weather in southern California often is calmer in the winter and that some small vessels traditionally fish there at that time of year, and (2) sablefish still will be caught incidentally in other fisheries before April, the Council recommended that 1,500 pound trip limit be established from January 1–March 31, 1991. This small trip limit at the beginning of the year affects those nontrawl vessels that could catch more than 1,500 pounds of sablefish per trip in poor weather, particularly large pot vessels off southern California and large longliners that prefer to fish off Washington, Oregon, and California in the winter before going north for the sablefish and halibut seasons in Alaska.

The Council also recommended that a 500 pound trip limit be imposed later in the year, as landings approach the quota, in order to stretch the nontrawl quota to the end of the year. The effective date of the 500 pound trip limit will be published separately in the **Federal Register**.

As in the past, a trip limit for sablefish smaller than 22 inches (total length, or 15.5 inches "headed") will be in effect during the regular season. In 1991, this trip limit will apply from April 1 until the 500 pound trip limit is imposed later in the year.

Deepwater complex—trawl. Sablefish is an unavoidable component of the deepwater complex consisting of sablefish, thronyheads, and Dover sole. The complex is restricted not only to keep landings of sablefish within the trawl quota, but also in an attempt to keep landings within the harvest guidelines for Dover sole and thornyheads. Thornyheads in particular have experienced large increases in harvest (from about 7,900 mt in 1989 to over 10,000 mt in 1990), and current ex-vessel prices make thornyheads the most desired species in the complex. Management of the deepwater complex in 1991 is similar to the end of 1990 (55 FR 41192, October 10, 1990), except: (1) The weekly trip limit for the deepwater complex is increased from 15,000 pounds to 27,500 pounds; (2) a weekly trip from (7,500 pounds) for thornyheads is included for the first time; (3) one landing per week of the complex above 4,000 pounds is allowed, rather than 1,000 pounds; and (4) if landing less 4,000 pounds of the complex, no more than 1,000 pounds may be sablefish.

The trip limit on sablefish remains at 1,000 pounds or 25 percent of the complex, whichever is greater, but within that limit, no more than 5,000 pounds may be sablefish smaller than 22 inches (total length) or 15.5 inches "headed." Biweekly and twice-weekly landing options still are available.

Processed sablefish. In 1991, the States of Washington, Oregon, and California are expected to adopt a uniform product recovery ratio of 1.6 for converting product weight to round weight.

Secretarial action: The Secretary concurs with the Council's recommendations and announces the following management measures for sablefish in 1991:

(1) *1991 Management Goal.* The sablefish fishery will be managed to achieve the 8,900 mt harvest guideline in 1991.

(2) *Washington Coastal Tribal Fisheries.* An estimate will be made of the catch to the end of the year for the Washington coastal treaty tribes. It is anticipated that these tribes will regulate their fisheries so as not to exceed their estimated catch. There will be no federally imposed tribal allocation or quota. In 1991 the estimated tribal catch is 300 mt, the same as in 1990.

(3) *Gear Allocations.* After subtracting the tribal-imposed catch limit, the remaining harvest guideline will be allocated 58 percent to the trawl fishery and 42 percent to the nontrawl fishery.

(4) *Trip and Size Limits.*—(a) *Trawl gear.* Trawl gear includes bottom trawls, roller or bobbin trawls, pelagic trawls, and shrimp trawls.

(i) There is no limit on the number of landings of the deepwater complex less than 4,000 pounds. In landings of the deepwater complex less than 4,000 pounds, no more than 1,000 pound may be sablefish.

(A) *Deepwater complex* means sablefish (*Anoplopoma fimbria*), Dover sole (*Microstomus pacificus*), and thornyheads (*Sebastolobus* spp.).

(ii) *Weekly trip limit.* Except for the biweekly and twice-weekly trip limits provided in paragraphs (4)(a) (iii) and (iv), the trip limit for the deepwater complex is 27,500 pounds (including no more sablefish than 1,000 pounds or 25 percent of the deepwater complex, whichever is greater, and no more than 7,500 pounds of thornyheads) in a one-week period. Only one landing above 4,000 pounds of the deepwater complex may be made per vessel in that one-week period, and that landing may not exceed the weekly trip limit in this paragraph.

Note: Twenty-five percent of the deepwater complex (including sablefish) is equivalent to 33.333 percent of the legal thornyheads and Dover sole on board.

(iii) *Biweekly trip limit option.* If the fishery management agency of the state where the fish will be landed is notified as required by state law (WAC 220–44–050: OAR 635–04–033), the trip limit for the deepwater complex is 55,000 pounds (including no more sablefish than 1,000 pounds or 25 percent of the deepwater complex, whichever is greater, and 15,000 pounds of thornyheads) in a two-week period. After notification is given, and while it remains in effect, only one landing of the deepwater complex above 4,000 pounds may be made per vessel in that two-week period, and that landing may not exceed the biweekly trip limit in this paragraph. Notification and revocation procedures appear in paragraph E.

(iv) *Twice-weekly trip limit option.* If the fishery management agency of the state where the fish will be landed in notified as required by state law (WAC 220–44–050: OAR 635–04–033), the twice-weekly trip limit for the deepwater complex is 13,750 pounds (including no more sablefish than 1,000 pounds or 25 percent of the deepwater complex, whichever is greater, and no more than 3,750 pounds of thornyheads). After notification is given, and while it remains in effect, only two landings of the deepwater complex above 4,000 pounds may be made per vessel in a one-week period, and each landing may not exceed the twice-weekly trip limit. Notification and revocation procedures appear in paragraph E.

(v) Of those sablefish taken with trawl gear under the weekly and biweekly trip limits (paragraphs (4)(a) (ii) and (iii) above), no more than 5,000 pounds may be sablefish smaller than 22 inches (total length). If fishing under the twice-weekly trip limit (paragraph (4)(a)(iv)), all sablefish may be smaller than 22 inches.

(vi) *Transition from 1990 to 1991.* (A) If fishing under the weekly trip limit, only one landing of sablefish above 1,000 pounds may be made during the week of December 26, 1990–January 1, 1991.

(B) If fishing under the biweekly trip limit, only one landing of sablefish above 1,000 pounds may be made during the two-week period from December 19, 1990–January 1, 1991 or December 26, 1990—January 8, 1991. Biweekly trip limit options in effect in the State of Oregon on December 26, 1990 will continue until revoked, as provided in paragraph E. The State of Washington requires a new biweekly notification to be filed before the next two-week period beginning January 2, 1991 or January 9, 1991; otherwise the weekly trip limit will be applied.

(C) If fishing under the twice-weekly trip limit, only two landings of sablefish above 1,000 pounds may be made during the week of December 26, 1990–January 1, 1991. Twice-weekly trip limit options in effect on December 26, 1990 in the State of Oregon will continue until revoked, as provided in paragraph E. The State of Washington requires a new twice-weekly notification to be filed before the next one-week period beginning January 2, 1991; otherwise the weekly trip limit will be applied.

(b) *Nontrawl gear.* Nontrawl gear includes set nets (gill and trammel nets), traps or pots, longlines, commercial vertical hook-and-line gear, troll gear.

(i) From January 1, 1991 through March 31, 1991, the trip limit for sablefish caught with nontrawl gear is 1,500 pounds. This trip limit applies to sablefish of any size.

(ii) On April 1, 1991, the trip limit in paragraph (i) is replaced with a trip limit of 1,500 pounds or three percent of all sablefish on board, whichever is greater, that applies only to sablefish smaller than 22 inches (total length) caught with nontrawl gear.

(iii) On a date to be announced, the trip limit in paragraph (ii) will be replaced with a trip limit of 500 pounds on sablefish of any size.

(c) *Length measurement.* (i) Total length is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length of the fish.

(ii) For processed ("headed") sablefish,

(A) The minimum size limit is 15.5 inches measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact; and,

(B) The product recovery ratio (PRR) established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (That PRR is expected to be 1.6 in Washington, Oregon, and California after January 1, 1991. However, the state PRRs may differ and fishermen should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official PRR.)

(d) No sablefish may be retained, which is in such condition that its length has been extended or cannot be determined by the methods stated above in paragraph (c).

E. Notification for Biweekly and Twice-Weekly Trip Limit Options

Notifications are required for biweekly or twice-weekly trip limit options or their revocation. The species subject to these notifications may change during the year, depending on whether or not biweekly or twice-weekly trip limit options are made available. Notifications for biweekly and twice-weekly trip limit options for fish landed in Washington and Oregon appear below. A separate paragraph on fish landed in California follows.

Biweekly trip limit options. As required by state law, the fishery management agency of the state where the fish will be landed (Washington or Oregon) must receive a written notice declaring intent of the vessel owner or operator to use the biweekly limits before the first day of the first two-week period in which such landings are to occur. The notice is binding for at least two subsequent consecutive two-week periods until revoked in writing, sent to the appropriate state agency, prior to the period in which the revocation is to occur.

Twice-weekly trip limit options. As required by state law, the fishery management agency of the state where the fish will be landed (Washington or Oregon) must receive a written notice declaring intent of the vessel owner or operator to use the twice-weekly limits before the first day of the first one-week period in which such landings are to occur. The notice is binding for at least four subsequent consecutive one-week periods until revoked in writing, sent to the appropriate state agency, prior to the period in which the revocation is to occur.

Addresses. Notifications must be submitted to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 98365, telephone 503–867–4741; P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515; 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462; or to the Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, telephone 206–753–6623.

California: California State law currently provides no notification procedures. Biweekly and twice-weekly notifications to the State of California therefore are not required for landings in that State. However, California landings must not exceed the quantities and frequencies specified in this notice. Choice of a weekly, biweekly, or twice-weekly option for groundfish landed in

California is binding on the vessel for which the option is chosen for each successive two-week period beginning January 2, 1991, and ending December 31, 1991. The two-week periods for 1991 are as follows: Jan. 2–15; Jan. 16–29; Jan. 30-Feb. 12; Feb. 13–26; Feb. 27–March 12; March 13–26; March 27–April 9; April 10–23; April 24–May 7; May 8–21; May 22–June 4; June 5–18; June 19–July 2; July 3-16; July 17–30; July 31–Aug. 13; Aug. 14–27; Aug. 28–Sept. 10; Sept. 11–24; Sept. 25–Oct. 8; Oct. 9–22; Oct. 23–Nov. 5; Nov. 6–19; Nov. 20–Dec. 3; Dec. 4–17; Dec. 18–31.

Recreational Fishing

Lingcod and Rockfish. The Council recommended that the bag and size limits for lingcod caught in state waters off California also apply to Federal waters adjacent to that state. The bag limits for lingcod caught off Oregon and Washington, and rockfish caught seaward off Washington, Oregon, or California are not changed.

Secretarial action: The Secretary concurs with the Council's recommendation and announces the following management measures for lingcod:

(1) *California.* The bag limit for each person engaged in recreational fishing seaward of the state of California is five lingcod which may be no smaller than 22 inches (total length) and 15 rockfish per day. Multi-day limits are authorized by a valid permit issued by the State of California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(2) *Oregon and Washington.* The bag limit for each person engaged in recreational fishing seaward of the states of Washington and Oregon is three lingcod per day and 15 rockfish per day.

Inseason Adjustments

At subsequent meetings, the Council will review the best data available and recommend modifications to these management measures if appropriate. The Council intends to examine the progress of these fisheries during the year in order to avoid overfishing and to achieve the goals and objectives of the FMP and its implementing regulations.

Other Fisheries

Receipt or retention of groundfish by foreign fishing or foreign processing vessels, if any, is limited by incidental allowances established under 50 CFR 611.70.

U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 also are subject to these restrictions unless otherwise provided in the permit.

Landings of groundfish in the pink shrimp, spot and ridgeback prawn fisheries are governed by regulations at 50 CFR 663.24. If fishing for groundfish and pink shrimp, spot or ridgeback prawns in the same fishing trip, the groundfish restrictions in this notice apply.

Classification

The final specifications and management measures for 1991 are made under the authority of and in accordance with the regulations implementing Amendment 4 to the FMP at 50 CFR parts 611 and 663.

An Environmental Impact Statement (EIS) was prepared for the FMP in 1982 and a Supplemental EIS was prepared for Amendment 4 in accordance with the National Environmental Policy Act (NEPA). The alternatives considered and environmental impacts of the actions proposed in this notice are not significantly different than those considered in either the EIS or SEIS for the FMP. Therefore this action is categorically excluded from the NEPA requirements to prepare an environmental assessment in accordance with paragraph 5a(3) of the NOAA Directives Manual 02–10 because the alternatives and their impacts have not changed significantly.

This action is in compliance with Executive Order 12291 and is covered by the regulatory impact review and the analysis contained in Amendment 4.

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

The public has had opportunities to comment on this action. The public participated in GMT, Groundfish Advisory Subpanel, Scientific and Statistical Committee, and Council meetings in August, September, and November 1990 that resulted in these recommendations from the Council. Additional public comments were accepted through November 21, 1990, after publication of these proposed actions in the **Federal Register** (55 FR 46841, November 7, 1990) and during the November Council meeting.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Vessel permits and fees, Reporting and recordkeeping requirements.

50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: December 31, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90–30641 Filed 12–31–90; 5:07 pm]

BILLING CODE 3510–22–M

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50 CFR Part 642

[Docket No. 900656–0196]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the eastern zone of the Gulf migratory group. The Secretary has determined that the commercial quota for Gulf group king mackerel from the eastern zone was reached on January 3, 1991. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: Closure is effective on January 4, 1991, through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act and is implemented by regulations at 50 CFR part 642. Catch limits recommended by the Councils for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1990, through June 30, 1991) set the commercial allocation at 1.36 million pounds divided into quotas of 0.94 million pounds for the eastern zone and 0.42 million pounds for the western zone, the same as for the previous fishing year. From November 1 through March 31, the management area for the Gulf migratory group of king mackerel extends in the EEZ from the Mexico/United States border to a line extending directly east from the Volusia/Flagler County, FL boundary

(29°25'N. latitude). From April 1 through October 31, the management area extends in the EEZ from the Mexico/United States border to a line extending directly west from the Monroe/Collier County, FL boundary (25°48'N. latitude). The boundary between the eastern and western zones is a line directly south from the Florida/Alabama boundary (87°31'06"W. longitude).

Under § 642.22(a), the Secretary is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the **Federal Register.** The Secretary has determined that the commercial quota of 0.94 million pounds for the eastern zone of the Gulf migratory group of king mackerel was reached on January 3, 1991. Hence, the commercial fishery for Gulf group king mackerel from the eastern zone is closed effective January 4, 1991, through June 30, 1991, the end of the fishing year.

The Secretary previously determined that: (1) The commercial quota of 0.42 million pounds of king mackerel for the western zone was reached on October 17, 1990, and closed this segment of the fishery on October 18, 1990 (55 FR 42722, October 23, 1990); and (2) the recreational allocation for the Gulf migratory group of king mackerel was reached on December 19, 1990, and reduced to zero the bag limit in the recreational fishery on December 20, 1990 (55 FR 52997, December 26, 1990). With closure of the commercial fishery in the eastern zone, all commercial fisheries in the EEZ for Gulf migratory group king mackerel are closed and the recreational bag limit is zero through June 30, 1991. Through June 30, 1991, Gulf migratory group king mackerel may not be harvested from or possessed in the EEZ and may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the Gulf migratory group that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 3, 1991.

Richard H. Schaefer,

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

[FR Doc. 91-346 Filed 1-3-91; 3:23 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 5
Tuesday, January 8, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. (FV-91-351)]

Amendment to the Regulations Under the Perishable Agricultural Commodities Act (PACA)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of proposed revision of regulations.

SUMMARY: The Department of Agriculture (USDA) proposes a revision of the Regulations (other than Rules of Practice) under the Perishable Agricultural Commodities Act (PACA) which increases the license fee. The purpose of the revision is to cover increased operating costs associated with administration of the program.

DATES: Written comments on this proposal should be filed by February 7, 1991.

ADDRESSES: Written comments on this proposal should be sent to Norman E. Riddle, PACA Branch, room 2099–S., Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: John D. Flanagan, Chief, PACA Branch, room 2095–S., Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, Phone (202) 447–2272.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under the USDA procedures established in the Secretary's Memorandum 1512–1 and supplemental memorandum dated March 5, 1980, to implement Executive Order 12291 and has been classified as "non-major" because it does not meet any of the criteria identified under the Executive Order.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Although there are many small entities doing business subject to the Perishable Agricultural Commodities Act, the regulation revision proposes only a modest increase in license fees. Such an increase will assure that the program, which prevents unfair trade practices in the industry, is sufficiently funded to perform its responsibilities.

The proposed action will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. The Administrator of the Agricultural Marketing Service has determined that the proposal is in response to an emergency funding situation and as such is considered to be an agency management decision.

Background

The PACA was enacted by Congress in 1930 to establish a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables in interstate or foreign commerce. It protects growers, shippers, and distributors dealing in those commodities by prohibiting unfair and fraudulent practices.

The law provides for the enforcement of contracts by providing for the collection of damages from anyone who fails to meet contractual obligations. On May 7, 1984, an amendment to the PACA, Public Law 98–273, impressed a statutory trust on licensees for perishable agricultural commodities received, products derived from, and any receivables or proceeds due from the sale of the commodities for the benefit of suppliers, sellers, or agents who have not been paid.

The PACA is enforced through a licensing system. All commission merchants, dealers, and brokers engaged in business subject to the Act must be licensed. The cost of administering the Act is financed entirely through the license fees paid by those engaged in business subject to the law. The Secretary is charged with setting the license fee at a level necessary to meet the expenses of administration within the maximum provided in the law by Congress. Amendments to the Act in 1988 permitted the Secretary to assess a base annual fee of up to $400, plus an assessment of up to $200 for each branch operation exceeding nine. The maximum aggregate annual license fee for any firm cannot exceed $4,000.

The administration of the trust statute has increased the workload under the program along with related travel expenses. As a by-product of the Trust amendment there has also been an increase in disciplinary complaint filings, and investigations that require extensive in-depth personal audits. The U.S. Department of Agriculture anticipates that the workload and travel requirements will continue to increase as more growers, shippers, and distributors seek to utilize the benefits and protection of the Trust statute.

Under the current fee assessment, the program has been operating with a deficit and drawing down its trust fund reserve. Unless fees are increased, the program will deplete its trust fund reserve during Fiscal Year 1991, at which time enforcement activities will have to be curtailed.

In order to ensure continued and effective administration of the program, the license fees for firms dealing in commodities subject to the PACA must be amended to reflect the increased costs associated with the program in the coming fiscal years. The current license fee is $300 plus $150 for each branch or additional business facility operated by the applicant exceeding nine. The Secretary has determined that an increase in such fees to $400 and $200, respectively, will cover the costs of the program through the beginning of Fiscal Year 1995.

List of Subjects in 7 CFR Part 46

Agriculture commodities.

For the reasons set forth in the preamble, 7 CFR part 46 is amended as follows:

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46, Stat. 537; 7 U.S.C. 499o.

2. Section 46.6 is revised to read as follows:

§ 46.6 License fee.

The annual license fee is four hundred (400) dollars plus two hundred (200) dollars for each branch or additional business facility operated by the applicant exceeding nine. In no case shall the aggregate annual fees paid by any applicant exceed four thousand (4,000) dollars. The Director may require that the fee be submitted in the form of a money order, bank draft, cashier's check or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Department may accept fees and issue receipts therefore.

Dated: December 28, 1990.

Daniel Haley,

Administrator.

[FR Doc. 91–234 Filed 1–7–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–CE–25–AD]

Airworthiness Directives; American Champion Aircraft (Bellanca, Champion) Model 8KCAB Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) that is applicable to American Champion Aircraft (Bellanca, Champion) Model 8KCAB airplanes. The proposed revision will provide a terminating action for AD 90–15–15, which requires repetitive inspections of the upper wing front spar strut fittings. Modifications affecting the upper wing front spar strut fittings have been developed and the FAA has determined that if the airplanes are so modified, the repetitive inspections are not required. The proposed action is intended to incorporate these alternate provisions into the AD.

DATES: Comments must be received on or before February 22, 1991.

ADDRESSES: American Champion Aircraft Service Kit 302, revised October 1, 1990, that is applicable to this AD may be obtained from American Champion Aircraft, P.O. Box 37, Rochester, Wisconsin 53167; Telephone (414) 534–6315. The instructions and parts for Supplemental Type Certificate (STC) SA1514GL may be obtained from Safe Air Repair, Inc., 3325 Bridge Avenue, Albert Lea, Minnesota 56007; Telephone (507) 373–5408. The instructions for the applicable service kit and STC also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–25–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Michalik, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694–7135.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–25–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA's determination that airplane safety can be greatly enhanced when design changes can be incorporated and repetitive inspections can be eliminated has prompted a proposed revision to AD 90–15–15, Amendment 39–6671 (55 FR 29344, July 19, 1990). AD 90–15–15 currently requires repetitive inspections of the upper wing front spar strut fittings (part number (P/N) 2–1976) for cracks on American Champion Aircraft (Bellanca, Champion) Model 8KCAB airplanes.

Two new upper wing front spar strut fittings have been approved as replacements for the current upper wing front spar strut fittings (P/N 2–1976). American Champion Aircraft Service Kit 302, revised October 1, 1990, contains the necessary parts and instructions for installing new upper wing front spar strut fittings (P/N 3–1658) as a replacement for P/N 2–1976. Supplemental Type Certificate (STC) SA1514GL, issued to Safe Air Repair, Inc. on August 27, 1990, contains the necessary parts and instructions for installing new fittings (P/N SAR2–1976) and stiffeners (P/N SAR2–5001) as a replacement for P/N 2–1976. Either the parts contained in Service Kit 302 or STC SA1514GL can be installed as a replacement for P/N 2–1976.

The FAA has determined that if the front spar strut fittings (P/N 2–1976) are replaced with either the American Champion Aircraft fittings (P/N 3–1658) or with the Safe Air Repair, Inc., fittings (P/N SAR2–1976) and stiffeners (P/N SAR2–5001), the repetitive inspection requirements of AD 90–15–15 are not required. This proposed revision to AD 90–15–15 would allow the replacement of front spar strut fitting, P/N 2–1976 with either fitting P/N 3–1658 in accordance with the instructions in American Champion Aircraft Service Kit 302, or fitting P/N SAR2–1976 and stiffener P/N SAR2–5001, in accordance with the instructions in Safe Air Repair, Inc. STC SA1514GL. The replacement with either of these parts would provide a terminating action for the repetitive inspections of the upper wing front spar strut fittings that are presently required by AD 90–15–15.

It is estimated that 300 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 hours per airplane to install the improved parts at $40 an hour, and that parts cost approximately $275 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $154,500.

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034), February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by revising AD 90–15–15, Amendment 39–6671 (55 FR 29344, July 19, 1990) to read as follows:

American Champion Aircraft (Bellanca, Champion): Docket No. 90–CE–25–AD.

Applicability: Model 8KCAB airplanes (all serial numbers) that are equipped with upper wing front spar fittings part number (P/N) 2–1976, certificated in any category.

Compliance: Required as indicated after the effective date of this AD.

To prevent failure of the upper wing front spar strut fittings, P/N 2–1976, that could result in an in-flight separation of the wing, accomplish the following:

(a) Within the next 25 hours time-in-service TIS after the effective date of this AD or prior to the accumulation of 500 hours TIS on the front spar strut fittings (P/N 2–1976), whichever occurs later, unless previously accomplished within the last 250 hours TIS, and thereafter at intervals not to exceed 250 hours TIS from the last inspection, accomplish the following:

Note: Operators who have not kept records of hours TIS on individual front spar strut fittings (P/N 2–1976) may substitute airplane hours TIS instead.

(1) Remove the front spar strut fittings (P/N 2–1976) and strip all paint with a chemical stripper. Clean and prepare the fittings for a magnetic particle inspection.

(2) Conduct a magnetic particle inspection of the fittings for cracks, paying close attention to the areas near the welds.

(3) If cracks are not found, prior to further flight clean the fittings and apply a spray coat or a dip coat of zinc chromate primer, reinstall the fittings, and return the airplane to service.

(b) If cracks are found as a result of the inspection required by paragraph (a)(2) of this AD, prior to further flight replace any cracked fittings with one of the following:

(1) A new or serviceable fitting (P/N 2–1976) that has been inspected and treated per the requirements or paragraph (a) of this AD.

(2) A new American Champion Aircraft fitting (P/N 3–1658) that is installed in accordance with the instructions in American Champion Aircraft Service Kit 302, revised October 1, 1990.

(3) A new Safe Aircraft Repair, Inc. fitting (P/N SAR2–1976) and stiffener (P/N SAR2–5001) that are installed in accordance with the instructions in STC SA1514G1, issued to Safe Aircraft Repair, Inc. on August 27, 1990.

(c) Upper wing front spar strut fittings (P/N 2–1976) may be replaced with new parts in accordance with paragraphs (b)(2) or (b)(3) of this AD regardless of whether cracks are found during the inspection required by paragraph (a) of this AD.

(d) Replacement of the upper wing front spar strut fittings (P/N 2–1976) with new parts in accordance with paragraphs (b)(2) or (b)(3) of this AD constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

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

(f) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to American Champion Aircraft, P.O. Box 37, Rochester, Wisconsin 53167; Telephone (414) 534–6315; or Safe Air Repair, Inc., 3325 Bridge Avenue, Albert Lea, Minnesota 56007; Telephone (507) 373–5408; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment amends AD 90–15–15, Amendment 39–6671.

Issued in Kansas City, Missouri, on December 17, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–284 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–266–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require inspection for wire chafing; repair, if necessary; and modification of the wire bundle routing within the P33 (miscellaneous relay) panel. This proposal is prompted by reports of burned wiring in the P33 panel caused by wire chafing. This condition, if not corrected, could result in loss of various systems' capabilities, release of smoke into the airplane, and possibility of fire.

DATES: Comments must be received no later than February 26, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–266–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2997. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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

contained in this Notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–266–AD." The post card will be date/time stamped and returned to the commenter.

Discussion: There has been one report of burned wires caused by chafing of wires in the P33 (miscellaneous relay) panel on Boeing Model 757 series airplanes. In two additional cases, the chafed wires were repaired prior to further incident.

On all Boeing Model 757 series airplanes, line positions prior to line number 210, a single wire routing configuration was used within the P33 (miscellaneous relay) panel for wire bundles W1232 and W1234. These wire bundles were routed in such a way that chafing, caused by the wire bundles contacting a panel structural support, can occur in the vicinity of relay K190. Wire bundles W1232 and W1234 contain wires associated with a variety of airplane systems, including: The pitot system, right 28V AC bus, fuel crossfeed valves, right and left forward fuel boost pumps, and nose landing gear lighting system.

The installation of a stand-off for wire bundles W1232 and W1234 near relay K190 will preclude the wire chafing problem. This engineering fix has been implemented in production beginning with line airplane position 210.

The FAA has reviewed and approved Boeing Service Bulletin 757–24–0061, dated November 15, 1990, which describes the addition of a wire bundle stand-off for wire bundles W1232 and W1234 located within the P33 (miscellaneous relay) panel.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require the installation of a wire bundle stand-off for wire bundles W1232 and W1234 within the P33 (miscellaneous relay) panel in accordance with the service bulletin previously described. This AD would also require inspection for chafed wires in the vicinity of relay K190, and repair of any damaged wires.

There are approximately 209 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 126 airplanes of U.S. registry would be affected by this AD, that it would take approximately one manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of required parts per airplane is estimated to be $20. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,560.

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

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes, line numbers 001 through 209, certificated in any category. Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To prevent the loss of various systems capabilities, release of smoke into the airplane, and possibility of fire, accomplish the following:

A. Install a wire bundle stand-off in accordance with Boeing Service Bulletin 757–24–0061, dated November 15, 1990. Visually inspect the wires in wire bundles W1232 and W1234 around the area of the placement of the new stand-off for signs of chafing. Any wire found damaged must be replaced or repaired prior to further flight.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on December 24, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–279 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–ANE–34]

Airworthiness Directives; General Electric Company (GE) CF6–80A and CF6–80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain GE CF6–80A and CF6–80C2 series turbofan engines, which would require borescope

inspection of high pressure compressor rotor (HPCR) stages 11–14 spool-shafts to detect vane to spool rubs and reduce the life limit for spool-shafts with vane to spool rubs. This proposal is prompted by reports of HPCR stages 11–14 spool-shafts found in service with vane to spool rubs. This condition, if not corrected, could result in aborted takeoff and uncontained engine failure.

DATES: Comments must be received no later than January 31, 1991.

ADDRESSES: Submit comments in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–ANE–34, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, or deliver in duplicate to room 311 at the above address.

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

The applicable engine manufacturer's service bulletins may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE–142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (617) 273–7096.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90–ANE–34." The postcard will be date/time stamped and returned to the commenter.

Discussion

HPCR stages 11–14 spool-shafts have been found in service with damage to the rub land parent metal as a result of clearance related vane to spool rubs. A life analysis performed on rubbed spool-shafts has revealed minimum calculated lives which are significantly lower than published limits. This condition, if not corrected, could result in aborted takeoff and uncontained engine failure.

The FAA has reviewed and approved GE CF6–80A Service Bulletin (SB) 72–459, Revision 2, dated June 14, 1989, and CF6–80C2 SB 72–130, Revision 2, dated October 18, 1989, which describe a borescope inspection procedure to detect vane to spool rubs on certain HPCR stages 11–14 spool-shafts.

Since this condition is likely to exist or develop on other engines of this same type design, an AD is proposed which would require borescope inspection of the HPCR stages 11–14 spool-shafts, in accordance with the service bulletins previously described. Also, the proposed AD reduces the life limit of HPCR stages 11–14 spool-shafts with vane to spool rub damage.

There are approximately 484 GE CF6–80A and CF6–80C2 series engines of the affected design in the worldwide fleet. It is estimated that 100 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take approximately 2 workhours per engine to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,800.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

General Electric Company: Applies to General Electric Company (GE) CF6–80A series and CF6–80C2 series engines installed on, but not limited to, Airbus A300 and A310 and Boeing 747 and 767 aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent aborted takeoff and uncontained engine failure, borescope inspect affected high pressure compressor rotor (HPCR) stages 11–14 spool-shafts to detect vane to spool rubs as follows:

(a) Inspect spool-shafts with 5,000 or more but less than 7,500 cycles since new (CSN), on or after the effective date of this AD, prior to accumulating 8,000 CSN in accordance with the applicable requirements of paragraph (c) or (d) of this AD.

(b) Inspect spool-shafts with 7,500 or more CSN, on the effective date of this AD, within 500 cycles in service (CIS) in accordance with the applicable requirements of paragraph (c) or (d) of this AD.

(c) Inspect CF6–80A series engines, Serial Numbers (S/N) 580–101 through 580–319, and S/N 585–101 through 585–222, installed with an HPCR stages 11–14 spool-shaft, P/N 9225M37G11, 9225M37G14, 9225M37G16, 9225M37G19, 9225M37G20, or 9225M37G21, in accordance with the Accomplishment Instructions in GE CF6–80A SB 72–459, Revision 2, dated June 14, 1989.

(d) Inspect CF6–80C2 series engines, S/N 690–101 through 690–181, S/N 695–101 through 695–150, and S/N 705–101 through 705–112,

installed with an HPCR stages 11–14 spool-shaft, P/N 9380M30C07, 9380M30C08, 9380M30C09, 9380M30C10, or 1531M21G01, in accordance with the Accomplishment Instructions in GE CF6–80C2 SB 72–130, Revision 2, dated October 18, 1989.

(e) Remove from service within 500 CIS after the effective date of this AD or prior to accumulating 8,000 CSN, whichever occurs later, HPCR stages 11–14 spool-shafts inspected in accordance with paragraph (a) or (b) of this AD with vane to spool rub damage.

Note: CF6–80A SB 72–460 and CF6–80C2 SB 72–131 introduce an FAA approved rework procedure to increase the FAA approved life limit for HPCR stages 11–14 spool-shafts with vane to spool rub damage.

(f) Engines containing affected spool-shafts which are inspected prior to 5,000 CSN and determined to have vane to spool rub damage are in compliance with paragraph (a) of this AD. Engines containing affected spool-shafts which are inspected prior to 5,000 CSN and are determined not to have vane to spool rub damage must be reinspected in accordance with paragraph (a) of this AD.

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

(h) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, Ohio 45246. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

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

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91–282 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–263–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, which currently requires repetitive inspections of the left and right engine forward mount upper and lower cone bolt through-bolts and the through-bolt nuts. This action would require installation of castellated nuts and cotter pins as terminating action for the repetitive inspection requirements of the existing AD. This proposal is prompted by reports of recent incidents involving loose and missing through-bolt nuts and/or partially backed-off through-bolts. This condition, if not corrected, could result in separation of the engine from aircraft.

DATES: Comments must be received no later than February 26, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–263–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90806, Attention: Business Unit Manager of Publications, C1–HCO (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East spring Street, Long Beach, California 90806–2425; telephone (213) 988–5323.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–263–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On July 25, 1990, the FAA issued AD 90–12–51, Amendment 39–6684 (55 FR 31821; August 6, 1990), to require repetitive inspections of the left and right engine front mount upper and lower cone bolt through-bolt nuts and through-bolts. If discrepancies are found, corrective actions are required to be taken in a manner prescribed by the AD. Additionally, operators are required to submit a report of their inspection findings to the FAA. That action was prompted by reported instances of loose through-bolt nuts; this condition may have been caused by the failure of the self-locking feature of the nut to properly retain the nut in position. This condition, if not corrected, could result in the nut coming off the through-bolt, thus allowing the through-bolt to migrate out of the engine mount flange and cone bolt. Loss of a through-bolt would cause an increased loading of the remaining engine attaching points, which may cause damage to the engine, cone bolts, and pylon, or possibly lead to separation of the engine from the airplane.

Since issuance of that AD, the FAA received a report of a missing through-bolt nut, where the through-bolt had migrated 0.108 inch. The airplane on which this occurred had logged only 156 flight hours and 104 cycles at the time of inspection; this was within 30 calendar days after initial delivery of that airplane.

The FAA has reviewed and approved McDonnell Douglas MD–80 Service Bulletin 71–51, dated September 26, 1990, which describes procedures for replacement of both the left and right engine forward mount upper and lower

cone bolt through-bolt nuts, with castellated nuts, together with the rework of specified through-bolts or installation of new bolts, and the installation of cotter pins. Accomplishment of these procedures would terminate the need for repetitive inspections of the through-bolt and nut.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is being proposed which would supersede AD 90–12–51 with a new AD that would add a requirement to install castellated nuts and cotter pins in accordance with the service bulletin previously described. Accomplishment of these procedures would terminate the need for repetitive inspections of the through-bolt nut.

The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed modification requirements of this action are in consonance with that policy decision.

There are approximately 831 Model DC–9–81, –82, –83, and –87 series airplanes, Model MD–88 airplanes, of the affected design in the worldwide fleet. It is estimated that 397 airplanes of U.S. registry would be affected by this AD, that it would take approximately 58 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The parts cost is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $921,040.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–6684 (55 FR 31821; August 6, 1990), AD 90–12–51, with the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC–9–81, –82, –83 and –87 (MD–81, –82, –83 and –87) series airplanes, and Model MD–88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent damage to the engine, cone bolts, and pylon, or separation of an engine from the airplane, as a result of the loss of a through-bolt, accomplish the following:

A. Within seven days after August 29, 1990, (the effective date of Amendment 39–6684, AD 90–12–51), inspect the through-bolt nut, P/N SPS83978–1216, for proper torque and conditions in accordance with McDonnell Douglas MD–80 Alert Service Bulletin A71–51, dated May 23, 1990. If any of the following discrepancies are found, take corrective action as required below:

Condition A: If the torque stripe is misaligned, prior to further flight, accomplish the following:

I. Remove and replace the nut in accordance with paragraph C. of this AD, and

II. Apply a new torque stripe.

Condition B: If the torque stripe is aligned properly, within 10 calendar days, verify that the torque on the nut is 250 inch-pounds (in-lb) or more.

I. If the torque is 250 in-lb or more, remove and replace the torque stripe.

II. If the torque is less than 250 in-lb, reinstall the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

Condition C: If the torque stripe is missing, and the nut is seated, and the through-bolt head is seated and positioned properly (there is no gap between the nut base and washer, or the washer and engine mount flange bushing, or the through-bolt head and retainer, or the retainer and engine mount flange bushing), within 10 calendar days, apply 30 in-lb of torque:

I. If the nut turns remove and replace the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

II. If the nut does not turn, torque to the required range of 250 in-lb to 300 in-lb, and apply a new torque stripe.

Condition D: If the torque stripe is missing and there is any gap between the nut base and washer, or the washer and engine mount flange bushing, or the through-bolt head and retainer, or the retainer and engine mount flange bushing; prior to further flight, apply 30 in-lb of torque:

I. If the nut turns, remove and replace the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

II. If the nut does not turn, torque to the required range of 250 in-lb to 300 in-lb, and apply a new torque stripe.

Condition E: If the nut is missing and the through-bolt has not migrated, prior to further flight, install a new cut in accordance with paragraph C. of this AD and apply a new torque stripe.

Condition F: If the nut is missing and the through-bolt is missing or partially backed out, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Repeat the inspections in accordance with paragraph A. of this AD at intervals not to exceed 30 calendar days; except that, if the torque stripe is aligned properly, the corrective action identified in Condition B, above, is not required.

C. Nut installation method and requirements:

1. Remove and replace the nut.

2. Remove the existing torque stripe.

3. Ensure that the through-bolt head is properly positioned and in place.

4. Measure the running torque of the nut on the through-bolt. If the running torque is less than 30 in-lb or more than 100 in-lb, discard the nut and replace it with a new nut. If the running torque is 30 in-lb or more but less than 100 in-lb, continue with the installation procedure.

5. Ensure that the final installation torque is at least 250 in-lb but less than 300 in-lb.

D. Within 10 days after performing the inspection required by paragraph A. of this AD, submit a report of any discrepancies discovered, to the Manager, Los Angeles Manufacturing Inspection District Office, 3229 East Spring Street, Long Beach, California 90806–2425. The report must include the airplane's serial number.

E. Within 18 months after the effective date of this AD, install castellated nuts and cotter pins in accordance with McDonnell Douglas MD–80 Service Bulletin 71–51, dated September 26, 1990. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

F. An alternate means of compliance or adjustment to the compliance time, which

provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Northwest Mountain Region.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1–HCO (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on December 24, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–281 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–CE–55–AD]

Airworthiness Directives; Piper Models PA–12, PA–12S, and PA–14 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) that is applicable to Piper Models PA–12, PA–12S, and PA–14 airplanes that have F. Atlee Dodge Aircraft Services, Inc., Model 3140 long-range fuel tanks installed. The proposed action would require the removal of all Model 3140 fuel tanks and the restoration of the wing panel assemblies and fuel tanks to an approved type design configuration. The FAA has determined that these fuel tanks are unsafe and cannot be utilized since they are not type certificated for the affected airplanes. The actions specified in this proposal will prevent fuel leakage, failure of the wing drag trusses, and lateral buckling of the wing spars that could result in loss of the airplane.

DATES: Comments must be received on or before March 8, 1991.

ADDRESSES: Information that is applicable to this AD may be obtained from the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–55–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Send comments on the proposal in triplicate to the above address. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon K. Mandell, FAA, Anchorage Aircraft Certification Field Office, 605 W. 4th Avenue, Room 214, Anchorage, Alaska 99501; Telephone (907) 271–2668.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–55–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Supplemental Type Certificate (STC) No. SA649AL, issued to F. Atlee Dodge Aircraft Services, Inc., approves the installation of Model 3140 long-range fuel tanks in Piper Model PA–18 "150" series airplanes. F. Atlee Dodge Aircraft Services, Inc. also holds an FAA Parts Manufacturer Approval (PMA) for the manufacture of the tanks and the components necessary to accomplish the installation. STC No. SA649AL and the associated PMA applies only to Piper Model PA–18 "150" series airplanes. STC No. SA649AL does not approve the installation of the tanks in any other airplanes besides Piper Model PA–18 "150" series airplanes because of differences in the wing structure, fuel system design, and certain structural design load factors between the Piper Model PA–18 "150" series airplanes and the other Piper models.

The FAA has become aware that field approvals have been issued for the installation of the Model 3140 fuel tanks in Piper Models PA–12, PA–12S, and PA–14 airplanes. These field approvals were improperly issued because the alteration to the airplane design produced by the tank installation is a major change in type design that requires a separate STC in accordance with Section 21.113 of the Federal Aviation Regulations. The FAA has received reports that Piper Models PA–12, PA–12S, and PA–14 airplanes that are equipped with F. Atlee Dodge Services, Inc. Model 3140 fuel tanks have experienced fuel leakage. One has a Malfunction or Defect (M or D) Report on Model 3140 fuel tanks installed in a Piper Model PA–12 airplane where the right tank developed a leak in the bottom inboard welded seam after 54 hours time-in-service (TIS) that was detected during a ground inspection. The left tank later developed a leak in the bottom outboard welded seam after 67 hours TIS that caused fuel exhaustion and a crash landing in the tundra 100 feet short of the runway in Livengood, Alaska.

The FAA has determined that an unsafe condition exists on these airplanes, which requires AD corrective action. Consequently, the proposed AD would, in effect, revoke all existing field approvals of Model 3140 fuel tank installations on Piper Models PA–12, PA–12S, and PA–14 airplanes, by requiring the removal of these fuel tanks and the restoration of the wing panel assemblies and the fuel tanks of the affected airplanes to the configurations defined by the original type designs or by an applicable Supplemental Type Certificate.

It is estimated that 50 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 60 hours to accomplish the required actions at about $50 per hour, and that replacement parts are available for approximately $2,600 per airplane. Based on these figures, the total cost

impact of the AD on U.S. operators is estimated to be $280,000.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Piper: Docket No. 90–CE–55–AD.

Applicability: Models PA–12, PA–12S, and PA–14 airplanes (all serial numbers) that are equipped with F. Atlee Dodge Aircraft Services, Inc., Model 3140 Long-Range Fuel Tanks, certificated in any category.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD.

To prevent the possibility of fuel tank leakage, failure of the wing drag truss, and/or lateral buckling of the wing spars that could result in loss of the airplane, accomplish the following:

(a) Remove all F. Atlee Dodge Model 3140 long-range fuel tanks and restore the wing panels and fuel tanks to the configuration defined by the original airplane type design or alter them to a configuration approved by a Supplemental Type Certificate that applies to the original type design.

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

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Supervisor, Anchorage Aircraft Certification Field Office, FAA, 605 W. 4th Avenue, Room 214, Anchorage, Alaska 99501. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Supervisor, Anchorage Aircraft Certification Field Office.

(d) All persons affected by this directive may obtain copies of any information that is applicable to this AD from the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 90–CE–55–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 28, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–280–Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–ANE–22]

Airworthiness Directives; Teledyne Continental Motors Model GTSIO–520 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Teledyne Continental Motors (TCM) Model GTSIO–520 series engines, which would require the replacement of the crankshaft counterweights including attaching hardware and the engine viscous damper. This proposal is prompted by reports of engine failures due to distress of the crankshaft counterweight bushing along with a distressed viscous damper. This condition, if not corrected, could result in engine failure.

DATES: Comments must be received on or before February 21, 1991.

ADDRESSES: Comments on the proposal may be mailed in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90–ANE–22, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311, at the above address.

Comments may be inspected at the above location in Room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, Small Airplane Directorate, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349, telephone (404) 991–3810.

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 90–ANE–22. The postcard will be date/time stamped and returned to the commenter.

Discussion

The FAA has determined that there have been nine reported incidents of engine failure in the past four years (one

of which resulted in the propeller departing the aircraft). All the incidents have occurred on aircraft of foreign registry while no incidents have occurred in the United States. However, the symptons of this problem have been noted on engines returned for overhaul from United States registered aircraft. The failures are due to distress of the crankshaft counterweight bushing along with a distressed viscous damper. The bushing distress originates at the interface of the bushing and counterweight resulting in distortion and eventual cracking of the bushing. Failure of the engine follows rapidly. The failure mode is usually massive damage to the crankcase, camshaft, crankshaft, etc. The failures are associated with older engines (beyond the first overhaul cycle) and are exacerbated by an ineffective viscous damper and certain operating conditions. While the problem is most noticeable on engines not having an unfeathering accumulator, the symptoms are also evident to a lesser degree on engines having an unfeathering accumulator. After extensive testing, it has been determined that corrective action can be taken by replacing the counterweight assemblies with redesigned assemblies which include a larger diameter counterweight pin. The viscous damper must also be replaced with a new or serviceable unit.

Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require replacement of the crankshaft counterweights including attaching hardware and the viscous damper on certain TCM model GTSIO–520 series engines.

The FAA has reviewed and approved TCM Service Bulletin M90–12, dated August 21, 1990, which describes the procedure for removing and replacing of crankshaft counterweights and viscous dampers.

The FAA has determined that this proposed regulation involves approximately 3,200 engines and that it would cost approximately $3,000 for parts plus 30 manhours per engine at $40 per manhour. Based on these figures the approximate total impact cost would be $13,440,000.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Teledyne Contintental Motors (TCM): Applies to TCM Model GTSIO–520 series engines, installed in, but not limited to, Cerra Commander 685, Beagle B206S, and Cessna Models 40A, 411, and 421.

Compliance is required as indicated, unless already accomplished.

To prevent crankshaft counterweight bushing and viscous damper distress, which could result in engine failure, accomplish the following:

(a) Engines with model and serial numbers listed in Service Bulletin (SB) M90–12, dated August 21, 1990, exposed to two or more inflight restarts per engine per 100 hours time-in-service and which do not have an unfeathering accumulator, accomplish the following:

(1) For overhauled and rebuilt engines with 400 or more hours time-in-service, comply with the instruction in SB M90–12 within 50 hours.

(2) For overhauled and rebuilt engines with less than 400 hours time-in-service, comply with the instructions in SB M90–12 within 50 hours or before reaching 400 hours time-in-service, whichever is greater.

(b) All other GTSIO–520 series engines, comply with the instructions outlined in SB M90–12 at major overhaul, when the crankshaft is removed from the engine or before the accumulation of 2,000 hours time-in-service since last major overhaul, whichever occurs first.

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

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance (schedule) times specified in this AD may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on December 13, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91–283 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 90–AGL–23]

Proposed Alteration to Transition Area; Bellaire, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Bellaire, MI, transition area by reducing the existing transition area radius. While evaluating the airspace necessary for accommodating a new Microwave Landing System (MLS) Runway 02 instrument approach procedure to Antrim County Airport, Bellaire, MI, the FAA determined that a reduction in the existing transition area radius was in order. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before February 6, 1991.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Adminsitration, Office of the Assistant Chief Counsel, AGL–7, Attn: Rules Docket No. 90–AGL–23, 2300 East

Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AGL–23". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Bellaire, MI. While evaluating the airspace necessary to accommodate a new MLS Runway 02 instrument approach procedure to Antrim County Airport, the FAA determined that a reduction to the existing transition area radius was in order. The modification to the existing airspace would consist of reducing the existing Bellaire, MI, transition area radius from an 11-mile radius to a 5-mile radius.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Bellaire, MI [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Antrim County Airport (lat. 44°59'19" N., long. 85°11'54" W.); and within 3 miles each side of the 198° bearing from the airport extending from the 5-mile radius to 14 miles south of the airport and within 4.75 miles each side of the Traverse City, MI, VORTAC 037 radial, extending from the 5-mile radius to 27 miles southwest of the airport, excluding that portion which overlies the Traverse City, MI, transition area.

Issued in Des Plaines, Illinois on December 18, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 91–285 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–ANM–14]

Proposed Amendment, Control Zone and Transition Area, Eagle, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Eagle, Colorado, Control Zone and Transition Area. The action is necessary because two instrument approach procedures have been cancelled and a new approach procedure is being established. The effect would be to eliminate controlled airspace which is no longer necessary, and to define new controlled airspace which will contain the new procedure. The intent of the action is to accurately define controlled airspace for pilot reference. The changes would be depicted on aeronautical charts.

DATES: Comments must be received on or before February 7, 1991.

ADDRESSES: Send comments on the proposal to: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 90–ANM–14, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2536.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 90–ANM–14, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written date, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–ANM–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, ANM–530.

Communications must identify the notice number of this NRPM. Persons interested in being placed on mailing list for future NRPM'S should also request a copy of Advisory Circular No. 11–2A which best describes the application procedure.

The Proposal

The FAA proposes an amendment to §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to change the legal description of the Eagle, Colorado, Control Zone and Transition Area. The amendment to § 71.171 would remove from the Control Zone the airspace outside of the 5-mile radius from the Eagle County Regional Airport. The amendment to § 71.181 would alter the 700-foot Transition Area by: (1) Extending the 360-degree radius around the airport from 9 miles to 12 miles, and (2) incorporating the airspace within 7 miles of each side of the 085° bearing from the airport, from the 12-mile radius to the 18-mile radius. The amendment to § 71.181 would also remove the 1,200-foot Transition Area. (It is anticipated that the 1,200-foot Transition Area would become part of the new Aspen, Colorado, Transition Area.) Both amendments would change the descriptions to correctly state the official name and geographical reference point of the airport. These amendments are necessary because two instrument approach procedures have been cancelled, and the new approach procedure is being established at the Eagle County Regional Airport. These amendments would eliminate unnecessary controlled airspace and establish new controlled airspace to contain the new procedure. The airspace would be depicted on aeronautical charts for pilot reference.

Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, 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 71

Aviation safety, Control zones and Transition areas.

The Proposed Amendment

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

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Eagle, Colorado

Within a 5-mile radius of the Eagle Colorado Regional Airport (Lat. 39°38'37"N., Long. 106°54'50"W.).

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Eagle, Colorado

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the Eagle County Regional Airport (lat. 39°38'37"N., long. 106°54'50"W.); within 7 miles each side of the 085~ bearing from the Eagle County Regional Airport extending from the 12 mile radius area to 18 miles northeast of the airport.

Issued in Seattle, Washington, on December 13, 1990.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 91–275 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 90–AGL–22]

Proposed Alteration to Transition Area; Manistee, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Manistee, MI, transition area to accommodate a revised VOR Runway 27 Standard Instrument Approach Procedure (SIAP) to Manistee County-Blacker Airport, Manistee, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before February 6, 1991.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Attn: Rules Docket No. 90–AGL–22, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AGL–22". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Manistee, MI. The present transition area would be modified to accommodate a revised VOR Runway 27 SIAP to Manistee County-Blacker Airport, Manistee, MI. The modification to the existing airspace would consist of a 7.25-mile width each side of the Manistee VOR/DME 083 radial extending from the existing 9-mile radius area to 18.5 miles east of the VOR/DME.

The revised instrument approach procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Manistee, MI [Revised]

That airspace existing upward from 700 feet above the surface within a 9-mile radius of Manistee County-Blacker Airport (lat. 44° 16' 24" N., long. 86° 14' 56" W.); within 5 miles north and 8 miles south of the Manistee VOR/DME 274 radial, extending from the 9-mile radius to 16 miles west of the VOR/DME; and within 7.25 miles each side of the Manistee VOR/DME 083 radial extending from the 9-mile radius to 18.5 miles east of the VOR/DME.

Issued in Des Plaines, Illinois on December 18, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 91–286 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 161

[Docket No. 26432]

Provisions for Review of Stage 2 and Stage 3 Aircraft Noise and Access Restrictions

AGENCY: Federal Aviation Administrator (FAA), DOT.

ACTION: Notice of docket opening.

SUMMARY: This notice announces the opening of a regulatory docket for materials related to the review of Stage 2 and Stage 3 aircraft noise and access restrictions in the United States, as mandated by the Airport Noise and Capacity Act of 1990. Although no regulations have been proposed, the FAA has received information relevant to rulemaking in progress and is making that information available for public inspection by placing it in a public docket.

FOR FURTHER INFORMATION CONTACT: John M. Rodgers, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267–3274.

SUPPLEMENTARY INFORMATION: On November 5, 1990, Congress enacted the Airport Noise and Capacity Act of 1990, which provides for a review and approval process for restrictions proposed by airport operators for Stage 2 and Stage 3 aircraft. The Act directs the Federal Aviation Administration to establish regulations implementing these provisions.

Although regulations regarding these measures have yet to be proposed, the FAA has begun to receive information concerning these issues. In an effort to make this information available to the public at the earliest possible time, the FAA has opened regulatory docket No. 26432, which contains all information submitted on the review and approval procedures for Stage 2 and Stage 3 aircraft restrictions.

The FAA is not soliciting further information or comment at this time. Opportunity for comment will be given when proposed regulations are published in a formal Notice of Proposed Rulemaking. Information received and placed in the docket may be inspected at the Rules Docket, Federal Aviation Administration, room 915G, 800 Independence Avenue SW., Washington, DC 20591.

Issued in Washington, DC on January 2, 1991.

John M. Rodgers,

Director, Office of Aviation Policy and Plans.

[FR Doc. 91–278 Filed 1–7–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE94

Schedule for Rating Disabilities; the Respiratory System

AGENCY: Department of Veterans Affairs.

ACTION: Advance notice of proposed rulemaking.

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

DATES: Written comments and submissions in response to this ANPRM must be received by VA on or before March 11, 1991.

ADDRESSES: Interested persons and organizations are invited to submit written comments and suggestions regarding this ANPRM to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420. All written submissions will be available for public inspection only in the Veterans Service Unit, room 132, at the above address and only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until March 21, 1991.

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

SUPPLEMENTARY INFORMATION: In December 1988, GAO published a report entitled *VETERANS' BENEFITS: Need to Update Medical Criteria Used in VA's Disability Rating Schedule* (GAO/HRD–89–28). After consulting numerous medical professionals and VA rating specialists, GAO concluded that a comprehensive and systematic plan was needed for reviewing and updating VA's Schedule for Rating Disabilities (38 CFR part 4). The medical professionals noted outdated terminology, ambiguous impairment classifications and the need to add a number of medical conditions not presently in the rating schedule. VA rating specialists noted that for some disorders they would prefer more medical criteria for distinguishing between various levels of severity and that inconsistent ratings may result when unlisted conditions had to be rated by analogy to other listed disorders. GAO recommended that VA prepare a plan for a comprehensive review of the rating schedule and, based on the results, revise the medical criteria accordingly. It also recommended that VA implement a procedure for systematically reviewing the rating schedule to keep it updated. VA agreed to both recommendations, and this ANPRM is one step in a comprehensive rating schedule review plan which will ultimately be converted into a systematic, cyclical review process.

This ANPRM is the first stage in VA's consideration of what regulatory action to take, if any, with respect to revising and updating that portion of the rating schedule dealing with disabilities of the respiratory system (38 CFR 4.96 and 4.97).

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

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans

Approved: December 17, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 91-308 Filed 1-7-91; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550, 580, and 581

[Docket No. 90-23]

Automated Tariff Filing and Information System ("ATFI"); Ocean Freight Tariffs in Foreign and Domestic Offshore Commerce; Inquiry

AGENCY: Federal Maritime Commission.

ACTION: Notice of availability of Interim Report (with ATFI Batch Filing Guide) and other materials; notice of further public demonstration and opportunity for comment.

SUMMARY: On August 1, 1990, the Federal Maritime Commission ("FMC") issued a second ATFI Notice of Inquiry, requesting public comment on some of the basic features being considered for ATFI. Comments were filed and considered by the FMC. On December 26, 1990, the FMC issued an Interim Report with an appended ATFI Batch Filing Guide (Transaction Set). The Interim Report also announces the availability of other instructional materials.

DATES: *Availability of Interim Report and Transaction Set.* January 8, 1991.

Comments: Written comments in response to the Interim Report (original and 15 copies) must be submitted by March 25, 1991, and served on other parties to the proceeding.

Demonstration: A further public demonstration of ATFI will be held at 9 a.m. on February 21, 1991 (and, if necessary, on February 22, 1991). Reservations may be obtained by calling (202) 523-5866 by February 15, 1991. There will be a limit of two (2) persons per firm desiring to attend.

Other instructional materials: The ATFI User Guide and access to the Computer Based Instruction will be available around February 1, 1991.

Beginning of Full-Scale ATFI Operations: To be announced in October 1991.

ADDRESSES: *Comments; Interim Report:* Submit written comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573. A copy of the Service List in this proceeding, as well as a copy of the Interim Report, with appended Transaction Set, may also be obtained through the Secretary.

Demonstration: FMC Hearing Room Number 1, 1100 L Street NW., Washington, DC 20573.

Other instructional materials: For availability of other instructional materials, write to: Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5866.

SUPPLEMENTARY INFORMATION: On August 1, 1990, the Federal Maritime Commission ("FMC") issued a second ATFI Notice of Inquiry (55 FR 31199), requesting public comment on some of the basic features being considered for ATFI. Twenty-three comments were filed and considered by the FMC. On December 26, 1990, the FMC issued an Interim Report in this proceeding with an appended ATFI Batch Filing Guide (Transaction Set), and served it on the parties. Additionally, it has been mailed to volunteers who have signed up for Prototype participation and to subscribers to FMC Subscription Lists Nos. 1 and 2. The Interim Report also announces the availability of other instructional materials.

The first edition of the "ATFI User Guide" (approximately 450 pages), is being prepared on two double-sided, high-density, 5¼" diskettes, which can be run on WordPerfect 4.2 (or later version), on an IBM PC AT (or compatible). Diskette #1 contains: ATFI System Guide; ATFI Fundamentals Guide; and ATFI Tariff Retrieval Guide. Diskette #2 contains: ATFI Interactive Filing Guide and ATFI Batch Filing Guide (Transaction Set). The price (including postage) is $5.00 per diskette (or $10.00 for both). When ordering the first edition, users can be put on the mailing list for the second (final) edition when it is available, for another $5.00 or $10.00, or, for both editions of both diskettes, a total of $20.00. To order, please mail a check in the appropriate amount made payable to the "Federal Maritime Commission," with necessary mailing label(s), to: Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573.

Additionally, the Computer Based Instruction ("CBI") on the ATFI computer may be accessed around February 1, 1991.

Another public demonstration will be held in the Commission's Hearing Room No. 1, on the street floor at 1100 L Street NW., Washington, DC. There will be a second session, if necessary, to accommodate the expected demand. Reservations can be made only by calling by 5 p.m. on Friday, February 15, 1991, the FMC's Bureau of Administration at (202) 523-5866. (Volunteers for the Prototype Phase can call this number for further information; if ready, some volunteers can begin testing their tariffs before the demonstration.) Because of the expected demand, there will be a limit of two (2) persons per firm desiring to attend. The demonstration(s) will begin at 9 a.m. on:

1. Thursday, February 21, 1991.

2. Friday, February 22, 1991 (if necessary).

Additional comments in this proceeding on any of the above items shall be submitted by 5 p.m., on Monday, March 25, 1991, in an original and 15 copies to the Secretary. When submitting comments, a copy shall be served on each party to this proceeding. The service list can be obtained through the Secretary.

To accommodate the revised schedule for continued dialogue and to afford the industry and the public ample opportunity to prepare for ATFI, the Prototype Phase is extended beyond June and until a date to be announced in October 1991, at a time when budget figures for FY 92 are finalized and released.

Authority: 46 U.S.C. App. 1716.

Joseph C. Polking,

Secretary.

[FR Doc. 91-307 Filed 1-7-91; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 56, No. 5
Tuesday, January 8, 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

Meeting of the President's Council on Rural America

AGENCY: Department of Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Under Secretary for Small Community and Rural Development, Department of Agriculture, is announcing the first organizational meeting of the President's Council on Rural America. Participation will be by invitation only.

DATES: Meeting on Wednesday, January 23, 9 a.m. to 5 p.m., and Thursday, January 24, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held in the Williamsburg room, 104–A Administration Building, U.S. Department of Agriculture, 14th & Independence Ave. SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Jeanne Kling, coordinator for Council activities, Farmers Home Administration, room 5028 South Agriculture Building, Washington, DC 20250, (202) 447–4439.

SUPPLEMENTARY INFORMATION: The President's Council on Rural America was established by Executive Order on July 16, 1990. Members are appointed by the President and include representatives from the private sector and from State and local governments. The Council will begin review and assessment of the Federal Government's rural economic development policy and will advise the President and the EPC on how the Federal Government can improve its rural development policy.

Dated: January 2, 1991.

Jonathan I. Kislak,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 91–323 Filed 1–7–91; 8:45 am]

BILLING CODE 3410–07–M

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. No. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture (USDA), Science and Education, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee

Dates: February 20–21, 1991.

Time: 9 a.m. to approximately 5 p.m. on February 20. 9 a.m. to approximately 3 p.m. on February 21.

Place: Conference Room A, 10th Floor, American Institute of Aeronautics and Astronautics, Aerospace Building, 901 D Street SW., 370 L'Enfant Promenade, Washington, DC 20024.

Type of meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research. The major items to be considered at this meeting are the formation of new working groups and possible cooperative activities with the Environmental Protection Agency's Biotechnology Science Advisory Committee.

Contact person: Dr. Alvin L. Young, Executive Secretary, Agricultural Biotechnology Research Advisory Committee, U.S. Department of Agriculture, Office of Agricultural Biotechnology, room 324–A, Administration Building, 14th and Independence Avenue SW., Washington, DC, 20250. Telephone (202) 447–9165.

Done at Washington, DC, this 20th day of December, 1990.

Charles E. Hess,

Assistant Secretary, Science and Education.

[FR Doc. 91–233 Filed 1–7–91; 8:45 am]

BILLING CODE 3410–22–M

Farmers Home Administration

Recipients of Fiscal Year 1990 Section 515 Loan Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has compiled a list of all recipients of FY 1990, Section 515 loan funds. This action is taken to inform the public of recipients of FY 90 Section 515 funds. The intended effect is public awareness.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Loan Assistant, Rural Rental Housing Branch, Multi-Family Housing Processing Division, Farmers Home Administration (FmHA), USDA, room 5337, South Agriculture Building, Washington, DC, 20250, telephone (202) 382–1608 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans.

Discussion of Notice

The information available is a 41 page compilation that lists borrower names, names of the general partners, project name and location, number of units developed, and FmHA loan amount. This information is available to all interested parties and can be obtained by writing to the following address: USDA, FmHA, Multi-Family Housing Processing Division, room 5337–S, Washington, DC, 20250. The request must be accompanied by a self-addressed, self-stamped envelope. Envelopes must be a minimum of 11 by 9 inches in size, and bear first class postage of thirty-five (.35) cents. Requests without the required return envelope and postage will not be acknowledged or responded to.

Dated: December 20, 1990.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–322 Filed 1–7–91; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Old-Growth Issue

AGENCY: Forest Service, USDA.

ACTION: Notice; old-growth issue.

SUMMARY: Region 3 of the USDA Forest Service desires to gain understanding on the values and uses of old-growth in the Southwest. There are many perceptions

as well as facts which must be considered about the old-growth. The Region has done some old-growth analysis but needs more. Consequently a strategy, and actions to accomplish the strategy, were developed so the Region can get to where it wants to be in terms of old-growth knowledge and management. The documents in the Supplemental Information section are to give notice of intended action and gain comment on those intended actions before they are completed.

EFFECTIVE DATE: January 7, 1991.

ADDRESSES: Direct comments to: David F. Jolly, Regional Forester, 1570 Southwestern Region, USDA Forest Service, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Marlin Q. Hughes, Director, Timber Management or Art Briggs, Assistant Director, Timber Management, (505) 842–3240 or (505) 842–3242.

SUPPLEMENTAL INFORMATION:

Old-Growth Issue

A. The Issue

Old-growth and its value is not well understood by the public or the Forest Service; therefore, conflicts arise over its management.

B. Perceptions

There is a great deal of concern about old-growth from the public, Congress, and the Chief. Some segments of the public maintain we don't know enough about old-growth and its function; therefore, we should cease harvesting it until we know more. Another segment sees it as a valuable commercial resource whose economic value is being lost by delaying its harvest. Still others see old-growth as valuable for wildlife, watershed, aesthetic, soils, and as a guard against depletion of the ozone layer or air quality in general. But it seems a majority of those who would like old-growth left alone make their plea because of its inspirational significance.

Some of those who wish to preserve old-growth would allow some harvesting as long as "special" places are retained. Our perception is that the majority of the public appears to desire many large trees throughout the forest landscape and will identify them as old-growth even if stands are immature from a tree physiology standpoint if: (1) There is little evidence of human activity in the stand, (2) there is more than one tree canopy level, (3) there are down boles, (4) there are big trees and a "lush" understory for the site, and (5) there are snags (not always true—snags don't need to be present, but it helps from a wildlife standpoint and as a source of future down material). Overall, it seems that, for many publics, the cry for old-growth is an appeal for less dramatic changes in the forest than those that could be brought about by intensive timber management or other intensive treatments. They believe that old-growth can be preserved at least for their lifetimes and that of their children.

Congress does not believe we know where or how much old-growth exists or that we have a framework for management of it. This is evidenced by the House and Senate 1989 budget language and the continuing hearings in both bodies.

The Chief, in a 1989 speech, said that old-growth and it's future is currently the Forest Service's number one public issue (followed closely by spotted owls).

C. Facts

(1) What helps make old-growth the Forest Service's number one public issue is the emotional attachment of society over the perception of its eventual loss.

(2) There is no statutory or regulatory requirement for management of old-growth. The NFMA Regulations require biological diversity be maintained in the planning area. Generally, this is where the authority resides.

(3) When Forest Service personnel speak of "managing" old-growth, the public assumes this means cutting the component trees. Techniques such as using prescribed fire or setting areas aside and monitoring are not understood as management techniques.

(4) Old-growth can't be preserved forever, but it may last for the lifetimes of those now living. Components of an old-growth ecosystem within a stand of trees may survive for many decades, while an old-growth component within a landscape can be sustained in perpetuity.

(5) Old-growth is difficult to define, but it is more than trees. It includes understory vegetation and plant litter or debris, as well as certain animal life. It also could have, as proposed by some, different soil characteristics, at least in the top layers. It has several attributes that can't be inventoried using standard methods; for example, aesthetic value, emotions, and spiritual significance.

(6) Old-growth is not as efficient at maintaining or enhancing air quality because it removes less carbon dioxide from the air than young vigorous tree stands. However, it is thought to provide a more effective carbon dioxide sink because of the amount of existing biomas relative to younger stands. Therefore, harvesting old-growth and its manufacture may allow more CO_2 to be released.

(7) Old-growth produces more ground water recharge than young vigorous stands of trees because there is less evapo-transpiration.

(8) The exclusion of natural, non-catastrophic fire has predisposed many old-growth stands to more rapid deterioration from insects and disease, as well as catastrophic fire.

(9) Fire should be one of the most important activities in the management of old-growth, but smoke management concerns may limit its utility.

(10) Old-growth (i.e., large trees) is an important economic component of the softwood timber supply in the Region.

D. Where We Are Now

(1) Based on input from the Washington Office and research ecologists, the Region is not in bad shape on old-growth now compared to other Regions. We have many opportunities for management and are being proactive in gathering information and managing for old-growth.

(2) We have rough estimates of old-growth acreage from each Forest (+/−25% error). This was developed in 1988 to provide RPA Program data. These estimates are based on Forest Plan definitions, but may include acreage planned for future old-growth as well as existing old-growth. The numbers weren't too reliable, so Forests are updating them as better inventory information becomes available. Presently, the updates for the Forest Plan Implementation Spread Sheet are probably the most reliable.

(3) We have a July 8, 1988, Regional Forester's letter to Forest Supervisors that identifies the need to get a better assessment of old-growth. This letter and the Analysis Outline that accompanies it breaks the assessment into two broad categories: (a) Forest-wide assessment or identification of the "potential" old-growth ("potential" here is an inventory term, not a management term; that is, the area has a potential of being existing old-growth and needs ground verification—it does not mean it is a mature or immature stand that will be managed to produce old-growth some day); and (b) project area assessment or site specific existing old-growth identification.

(4) Four Forests have now completed (a) above and have a map of "potential." We distributed FY 90 funds to all Forests to verify "potential" old-growth or identify it, depending on their status.

(5) The Chief distributed the Old-Growth Task Force Action Plan in April 1989 based on Congress' FY 1988 Budget

Committee report direction. Of importance to the Region from the action plan is: (a) The development of a generic definition to be used as basis nationwide (enclosed); (b) regional specific definitions of old-growth by forest type (to be completed by 1991); (c) incorporation of the forest type definitions in general Forest inventories (ongoing); and (d) Region 3 membership in the National Task Force.

(6) The Chief also has produced a statement on the values of old-growth. This also is enclosed and, as he told Congress in July, the basis for determining the value and amount of old-growth belongs on-the-ground. This can either be done at the Forest Plan level (if enough information is available) or site specifically through the IRM process.

(7) A Regional Old-Growth Core Team has been organized to deal with items 5 b and c above. The team is composed of representatives from the Timber, Range, Aviation & Fire, Wildlife, Soil & Water, and Public Affairs RO staffs and from the Rocky Mountain and Intermountain Research Stations. Additionally, the Timber Industry Working Group, Environmentalist Working Group, Northern Arizona University, and the National Park Service are represented. The core team is to draft and circulate tentative definitions, coordinate with other Regions with the same old-growth forest type, and make recommendations on the definitions to be used by the Regional Forester. Currently, the thinking is to develop definitions for pinyon-juniper, Ponderosa pine, mixed conifer, and Spruce-fir. They are to be broken down by two tree growth potentials (low and high).

(8) Old-growth on the National Forests in Region 3 should be managed; however, the intensity and direction of that management will vary with value objectives and site specific conditions. Strategies for management may range from old-growth set-aside areas with only monitoring as the management activity to areas where regeneration harvest is the management activity. There is, however, a preservation mind set that is prevelant in most old-growth management discussions.

(9) We do not have a good sense of what the general public wants or what its values are for old-growth management in the Region.

(10) Forest Plans show a commitment to old-growth maintenance by allocating a total of 14% of the Region's suitable timberland base for that purpose. However, we need to review Forest Plan direction, as well as that in the Regional Guide, in light of the current Chief's policy to determine if amendment is necessary.

(11) Some individuals and groups are vetoing, through administrative appeals, some management actions we believe the public wants using old-growth management as the focus.

E. Where We Want To Be

(Items that should be considered during Forest Plan implementation.)

(1) We would like all Forest Service employees to accept the importance of retaining a functioning old-growth component distributed throughout the landscapes they are responsible for managing.

(2) We want to plan for sustainable old-growth component as part of the biological diversity of Region 3's Forest lands.

(3) We want to have reliable information on the amount and location of existing old-growth on each Forest in the Region. In addition, we want to know the amount and distribution of old-growth on non-National Forest lands.

(4) We want to review what research has been done and then develop a research needs description that includes technology transfer requirements so the research is useful to on-the-ground managers.

(5) We want to have research on the functioning of the old-growth ecosystem, including tree growth and mortality, wildlife habitat values, and soil and nutrient factors.

(6) We need to define methods, or a series of activities, for management of stands that will maintain old-growth characteristics or reach them in the shortest possible time.

(7) We want each project/area analysis to consider the effects of alternative activity on old-growth and document them. Forest Plan and project decision documents are to discuss the specific old-growth values considered and how they influenced the decision.

(8) We would like to gain public understanding, trust, and support for: (a) A workable definition of old-growth; (b) a strategy and some activities designed to maintain a functioning old-growth component in the Region's forested landscapes; and (c) the fact that the Forest Service is seriously concerned about old-growth and believes its value is crucial in meeting our stewardship responsibilities.

(9) We want examples of old-growth stands available for public use and enjoyment.

(10) We want our management of old-growth to be responsive to public desires.

F. Strategic Thrusts

(1) Internal Understanding—

(a) Internalize awareness and sensitivity to old-growth at the Region, Forest, and District levels.

(b) Research units involved in basic research and literature review of what we know on old-growth.

(c) Research and administrative units analyze impact of various management activities on functioning old-growth components.

(d) Complete Chief's Old-Growth Action Plan items for the Region.

(e) Develop a system to monitor, evaluate and account for continued presence of old-growth that is well distributed throughout the landscape. Monitoring results are to be used to help assure the designated old-growth components are functioning.

(2) External Understanding:

(a) Get a sense of what our publics understand about old-growth and what they want from it.

(b) Develop a way to enhance the public's awareness of the multiple values of old-growth and their consideration for its sustainability.

(c) View old-growth issue both in the short and long term. For example, (a) and (b) are short-term actions to address the issue. Long-term efforts could include high school biology class presentations, information displays at offices and recreation sites.

G. Action Plan To Accomplish "Strategic Thrusts" and Forest Plan Implementation

(1) Internal Understanding:

(a) *Internalize awareness and sensitivity to old-growth in our employees*—(i) *Whom:* Public Affairs Office/Regional Forester.

(ii) *What:* (a) Prepare a video of Regional Forester discussing old-growth issue and relaying his perspective and that of the Chief.

(b) Develop a brochure outlining Chief's policy statement on old-growth values and his Action Plan.

(iii) *When:* (a) Fall 1991.

(b) Spring 1991 (in progress as part of a Partners in Leadership project).

(b) *Research and biological information gathering*—(i) *Whom:* State & Private Forestry/Rocky Mountain Station.

(ii) *What:* (a) Literature review and report on information we now have on old-growth Forests in the Southwest.

(b) Based on literature review to identify basic research needs.

(iii) *When:* (a) Spring 1992.

(b) Summer 1992.

(c) *Analyze impacts of management activities on old-growth stands*—(i) *Whom:* R–3 Old-Growth Core Team/Forest Supervisors/Rocky Mountain Station.

(ii) *What:* Forests nominate a sample of previously treated old-growth stands and, if possible, untreated stands. R–3 Old Growth Team review to identify which practices are acceptable and which should be altered or eliminated in order to perpetuate functioning old-growth characteristics.

(iii) *When:* Forests nominate stands Fall 1991. Core Team review and prepare report by Spring 1992.

(d) *Chief's old-growth action items*—*(i) Whom:* R–3 OG Core Team/Resource Directors.

(ii) *What:* (a) Core Team complete Regional definition drafts for Resource Directors' review and Regional Forester's approval.

(b) When definitions accepted by RF/Chief, those staffs with resource inventory responsibility are to incorporate old-growth attributes in their inventory procedures. Amend Regional Guide and Forest Plans as necessary.

(iii) *When:* (a) June 1991.

(b) September 1991.

(e) *Monitoring evaluation and accountability*—(i) *Whom:* Range/Timber Management/Wildlife/Watershed & Air Management/Land Management Planning/Forest Supervisors.

(ii) *What:* A documented system with measurable attributes that can be used by Forests in conjunction with Plan monitoring.

(iii) *When:* Summer 1991.

(2) External Understanding.

(a) *Find out what our public knows or believes*—(i) *Whom:* Public Affairs Office/Land Management Planning/Forest Supervisors/Carson.

(ii) *What:* (a) Hold public old-growth forums similar to one held on Carson NF in August 1989. Forests can work together to hold one forum for several Forests if situation permits.

(b) Information gained at old-growth forums to be used to amend Forest Plans, if necessary.

(iii) *When:* (a) Complete by Fall 1992.

(b) Complete by Fall 1993.

(b) *Enhance public's old-growth awareness*—(i) *Whom:* Public Affairs Office/Land Management Planning/Forest Supervisors/Contractor.

(ii) *What:* (This item may be completed with (1a) above).

(a) Develop a brochure and posters for public use which discusses old growth in the Southwest and its functions.

(b) Provide forests with a method for analyzing and discussing old growth in NEPA documents, as well as gaining recognition in IRM Process.

(iii) *When:* (a) Fall 1991.

(b) Spring 1991.

(c) *Long-term understanding.* (i) *Whom:* Public Affairs Office/Recreation/Engineering.

(ii) *What:* Long-term Action Plan to involve schools, campground and office displays, "nature" trails or other self-guided tours, and signing programs.

(iii) *When:* Spring 1992.

Position Statement on National Forest Old-Growth Values

The Forest Service recognizes the many significant values associated with old-growth forests, such as biological diversity, wildlife and fisheries habitat, recreation, aesthetics, soil productivity, water quality, and industrial raw material. Old growth on the National Forests will be managed to provide the foregoing values for present and future generations. Decisions on managing existing old-growth forests to provide these values will be made in the development and implementation of forest plans. These plans shall also provide for a succession of young forests into old-growth forests in light of their depletion due to natural events or harvest.

Old-growth forests encompass the late stages of stand development and are distinguished by old trees and related structural attributes. These attributes, such as tree size, canopy layers, snags, and down trees, generally define forests that are in an old-growth condition. The specific attributes vary by forest type. Old-growth definitions are to be developed by forest type or type groups for use in determing the extent and distribution of old-growth forests.

Where goals for providing old-growth values are not compatible with timber harvesting, lands will be classified as unsuitable for timber production. Where these goals can be met by such measures as extending the final harvest age well beyond the normal rotation or by using silvicultural practices that maintain or establish specific old-growth values, lands will be classified as suitable for timber production. In making these determinations, consideration shall be given to the extent and distribution of old growth on National Forest lands that are Congressionally or administratively withdrawn from timber harvest, as well as adjacent ownerships.

Old-growth values shall be considered in designing the dispersion of old growth. This may range from a network of old-growth stands for wildlife habitat to designated areas for public visitation. In general, areas to be managed for old-growth values are to be distributed over individual National Forests with attention given to minimizing the fragmentation of old growth into small isolated areas. Old growth on lands suitable for timber production and not subject to extended rotations is to be scheduled for harvest to establish young stands which more fully utilize potential timber productivity and also meet other resource objectives.

Regions with support from Research shall continue to develop forest type old-growth definitions, conduct old growth inventories, develop and implement silvicultural practices to maintain or establish desired old-growth values, and explore the concept of ecosystem management on a landscape basis. Where appropriate, land management decisions are to maintain future options so the results from the foregoing efforts can be applied in subsequent decisions. Accordingly, field units are to be innovative in planning and carrying out their activities in managing old-growth forests for their many significant values.

Generic Definition and Description of Old-Growth Forests

Purpose and Scope

The following describes the ecologically important structural features of old-growth ecosystems. Measureable criteria for these attributes will be established in more specific definitions for forest types, habitat types, plant associations or groupings of them. The intent of the generic definition is to guide design of specific definitions and new inventories that include measurement of specific attributes. Although old-growth ecosystems may be distinguished functionally as well as structurally, this definition is restricted primarily to stand-level structural features which are readily measured in forest inventory.

Definition

Old-growth forests are ecosystems distinguished by old trees and related structural attributes. Old growth encompasses the later stages of stand development that typically differ from earlier stages in a variety of characteristics which may include tree size, accumulations of large dead woody material, number of canopy layers, species composition, and ecosystem function.

Description

The age at which old growth develops and the specific structural attributes that characterize old-growth will vary widely according to forest type, climate, site

conditions and disturbance regime. For example, old-growth in fire-dependent forest types may not differ from younger forests in the number of canopy layers or accumulation of down woody material. However, old-growth is typically distringuished from younger growth by several of the following attributes:

1. Large trees for species and site.
2. Wide variation in tree sizes and spacing.
3. Accumulations of large-size dead standing and fallen trees that are high relative to earlier stages.
4. Decadence in the form of broken or deformed tops or bole and root decay.
5. Multiple canopy layers.
6. Canopy gaps and understory patchiness.

Compositionally, old-growth encompasses both older forests dominated by early seral species, such as fire-dependent species, and forests in later successional stages dominated by shade tolerant species. Rates of change in composition and structures are slow relative to younger forests. Different stages or classes of old growth will be recognizable in many forest types.

Sporadic, low to moderate severity disturbances are an integral part of the internal dynamics of many old-growth ecosystems. Canopy openings resulting from the death of overstory trees often give rise to patches of small trees, shrubs, and herbs in the understory.

Old-growth is not necessarily "virgin" or "primeval." Old-growth could develop following human disturbances.

The structure and function of an old-growth ecosystem will be influenced by its stand size and landscape position and context.

Dated: December 26, 1990.

David F. Jolly,

Regional Forester.

[FR Doc. 91-309 Filed 1-7-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: Current Population Survey—June 1991.

Form Number(s): CPS-1, CPS-260, CPS-686.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 2,565 hours.

Number of Respondents: 57,000.

Avg. Hours Per Response: 2.75 minutes.

Needs and Uses: The Census Bureau uses this supplement to the Current Population Survey to collect data on the size and characteristics of the foreign-born population to evaluate current immigration patterns and to study the effects of immigration on population growth. The emigration portion of the survey employs multiplicity sampling and relies on reporting by CPS respondents of immediate relatives who no longer live in the U.S. to measure the size of the U.S. emigrant population living abroad. These data will be used by the academic community, the Census Bureau, and other government agencies to assess the effect of the Immigration Reform and Control Act of 1986 and to develop analytic estimates of emigration occurring during 1980–1990.

Affected Public: Individuals or households.

Frequency: Periodically.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: Janaury 3, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-336 Filed 1-7-91; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 495]

Resolution and Order Approving the Application of the Indiana Port Commission for a Foreign-Trade Zone in Clark County, IN; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

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

The Board, having considered the matter, hereby orders:

After consideration of the application of the Indiana Port Commission, filed with the Foreign-Trade Zones Board on July 17, 1989, requesting a grant of authority for establising, operating, and maintaining a general-purpose foreign-trade zone in Clark County, Indiana, within the Louisville Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

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

Grant of Authority to Establish, Operate, and Maintain a Foreign-Trade Zone in Clark County, Indiana Within the Louisville Customs Port of Entry

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

Whereas, the Indiana Port Commission (the Grantee), has made application (filed July 17, 1989, FTZ Docket 12–89, 54 FR 30773, 7/24/89) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Clark County, Indiana, within the Louisville Customs port of entry;

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

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of

establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 170, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

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

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

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

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

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

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 27th day of December, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Robert Mosbacher,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 91–256 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 497]

Resolution and Order Approving With Restriction the Application of the Louisville and Jefferson County Riverport Authority for Special-Purpose Subzone Status at the Hitachi Auto Parts Plant, Harrodsburg, KY; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

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

The Board, having considered the matter, hereby orders:

After consideration of the application of the Louisville and Jefferson County Riverport Authority, grantee of FTZ 29, filed with the Foreign-Trade Zones Board (the Board) on March 30, 1988, requesting authority for special-purpose subzone status at the automobile components manufacturing plant of Hitachi Automotive Products (USA), Inc. (subsidiary of Hitachi, Ltd.), located in Harrodsburg, Kentucky, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations would be satisfied and that the proposal would be in the public interest if approval were subject to a restriction that would require that privileged foreign status be elected on all foreign merchandise admitted to the proposed subzone, except for merchandise which is used in the manufacture of high-tech products (i.e., mass air flow meters, throttle bodies, engine control modules, and idle speed controls) and in the manufacture of integrated circuits incorporated into auto components produced at the plant, approves the application, subject to the foregoing restriction.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue an appropriate Board Order.

Grant of Authority to Establish a Foreign-Trade Subzone in Harrodsburg, Kentucky

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

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, has made application (filed March 30, 1988, FTZ Docket 19–88, 53 FR 12051, 4/12/88), in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile components manufacturing plant of Hitachi Automotive Products (USA), Inc., located in Harrodsburg, Kentucky;

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

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, Therefore, in accordance with the application filed March 30, 1988, the Board hereby authorizes the establishment of a subzone at the Hitachi plant in Harrodsburg, Kentucky, designated on the records of the Board as Foreign-Trade Subzone No. 29F at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and regulations issued thereunder, to the restriction in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto any necessary permits shall be obtained from federal, state, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone facility in the performance of their official duties.

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

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

States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zone Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 21st day of December, 1990, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Eric I. Garfinkel,

Assistant Secretary of Commerce, for Import Administration, Chairman, Committee of Alternates.

[FR Doc. 91–257 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 500]

Temporary Extension of Authority With Restrictions for Subzones 22C, 22D, and 22E, Power Packaging, Inc. Chicago, IL, Area

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, on March 23, 1987, the Board conditionally approved an application submitted by the Illinois International Port District (IIPD), grantee of FTZ 22, for foreign-trade subzone status at three food products manufacturing plants of Power Packaging, Inc. (PPI), in Carol Stream (SZ 22C), West Chicago (SZ 22D), and St. Charles (SZ 22E), Illinois (Board Order 347, 52 FR 10246);

Whereas, approval was subject to a 2-year time restriction (ending on 6/29/89) and a condition that limits the use of zone procedures to the manufacture of products that are subject to certain sugar-containing product quotas;

Whereas, on April 6, 1989, IIPD made application to the Board (FTZ Docket 4–89, 54 FR 15480) for a 2-year extension of authority;

Whereas, authority was temporarily extended to July 1, 1990 (Board Order 435, 54 FR 28455), and again to December 31, 1990 (Board Order 473, 55 FR 19092);

Whereas, based on a FTZ Staff report, the Board, noting that the remaining part of the request in the application involves an extension of only six months, finds that the short-term extension would be in the public interest;

Now Therefore, the Board hereby orders:

That the authority for Subzones 22C, D, and E is extended to June 29, 1991, subject to all of the other conditions in Board Orders 347, 435, and 473.

Signed at Washington, DC, this 28th day of December, 1990.

Francis J. Sailer,

Acting Assitant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91–258 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 496]

Approval for Expansion of Foreign-Trade Zone 43, Battle Creek, Michigan

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign–Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the City of Battle Creek, Michigan, Grantee of Foreign-Trade Zone No. 43, has applied to the Board for authority to expand its general-purpose zone at the Fort Custer Industrial Park in Battle Creek, Michigan, within the Battle Creek Customs port of entry;

Whereas, the application was accepted for filing on April 20, 1989, and notice inviting public comment was given in the **Federal Register** on May 8, 1989 (Docket 8–89, 54 FR 19581);

Whereas, the application was amended on October 12, 1990;

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Battle Creek area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone at the Fort Custer Industrial Park in Battle Creek in accordance with the application filed on April 20, 1989, as amended. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the district Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

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

Francis J. Sailer,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91–260 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 498]

Transfer of Subzone Designation for Foreign-Trade Subzone 23A, Xerox Corporation Photocopier Manufacturing Plant, Webster, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (Docket 42–90, filed April 26, 1990) from the County of Erie, New York, grantee of Foreign Trade Zone 23, Erie County, New York, for a transfer of the grant of authority for Subzone 23A at the photocopier manufacturing plant of Xerox Corporation in Monroe County to the County of Monroe, New York, grantee of Foreign-Trade Zone 141, which has concurred in the request, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied and that the proposal is in the public interest, approves the request and recognizes the County of Monroe as the new grantee of the Xerox Subzone. The designation of the site is changed from Subzone 23A to Subzone 141B.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

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

Francis J. Sailer,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91–261 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 499]

Temporary Extension of Authority With Restrictions for Subzone 41F, Ambrosia Chocolate Company, Milwaukee, WI

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, on March 23, 1987, the Board conditionally approved an

application submitted by the Foreign-Trade Zone of Wisconsin, Ltd. (FTZW), grantee of FTZ 41, for foreign-trade subzone status at the chocolate products manufacturing plant of Ambrosia Chocolate Company in Milwaukee, Wisconsin (Board Order 346, 52 FR 10247);

Whereas, approval was subject to a 2-year time restriction (ending on 4/24/89) and a condition that limits the use of zone procedures to the manufacture of products that are subject to sugar-containing product quotas;

Whereas, on March 2, 1989, FTZW made application to the Board (FTZ Docket 2–89, 54 FR 11257) for a 2-year extension of authority;

Whereas, authority was temporarily extended to May 1, 1990 (Board Order 431, 54 FR 18918), and again to December 31, 1990 (Board Order 472, 55 FR 19093);

Whereas, based on a FTZ Staff report, the Board, noting that the remaining part of the request in the application involves an extension of only four months, finds that the short-term extension would be in the public interest;

Now Therefore, the Board hereby orders:

That the authority for Subzone 41F is extended to April 24, 1991, subject to all of the other conditions in Board Orders 346, 431, and 472.

Signed at Washington, DC, this 28th day of December, 1990.

Francis J. Sailer,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91–259 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–357–405]

Barbed Wire and Barbless Fencing Wire From Argentina; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on barbed wire and barbless fencing wire from Argentina.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–8312/3601.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 45830) its intent to revoke the antidumping duty order on barbed wire and barbless fencing wire from Argentina (49 FR 49126, November 13, 1983). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for an administrative review of the order for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On November 29, and 30, 1990, Keystone Consolidated Industries, Inc., and Insteel Industries, Inc., interested parties, objected to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

Dated: January 3, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91–337 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–058]

Metal-Walled Above-Ground Swimming Pools From Japan; Revocation of Antidumping Finding

AGENCY: International Trade Administration, Import Administration/Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce is revoking the antidumping finding on metal-walled above-ground swimming pools from Japan because it is no longer of any interest to interested parties.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–8312/3601.

SUPPLEMENTARY INFORMATION:

Background

On September 5, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 36301) its intent to revoke the antidumping finding on metal-walled above-ground swimming pools from Japan (42 FR 44881, September 7, 1977).

Additionally, as required by 19 CFR 353.25(d)(4)(ii), the Department served written notice of its intent to revoke this finding on each interested party on the service list. Interested parties who might object to the revocation were provided the opportunity to submit their comments not later than thirty days from the date of publication.

Scope of the Finding

Imports covered by the review are shipments of metal-walled above-ground swimming pools. Through 1988, such merchandise was classifiable under item numbers 657.2590 and 774.5595 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff Schedules (HTS) item number 9905.99.55. The TSUSA and HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of any interest to interested parties. We conclude that there is no interest in an antidumping finding when no interested party has requested an administrative review for four consecutive review periods (19 CFR 353.25(d)(4)(i)) and when no interested party objects to revocation.

In this case we have received no requests for review for five consecutive review periods. Furthermore, no interested party has expressed opposition to revocation. Based on these facts, we have concluded that the antidumping finding covering metal-walled above-ground swimming pools from Japan is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

This revocation applies to all unliquidated entries of metal-walled above-ground swimming pools from Japan entered, or withdrawn from warehouse, for consumption on or after September 5, 1990. Entries made during the period September 1, 1989 through September 4, 1990, will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department

will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 5, 1990, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries.

This notice is in accordance with 19 CFR 353.25(1990).

Dated: January 2, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-264 Filed 1-7-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-401]

Red Raspberries From Canada; Final Results and Termination in Part of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: In response to requests by respondents and one importer, the Department of Commerce has conducted administrative reviews of the antidumping duty order on fresh and frozen red raspberries from Canada. The first of these reviews covers five processors/exporters of this merchandise to the United States and the period June 1, 1987 through May 31, 1988. The subsequent review covers two processors/exporters of this merchandise to the United States and the period June 1, 1988 through May 31, 1989.

We gave interested parties an opportunity to comment on our preliminary results, published on July 9, 1990. Based on our analysis of the comments received, we have changed the final results from our preliminary results of review.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Mark Spellun, Anne D'Alauro, 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 July 9, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 28075) the preliminary results and terminations in part of its administrative reviews of the antidumping duty order on certain red raspberries from Canada (50 FR 26019; June 24, 1985). Reviews of Mukhtiar and Sons Packers for the June 1, 1987 through May 31, 1988 period and of Landgrow Fruit Packers and Valley Berries for the June 1, 1988 through May 31, 1989 period were terminated in the July 9, 1990 notice. We have now completed the administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by these reviews are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. Through 1988, fresh raspberries were classified under item numbers 146.5400 and 146.7400 of the Tariff Schedules of the United States Annotated (TSUSA) and frozen raspberries under item number 146.7400 of the TSUSA. These products are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 0810.20.90, 0810.20.10, and 0811.20.20. The TSUSA and HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The review for the period June 1, 1987 through May 31, 1988 covers five processors/exporters of fresh and frozen red raspberries to the United States. The review of the June 1, 1988 through May 31, 1989 period covers two processors/exporters.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioners, the Washington Red Raspberry Commission and the Red Raspberry Committee of the Oregon Caneberry Commission, and the respondents, B.C. Blueberry Co-op, Valley Berries, Landgrow Fruit Packers, Jesse Processing Ltd., and Clearbrook Packers.

Comment 1: The petitioners note that the Department failed to make an adjustment to exporters sale price (ESP) for inventory carrying costs. They argue that the Department should adhere to its standard practice and calculate a deduction to ESP, and the home market price to which it is being compared, for imputed inventory carrying costs.

Department's position: We examined carrying costs in both the United States and Canadian markets during the two review periods. Our analysis revealed that an adjustment for imputed inventory carrying costs between the two markets would have an *ad valorem* effect of less than 0.33 percent of the foreign market value of the subject merchandise. Therefore, pursuant to section 353.59 of the Department's regulations, we have disregarded this adjustment.

Comment 2: The petitioners note that respondents, B.C. Blueberry Co-op and Clearbrook Packers, imputed a commission payment to their own management when the sale of raspberries was arranged through the company as opposed to being handled by an independent broker. They argue that there was never an actual payment of a commission to company personnel; instead, a management commission was claimed based on the fact that selling is one of management's responsibilities. The amount claimed was based on the percentage that would have been paid had a broker arranged the sale. In conclusion, no adjustment should be allowed for commissions which were simply imputed for company management.

Department's position: We agree with the petitioner that the commission claimed for management was not an actual commission expense that the company incurred. For this reason, we have omitted this adjustment in our final results of review.

Comment 3: The petitioners contend that freight charges incurred prior to sale in the home market should not be directly deducted from foreign market value (FMV), because it is the Department's practice to permit direct deductions to FMV for home market transportation costs only when the merchandise is sold before the costs are incurred. In the present case, respondents claim a direct deduction for transportation between the processing plant and the Canadian cold storage facility when the merchandise in question was sold from the Canadian cold storage facility and not from the processing plant.

Department's position: We disagree with petitioner. Our analysis would clearly be biased if we did not deduct freight expenses incurred on home market sales. United States price (USP) is in all cases based on ex-factory prices, that is, the Department deducts all (pre- and post-sale) movement expenses incurred in moving the merchandise from the factory to the point of sale. A fair price-to-price comparison requires that foreign market value, like USP, be based on an ex-factory price. We have, therefore, in accordance with our current practice, deducted freight expense from home market gross unit price (see Television Receivers from Japan, 55 FR 35916, 35920 (1990)).

Comment 4: A respondent, B.C. Blueberry Co-op, argues that the Department made a clerical error in calculating the commission on a specific home market sale in November of 1987.

Department's position: The clerical error noted by B.C. Blueberry Co-op concerned an imputed commission for B.C. Blueberry Co-op's management which is no longer included in our analysis. See the Department's position in response to comment 2.

Comment 5: A respondent, Clearbrook Packers, contends that its monthly home market indirect selling expenses were incorrectly calculated using a simple rather than a weighted average. Since home market prices were weight averaged, they argue, it would improve consistency to weight average indirect selling expenses.

Department's position: We agree with the respondent that home market indirect selling expenses should be weight-averaged by month in order to correspond with the monthly weighted average home market prices. Accordingly, for our final results of review we have calculated monthly weight averaged home market indirect selling expenses for all respondents.

Comment 6: A respondent, Landgrow Fruit Packers, argues that the Department should have used its home market sale as the basis of foreign market value rather than using its third country sale, given the statutory and regulatory preference for the former over the latter. They argue that the home market sale is contemporaneous with U.S. sales since the terms of the sale were set in a July 24, 1987 telex received from the customer. They specifically state, "[u]nder the U.S. law of contracts, the terms were settled in July 24, 1987, and there is nothing in the record to support the theory that Landgrow's partial performance changed the terms of the contract so as to establish a different sale." The respondent then comments on necessary adjustments to be made to the home market price in deriving foreign market value.

Department's position: We disagree. It is the Department's practice to determine the date of sale as that date on which the essential terms of sale, specifically price and quantity, are established. See Final Results of Antidumping Duty Administrative Review and Tentative determination to Revoke in Part: Titanium Sponge from Japan (54 FR 13403, 13404; April 3, 1989), *aff'd, Toho Titanium Co.* v. *United States*, 743 F. Supp. 888 (CIT 1990). The July 24, 1987 telex requested that Landgrow provide a specific quantity of raspberries to a Canadian customer by a specified date, which Landgrow never supplied. Instead, Landgrow made one shipment of a limited quantity of raspberries to this customer six months after the date of the telex. The Department determined that the home market sale date was the date of shipment rather than the telex date because Landgrow did not sell the merchandise pursuant to the terms of the telex, as reported by the respondent and verified by the Department (see p. 3 of the verification report dated 5/22/90 for Landgrow Fruit Packers). Based on the foregoing, the Department correctly concluded that Landgrow's home market sale was not contemporaneous with sales made to the United States during the period of review.

Comment 7: A respondent, Valley Berry, argues that certain calculations regarding their company are in error. Valley Berry claims that home market commissions paid to unrelated distributors were erroneously treated as indirect selling expenses. Also, Valley Berry claims that the Department must adjust for cost differences between the fresh berries sold in the U.S. market and the frozen berries sold in the home market. Furthermore, for both purchase price (PP) and ESP sales, the Department has incorrectly used a simple average for home market indirect selling expenses rather than a weighted average.

Department's response: We agree that commissions in both markets were paid to unrelated distributors. In our final results of review, these commissions have been treated as direct selling expenses. A difference in merchandise adjustment has also been made to account for the fact that the berries sold in the home market were frozen while those berries sold in the U.S. were fresh. As discussed in our response to comment 5, the Department has used a weighted average for home market indirect selling expenses for all respondents in our final calculations.

Comment 8: The respondents argue that the Washington Red Raspberry Commission (WRRC) and the Red Raspberry Committee of the Oregon Caneberry Commission (OCC), which they claim are composed primarily of growers of red raspberries, do not qualify as interested parties in these proceedings under the Department's regulations.

Department's position: This issue has already been addressed by the Department in the context of the release of proprietary information under administrative protective order (APO). *See* the Department's memorandum accompanying the APO dated 8/10/90 and the letter to Cameron and Hornbostel of the same date.

Final Results of Review

As a result of our review, we determine the weighted average percentage dumping margins to be as follows:

Processor/exporters	Review period	Margin (percent)
Valley Berries	6/1/87-5/31/88	1.04
B.C. Blueberry Co-op	6/1/87-5/31/88	0.67
	6/1/88-5/31/89	0.05
Clearbrook Packers	6/1/87-5/31/88	1.26
Landgrow Fruit Packers	6/1/87-5/31/88	6.45
Jesse Processing	6/1/87-5/31/88	0
	6/1/88-5/31/89	1.36

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent margin shall be required for these manufacturers/exporters. Because the most recent margin for B.C. Blueberry Co-op is *de minimis*, no cash deposit will be required for this processor/exporter. For shipments from the remaining known manufacturers and exporters not covered by these reviews, the cash deposit will continue to be at the latest rate applicable to each of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred between June 1, 1988 and May 31, 1989, and who is unrelated to any reviewed firm, a cash deposit of 6.45 percent shall be required. For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after May 31, 1989 and who is unrelated to any reviewed firm, a cash deposit of 1.36 percent shall be required. These deposit requirements are effective for all shipments of Canadian red raspberries entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until the publication of the final results of the next administrative review.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C.

1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: December 30, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-338 Filed 1-7-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-702]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of 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 electrical conductor aluminum redraw rod from Venezuela for the period August 17, 1988 through December 31, 1988. There are no known unliquidated entries from the review period. However, because of a program-wide change, we are changing the rate of cash deposit of estimated countervailing duties to 5.50 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 1989, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (54 FR 32364) of the countervailing duty order on certain electrical conductor aluminum redraw rod from Venezuela (53 FR 31904; August 22, 1988). On August 31, 1989, the Government of Venezuela requested an administrative review of the order. We initiated the review, covering the period August 17, 1988 through December 31, 1988, on September 20, 1989 (54 FR 38712). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of certain electrical conductor alumium redraw rod from Venezuela, which is wrought rod of aluminum electrically conductive and containing not less than 99 percent of aluminum by weight. During the review period, such merchandise was classifiable under item numbers 618.1520 and 618.1540 of the *Tariff Schedules of the United States Annotated*. This merchandise is currently classifiable under item numbers 7604.10.30 and 7604.29.30 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers the period August 17, 1988 through December 31, 1988 and nine programs.

In its questionnaire response, the Government of Venezuela reported no shipments of the subject merchandise to the United States during the review period. We subsequently confirmed with the United States Customs Service that there were no known unliquidated entries of this merchandise from the review period.

Analysis of Programs

(A) Export Bond Program

Under the Export Bond program established in 1973 by the Law on Export Incentives, Venezuelan redraw rod exporters are remunerated for their exports by the Government of Venezuela in the form of export bonds which may be used to pay taxes or sold for cash. The value of the export bond is based on a percentage, known as the export bond percentage, of the FOB value of the product exported. The applicable export bond percentage for a company corresponds to that company's National Value Added (VAN) percentage. The face value of the export bond is calculated by multiplying the export bond percentage by the FOB value of the exported goods expressed in bolivares.

To receive an export bond, a firm submits to its commercial bank the invoice and shipping documents for the exported merchandise. The bank reviews the documents and remits them to the Central Bank of Venezuela which issues the export bond. Because this program is limited to exporters, we determine that this program confers an export subsidy.

On August 8, 1990, Decree 1061 reduced the export bond percentage to 5.00 percent for products, such as redraw rod, with a VAN of between 30 and 98 percent. Therefore, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefit from this program to be 5.00 percent *ad valorem*.

(B) Other Programs

We also examined the following programs:

1. Preferential Pricing of Inputs Used to Produce Exports
2. Short-Term FINEXPO Financing
3. Interest-Free Loan from a Government-Owned Aluminum Supplier

We preliminarily determine that there were no program-wide changes with respect to these programs, and the best information we have concerning benefits are the rates found during the investigation. Therefore, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefits from these programs to be 0.22 percent *ad valorem*, 0.14 percent *ad valorem* and 0.14 percent *ad valorem*, respectively.

There were no other programs found to be used by manufacturers, producers, or exporters of redraw rod in Venezuela during the investigation.

Preliminary Results of Review

As a result of our review, we preliminarily determine that there are no known unliquidated entries of the subject merchandise exported to the United States from the period August 17, 1988 through December 31, 1988. Because of a program-wide change in the benefit from the Export Bond Program, we preliminarily determine the estimated net subsidy to be 5.50 percent *ad valorem*.

Therefore, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 5.50 percent of the f.o.b. invoice price on all shipments of the subject 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 calculations 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).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

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 31, 1990.

Francis J. Sailer,

Acting Assistant, Secretary for Import Administration.

[FR Doc. 91-263 Filed 1-7-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-538-801]

Initiation of Countervailing Duty Investigation: Shop Towels From Bangladesh

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Bangladesh of shop towels, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If this investigation proceeds normally, we will make our preliminary determination on or before March 8, 1991.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Kristal A. Eldredge or Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0631 and (202) 377-5414, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 13, 1990, we received a petition in proper form filed by Milliken & Company, on behalf of the U.S. industry producing shop towels. Petitioner filed an amendment to the petition on December 26, 1990. In compliance with the filing requirements of § 355.12 of the Department's regulations (19 CFR 355.12), petitioner alleges that manufacturers, producers, or exporters of shop towels in Bangladesh receive certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Bangladesh is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, sections 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, the petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Bangladesh materially injure, or threaten material injury to, a U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party as defined under section 771(9)(C) of the Act and because it has filed the petition on behalf of the U.S. industry manufacturing the product which is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Initiation of Investigation

Under section 702(c) of the Act, we must determine whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that: (1) Alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on shop towels from Bangladesh and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Bangladeshi manufacturers, producers, or exporters of shop towels receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before March 8, 1991.

Scope of Investigation

The products covered by this investigation are shop towels. Shop towels are absorbent industrial wiping cloths made from a loosely woven fabric. The fabric may be either 100 percent cotton or a blend of materials. Shop towels are primarily used for wiping machine parts and cleaning ink, grease, oil, or other unwanted substances from machinery or other items in industrial or commercial settings. Shop towels are currently provided for in subheadings 6307.10.2005 and 6307.10.2015, of the *Harmonized Tariff Schedule* (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

Allegations of Bounties or Grants

Petitioner lists a number of practices by the Government of Bangladesh which allegedly confer bounties or grants on manufacturers, producers, or exporters of shop towels in Bangladesh. We are initiating an investigation of the following programs:

1. Concessional Export Credit Financing
2. Export Performance Benefits
3. Concessional Duty Treatment for Exporters
4. Income Tax Rebates
5. Rebates on Insurance Premiums
6. Cash Assistance for Exports

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: December 31, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-262 Filed 1-7-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-807]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination: Silicon Metal From Brazil

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We are extending the deadline for the final determination in the countervailing duty investigation of silicon metal from Brazil to April 15, 1991.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Mi-Yong Kim or Larry Sullivan, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377–0189 or 377–0114, respectively.

SUPPLEMENTARY INFORMATION: On November 27, 1990, we published a preliminary negative countervailing duty determination pertaining to silicon metal from Brazil (55 FR 49322). The notice stated that, if the investigation proceeded normally, we would make our final countervailing duty determination not later than February 4, 1991.

On November 26, 1990, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)(1)), petitioners requested an extension of the deadline date for the final countervailing duty determination to correspond to the date of the final antidumping duty determination on the same product, which is April 15, 1991.

Public Comment:

Because no parties requested a public hearing within ten days of the publication of our preliminary determination, we will not hold a public hearing in this investigation. We note that this hearing was originally scheduled for January 22, 1991.

An interested party may submit ten copies of the business proprietary version and five copies of the public version of case briefs to the Assistant Secretary by March 18, 1991. Ten copies of the business proprietary version, and five copies of the public version, of rebuttal briefs must be submitted to the Assistant Secretary by March 25, 1991. Written arguments should be submitted in accordance with § 355.38 of the Commerce Department's regulations (19 CFR 355.38) and will be considered only if received within the time limits specified in this notice.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 705(d) of the Act. This notice is published pursuant to section 705(d) of the Act.

Dated: December 31, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–265 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 80901–0220]

[RIN 0693–AA68]

Proposed Revision of Federal Information Processing Standard (FIPS) 140, General Security Requirements for Equipment Using the Data Encryption Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMMARY: The purpose of this notice is to announce the proposed revision of Federal Information Processing Standard (FIPS) 140, General Security Requirements for Equipment Using the Data Encryption Standard, for Federal agency use. This proposed revision specifies the security requirements that are to be satisfied by a cryptographic module utilized within a security system to be used in the protection of unclassified information.

Notice of NIST's intent to revise FIPS 140 was announced in the Federal Register on December 9, 1988 (53 FR 49722). This proposed revision was developed by a government/industry committee organized after the December 9, 1988 notice.

Prior to the submission of this proposed revision to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views. NIST especially invites review and comments by the small business community on the usefulness of the four levels of security proposed in the revised standard.

This proposed revision contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, Room B–64, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATES: Comments on this proposed revision must be received on or before Apirl 8, 1991.

ADDRESSES: Written comments concerning the revision should be sent to: Director, National Computer Systems Laboratory, Attn: Revision of FIPS 140, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Mr. Miles E. Smid, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2938.

SUPPLEMENTARY INFORMATION:

Overview of FIPS 140–1

This FIPS was developed by a government/industry working group composed of both users and vendors. The working group identified requirements for four security levels for cryptographic modules to provide for a wide spectrum of data sensitivity (e.g., low value administrative data, million dollar funds transfers, and life protecting data), and a diversity of application environments (e.g., a guarded facility, an office, and a completely unprotected location). These four levels of security will allow cost-effective solutions that are appropriate for different degrees of data sensitivity and different applications environments.

This approach provides solutions for today's security applications, as well as for future requirements. The multiple levels will enable users to acquire standard security features that meet their application needs, and to pay only for needed features. These applications vary in the sensitivity of the information processed. The device which generates the cryptographic keys for the entire system is often considered more sensitive than any single device which only protects a limited amount of data. In some cases the threat to sensitive information comes from a single individual with few resources while in other cases the threat could come from the intelligence organization of another country with vast resources. Some applications may protect travel orders while others protect human life.

Each security level provided for in this standard offers a significant increase in security over the preceding level. This approach provides for cost effective security because the user can select a product with the lowest security level satisfying the requirements of the application. The cost of unnecessary security features can therefore be avoided. Further, this standard is consistent with the U.S. Trusted Computer Systems Evaluation Criteria (the Orange Book) which provides for multiple security levels in computer operating systems.

Level 1

Level 1 provides the lowest level of security. This level specifies basic security requirements (e.g., the encryption algorithm must be approved by NIST), but it differs from the higher levels in several respects. No physical security mechanisms are required beyond the requirement for production grade equipment. This level of security offers significant improvements over previously used techniques.

Smart Cards

It is commonly felt that smart cards enhance the security of most systems. Many vendors use smart cards as a secure storage medium when distributing Data Encryption Standard (DES) cryptographic keys. Most smart cards employ some cryptographic algorithm, and several implement the DES algorithm. NIST has already validated smart cards as correctly implementing the DES algorithm. In the longer term, public key cryptographic algorithms will be implemented on smart cards as well.

Add on Security Products

Many vendors produce DES PC encryption boards which will meet the Level 1 requirements. NIST has validated several of these boards as correctly calculating a Message Authentication Code in conformance with FIPS 113 (Computer Data Authentication).

Software Encryption

This FIPS allows for software cryptographic functions to be performed in a general purpose personal computer at Level 1. NIST believes that such implementations are required in low level security applications. The implementation of PC cryptographic software is less expensive than hardware based mechanisms. This will enable agencies to avoid the situation that exists today whereby the decision is often made not to protect data because hardware is considered too expensive.

Level 2

Level 2 improves the physical security of Level 1 by adding the requirement for tamper evident coatings or seals. Coatings and seals are available today. The basic security concept of coatings and seals at Level 2 is that the coating or seal would be placed on the module so that the coating or seal would have to be broken in order to attain physical access to the plaintext cryptographic keys and other critical security parameters within the cryptographic module.

This provides a low cost means for physical security and avoids the cost of the higher level of protection involving hard opaque coatings or significantly more expensive tamper detection and zeroization circuitry.

Level 2 provides for software cryptography in multi-user timeshared systems when used in conjunction with a C2 level trusted operating system. It enables C2 multi-user time shared systems to implement cryptographic functions in software, when this level of security is cost effective.

Level 3

Level 3 requires enhanced physical security. This level of physical protection would be required to meet the Department of Treasury Criteria and Procedures for Testing, Evaluating and Certifying Authentication Devices for Federal E.F.T. Use. Unlike Level 2 which attempts to detect when tampering has occurred, Level 3 attempts to prevent the intruder from gaining access to critical security parameters held within the module. For example, if the cover is removed from a multiple-chip embedded module, the plaintext keys are zeroized. Devices which conform to FIPS 140 (Formerly FS 1027) implement physical security which is generally consistent with Level 3. This level enables agencies to acquire equipment that is compatible with existing equipment.

Level 3 provides for a significantly higher level of software and firmware assurance than Level 1 and Level 2. The designer must provide a formal statement (i.e., a mathematical statement) of the rules of operation of the software. Automated tools may then be used to verify that the software is consistent with the formal statement. NIST has already used this technique when developing a token based access control system which employs cryptography in a smart token. The method successfully uncovered a security flaw in the firmware which would otherwise have gone undetected.

Level 3 provides for software cryptography in multi-user timeshared systems where a B2 secure operating system is employed. A B2 operating system would have the capability to protect cryptographic software and critical security parameters from other untrusted software that may run on the system. Such a system could prevent plaintext from being mixed with ciphertext, and it could prevent the unintentional transmission of plaintext keys. Many security experts feel that a B2 operating system is needed in order for software cryptography to be implemented with a level of trust equal to hardware cryptography.

Level 4

Level 4 provides the highest level of security. Although most existing products do not meet this level of security, some products are commercially available which meet many of the Level 4 requirements. Level 4 physical security provides for an envelope of protection around the cryptographic module. Whereas the tamper detection circuits of lower layer modules may be bypassed, the intent of Layer 4 protection is to detect a penetration of the device from any direction. For example, if one attempts to cut through the cover of the cryptographic module, the attempt should be detected and all critical security parameters should be zeroized. Level 4 devices are particularly useful for operation in a physically unprotected environment where an intruder may readily tamper with the device.

Layer 4 provides for physically (rather than logically) separated plaintext, ciphertext, and key entry paths. This feature is often required of high quality cryptographic devices. It enables users with high security applications to specify the appropriate cryptographic devices.

Relationship of this Standard to Other Computer Security Standards

NIST emphasizes the importance of computer security awareness and of making information security a management priority that is communicated to all employees. Since computer security requirements will vary for different applications, organizations should identify their information resources and determine the sensitivity to and potential impact of losses. Controls should be based on the potential risks and selected from available controls including administrative policies and procedures, physical and environmental controls, information and data controls, software development and acquisition controls, and backup and contingency planning.

NIST has developed many of the needed basic controls to protect computer information, and has issued standards and guidelines covering both management and technical approaches to computer security. These include standards for cryptographic functions which will be implemented in cryptographic modules as specified in this standard. This standard is expected to be the framework standard for all NIST crytographic standards that are implemented in products. This framework will include the Data Encryption Standard (FIPS 46–1), DES

Modes of Operation (FIPS 81), Computer Data Authentication (FIPS 113), and future standards such as FIPS for key generation, key distribution, public key cryptography, and public key certificate distribution. In addition, NIST plans to establish a validation program whereby cryptographic modules may be tested for conformance to this standard.

Dated: January 2, 1991.

John W. Lyons,

Director.

Federal Information Processing Standards Publication 140–1

DRAFT

Announcing the Standard for Security Requirements for Cryptographic Modules

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. Security Requirements for Cryptographic Modules (FIPS PUB 140–1).

2. Category of Standard. ADP Operations, Computer Security.

3. Explanation. This standard specifies the security requirements that are to be satisfied by a cryptographic module utilized within a security system to be used in protecting unclassified information. The standard provides four increasing, qualitative levels of security: Level 1, Level 2, Level 3, and Level 4. These levels are intended to cover the wide range of potential applications and environments in which cryptographic modules may be employed. The security requirements cover areas related to the secure design, implementation and use of a cryptographic module. These areas include basic design and documentation, module interfaces, authorized roles and services, physical security, software security, operating system security, key management, cryptographic algorithms, electromagnetic interference/electromagnetic compatibility (EMI-EMC), self/testing, and design engineering.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. Department of Commerce, National Institute of Standards and Technology, (National Computer Systems Laboratory).

6. Cross Index.

a. FIPS PUB 31, Guidelines to ADP Physical Security and Risk Management.

b. FIPS PUB 39, Glossary for Computer Systems Security.

c. FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974.

d. FIPS PUB 46–1, Data Encryption Standard.

e. FIPS PUB 48, Guidelines on Evaluation of Techniques for Automated Personal Identification.

f. FIPS PUB 65, Guideline for Automated Data Processing Risk Analysis.

g. FIPS PUB 73, Guidelines for Security of Computer Applications.

h. FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

i. FIPS PUB 81, DES Modes of Operation.

j. FIPS PUB 83, Guideline of User Authentication Techniques for Computer Network Access Control.

k. FIPS PUB 87, Guidelines for ADP Contingency Planning.

l. FIPS PUB 102, Guideline for Computer Security Certification and Accreditation.

m. FIPS PUB 112, Password Usage.

n. FIPS PUB113, Computer Data Authentication.

o. Special Publication 500–20, Validating the Correctness of Hardware Implementations of the NBS Data Encryption Standard.

p. Special Publication 500–54, A Key Notarization System for Computer Networks.

q. Special Publication 500–57, Audit and Evaluation of Computer Security II: System Vulnerabilities and Controls.

r. Special Publication 500–61, Maintenance Testing for the Data Encryption Standard.

s. Special Publication 500–109, Overview of Computer Security Certification and Accreditation.

t. Special Publication 500–120, Security of Personal Computer Systems—A Management Guide.

u. Special Publication 500–133, Technology Assessment: Methods for Measuring the Level of Computer Security.

v. ANSI X9.17–1985, Financial Institution Key Management (Wholesale).

w. Criteria and Procedures for Testing, Evaluating, and Certifying Message Authentication Devices, U.S. Department of Treasury, Second Edition, September 1, 1986.

x. DOD 5200.28–STD, Department of Defense Trusted Computer System Evaluation Criteria.

Other NIST publications may be applicable to the implementation and use of this standard. A list (Publications List 91) of currently available FIPS, other computer security publications, and ordering information can be obtained from NIST.

7. Applicability. This standard is applicable to all Federal departments and agencies that use cryptographic-based security systems within ADP systems and within voice systems to protect unclassified information that is not subject to either section 2315 of title 10, U.S. Code (The Warner Amendment of the Brooks Act), or section 3502(2) of title 44, U.S. Code (The Paperwork Reduction Act). This standard shall be used by all Federal departments and agencies in designing, acquiring, implementing and using cryptographic-based security systems within ADP and voice systems that they operate or that are operated for them under contract. Non-Federal government organization are encouraged to adopt and use this standard when it provides the desired security for protecting valuable or sensitive information.

8. Applications. This standard specifies security requirements that shall be satisfied by cryptographic-based security systems used to protect unclassified information in the Federal government. Federal agencies or departments which use cryptographic-based security systems for protecting classified information may use those systems for protecting unclassified information in lieu of systems that comply with this standard.

Cryptographic-based security systems may be utilized in various applications (e.g., telecommunications, data storage, access control and personal identification, hand-held radio, facsimile) and in various environments (e.g., centralized computer facilities, office environments, hostile environments). The cryptographic services (e.g., encryption, authentication, digital signature, key management) provided by a cryptographic module will be based on many factors which are specific to the application and environment. The security level of a cryptographic module shall be chosen to provide a level of security appropriate for the security requirements of the application and environment in which the module is to be utilized and the security services which the module is to provide. The security requirements for a particular security level include both the security requirements specific to that level and the security requirements that apply to all modules regardless of the levels. System characteristics not related to security (e.g., telecommunications interoperability) are beyond the scope of this standard.

9. Specifications. Federal Information Processing Standard (FIPS) 140–1, *Security Requirements for Cryptographic Modules* (affixed).

10. Implementations. This standard covers implementations of cryptographic modules including, but not limited to, electronic components or modules, computer software programs or modules, computer firmware, or any combination thereof. Cryptographic modules that are validated by NIST will be considered as complying with this standard. Information about the FIPS 140–1 validation program can be obtained from the National Institute of Standards and Technology, National Computer Systems Laboratory, Gaithersburg, MD 20899.

11. Cryptographic algorithms and cryptographic key generation and key distribution systems. Cryptographic-based security systems that comply with this standard shall employ cryptographic algorithms and cryptographic key generation and key distribution systems that have been approved by NIST for protecting unclassified information in the Federal Government. Approved cryptographic algorithms and cryptographic key generation and key distribution systems include those that have been issued as Federal Information Processing Standards (FIPS). Information about approved cryptographic algorithms and cryptographic key generation and key distribution systems can be obtained from NIST.

12. Export Control. Certain cryptographic devices and technical data regarding them are deemed to be defense articles (i.e., inherently military in character) and are subject to Federal government export controls as specified in title 22, Code of Federal Regulations, parts 120–128. Some exports of cryptographic modules conforming to this standard and technical data regarding them must comply with these Federal regulations and be licensed by the Office of Munitions Control of the U.S. Department of State. Other exports of cryptographic modules conforming to this standard and technical data regarding them fall under the licensing authority of the Bureau of Export Administration of the U.S. Department of Commerce. The Department of Commerce is responsible for licensing cryptographic devices used for authentication, access control, proprietary software, automatic teller machines (ATMs), and certain devices used in other equipment and software. For advice concerning which agency has licensing authority for a particular cryptographic device, please contact the respective agencies.

13. Implementation Schedule. This standard becomes effective six months after publication of a notice in the **Federal Register** of its approval by the Secretary of Commerce.

From the effective date of this standard until the FIPS 140–1 validation program is established by NIST, agencies shall require written affirmation from manufacturers as evidence that cryptographic modules contained in products are in conformance with the provisions of this standard. A copy of the affirmation shall be sent to the Director, National Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899.

For a one year period following the establishment of the FIPS 140–1 validation program, agencies shall procure either products with validated FIPS 140–1 cryptographic modules, or products whose cryptographic modules have been submitted for FIPS 140–1 validation. After this period, only FIPS 140–1 validated cryptographic modules will be considered as meeting the provisions of this standard.

For a two year period following the effective date of this standard, equipment complying to FIPS 140, General Security Requirements for Equipment Using the Data Encryption Standard (formerly Federal Standard 1027), may be used in lieu of modules that comply with this standard. This equipment shall either be endorsed by the National Security Agency (NSA) as complying to Federal Standard 1027, or shall be affirmed in writing by the manufacturer as complying to FIPS 140. NSA endorsed equipment shall have been endorsed prior to the approval of this standard. A list of endorsed products (NSA Endorsed Data Encryption Standard (DES) Products List) is available from the NSA. For equipment affirmed by the manufacturer as complying with FIPS 140, a copy of the written affirmation shall have been sent by the manufacturer to the Director of the National Computer Systems Laboratory either prior to the publication of the final version of FIPS 140–1 or during the period following the publication of the final version and the effective date of FIPS 140–1.

14. Qualifications. The security requirements specified in this standard are based upon information provided by many sources within the Federal government and private industry. The requirements are designed to protect against adversaries mounting cost-effective attacks on unclassified government or commercial data (e.g., hackers, organized crime, economic competitors). The primary goal in designing an effective security system is to make the cost of any attack greater than the possible payoff.

While it is the intent of this standard to specify security requirements for a cryptographic module, conformance to this standard does not guarantee that an overall system which utilizes a cryptographic module is secure. The responsible authority in each agency or department shall assure that an overall system provides an acceptable level of security.

Since a standard of this nature must remain flexible enough to adapt to advancements and innovations in science and technology, this standard will be reviewed every 5 years in order to consider new or revised requirements that may be needed to meet technological and economic changes.

15. Waiver Procedure. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after the notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

16. Where to obtain copies. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 140–1 (FIPSPUB140–1), and title. When microfiche is desired, this should be specified. Payment may be made by check, money order, credit card, or deposit account.

[FR Doc. 91–267 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–CN–M

[Docket No. 900102–0254]

RIN 0693–AA80

Approval of Federal Information Processing Standards Publication 120–1, Graphical Kernel System (GKS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a revision of Federal Information Processing Standard 120, Graphical Kernel System (GKS), which will be published as FIPS Publication 120–1.

SUMMARY: On March 20, 1990, notice was published in the **Federal Register** (55 FR 10273) that a revised Federal Information Processing Standard for GKS was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the revised standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective January 1, 1991.

ADDRESSES: Interested parties may purchase copies of this revised standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel R. Benigni, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3266.

Dated: January 2, 1991.

John W. Lyons,

Director.

Federal Information Processing Standards Publication 120–1

(Date)

Announcing the Standard for Graphical Kernel System (GKS)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pusuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. *Name of Standard.* Graphical Kernel System (GKS) (FIPS PUB 120–1).

2. *Category of Standard.* Software Standard, Graphics.

3. *Explanation.* This publication is a revision of FIPS PUB 120. This revision supersedes FIPS PUB 120 and modifies the standard by adding a requirement for validation of GKS implementations that are acquired by Federal agencies.

This publication announces adoption of American National Standard Graphical Kernel System (ANS GKS), ANSI X3.124–1985 which consists of four parts identified in the Specifications section, as a Federal Information Processing Standard (FIPS). ANS GKS specifies a library (or toolbox package) of subroutines for an application programmer to incorporate within a program in order to produce and manipulate two-dimensional pictures. The purpose of the standard is to promote portability of graphics application programs between different installations. The standard is for use by implementors as the reference authority in developing graphics software systems; and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (NIST), National Computer Systems Laboratory (NCSL).

6. *Cross Index.*

a. American National Standard Graphical Kernal System (ANS GKS) Functional Description, ANSI X3.124–1985.

b. American National Standard Graphical Kernel System (ANS GKS) FORTRAN Binding, ANSI X3.124.1–1985.

c. American National Standard Graphical Kernel System (ANS GKS) Pascal Binding, ANSI X3.124.2–1988.

d. American National Standard Graphical Kernel System (ANS GKS) Ada Binding, ANSI X3.124.3–1988.

e. American National Standard Computer Graphics Metafile (ANS CGM), ANSI X3.122–1986.

f. American National Standard Programmer's Hierarchical Interactive Graphics System (ANS PHIGS), ANSI X3.144&X3.144.1–1988.

7. *Related Documents*

a. Federal Information Resources Management Regulation 201–39, Acquisition of Federal Information Processing Resources by Contracting.

b. Federal Information Processing Standards Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

c. Federal Information Processing Standards Publication 128, Computer Graphics Metafile.

d. Federal Information Processing Standards Publication 153, Programmer's Hierarchical Interactive Graphics System (PHIGS).

8. *Objectives.* The primary objectives of this standard are:

—to allow graphics application programs to be easily transported between installations. This will reduce costs associated with the transfer of programs among different computers and graphics devices, including replacement devices.

—to aid manufacturers of graphics equipment by serving as a guideline

for identifying useful combinations of graphics capabilities in a device.

—to encourage more effective utilization and management of graphics application programmers by ensuring that skills acquired on one job are transportable to other jobs, thereby reducing the cost of graphics programmer retraining.

—to aid graphics application programmers in understanding and using graphics methods by specifying well-defined functions and names. This will avoid the confusion of incompatibility common with operating systems and programming languages.

9. *Applicability*

a. This standard is intended for use in computer graphics applications that are either developed or acquired for government use. It is suitable for use in graphics programming applications that employ a broad spectrum of graphics, from simple passive graphics output (where pictures are produced solely by output functions without interaction with an operator) to interactive applications; and which control a whole range of possible graphics devices, including but not limited to vector and raster devices, microfilm recorders, storage tube displays, refresh displays and color displays. Although this standard was not developed specifically for the Printing/Graphics Arts industry, it may be used in these applications whenever desirable.

b. The use of this standard is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the graphics program will be longer than the life of the presently utilized graphics equipment.

—The graphics application or program is under constant review for updating of the specifications, and changes may result frequently.

—The graphics application is being designed and programmed centrally for a decentralized system that employs computers of different makes and models and different graphics devices.

—The graphics program will or might be run on equipment other than that for which the program is initially written.

—The graphics program is to be understood and maintained by programmers other than the original ones.

—The graphics program is or is likely to be used by organizations outside the Federal government (i.e., State and local governments, and others).

c. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that the use of these or any other non-standard language elements may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

10. *Specifications.* American National Standard Graphical Kernel System (ANS GKS), ANSI X3.124–1985, contains the specifications for this standard. The ANS GKS consists of four parts:

—the basic functions for computer graphics programming (ANSI X3.124–1985);

—the FORTRAN programming language binding for GKS (ANSI X3.124.1–1985);

—the Pascal programming language binding for GKS (ANSI X3.124.2–1988); and

—the Ada programming language binding for GKS (ANSI X3.124.3–1988).

The ANS GKS document defines the scope of the specifications, the syntax and semantics of the GKS functions and requirements for a conforming implementation and program. This standard adopts all of these specifications.

The ANS is separated into two parts. Part I represents the functional aspects of GKS. Part 2 contains bindings of GKS functions to actual programming languages. These bindings have been developed in cooperation with the standards committees of the languages to which GKS is bound. Subsequent language bindings may be added to this standard periodically as they become available. After review and adoption by ANSI, each language binding will automatically become part of FIPS GKS.

ANSI X3.124–1985 and the FORTRAN binding (ANSI X3.124.1–1985) were adopted in 1986 when FIPS 120 was approved by the Secretary of Commerce. The Pascal and Ada programming language bindings are adopted by this revision.

11. *Implementation.* Implementation of this standard involves three areas of consideration: acquisition of GKS software system implementations (or toolbox packages), interpretations of GKS toolbox packages, and validation of GKS implementations.

11.1 *Acquisition of Two-Dimensional Graphics Toolbox Packages.* This revised standard is effective on January 1, 1991, except for paragraph 11.3. No delayed effective date or transition period is necessary since there are no new technical requirements imposed by this revised standard. Two-dimensional graphics toolbox packages acquired for Federal use should implement this standard. Conformance to this standard should be considered whether GKS toolbox packages are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

11.2 *Interpretation of FIPS GKS.* Resolution of questions regarding this standard will be provided by NIST. Questions concerning the content and specifications of this FIPS PUB should be addressed to:

Director, National Computer Systems Laboratory, ATTN: GKS Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–3266

11.3 *Validation of GKS Implementations (or Toolbox Packages).* The following requirements for validation of GKS implementations with FORTRAN bindings become effective on July 1, 1991. Validation requirements apply only to GKS implementations using the FORTRAN language binding. Additional validation requirements may be added in the future as the GKS Validation Suite is extended to include tests for additional language bindings.

a. The party offering a GKS implementation with a FORTRAN binding (GKS–FORTRAN) to ensure its conformance to FIPS PUB 120–1 shall be responsible for securing validation of the GKS–FORTRAN implementation when it is offered to the Government for purchase, lease, or use in connection with ADP services. The party offering application programs written using FIPS PUB 120–1 with the FORTRAN binding shall be responsible for securing validation of the GKS–FORTRAN implementations used in developing such programs when the programs are offered to the Government for purchase, lease, or use in connection with ADP services.

b. A GKS–FORTRAN implementation which is offered or used by vendors as a result of requirements set forth by Federal agencies in requirements documents, including solicitations, shall meet the specification requirements of this document. To confirm that the specifications of FIPS PUB 120–1 have been met, a GKS–FORTRAN Validation Test Suite has been developed and a

GKS–FORTRAN Validation Test Service has been established by the National Computer Systems Laboratory (NCSL) at the National Institute of Standards and Technology (NIST).

c. Federal agencies shall use the test results of the GKS Validation Test Suite to confirm that a particular GKS–FORTRAN implementation meets the specifications of FIPS PUB 120–1.

d. The NCSL will provide for validations of GKS–FORTRAN implementations and will issue certificates as specified in the NIST GKS Information Pack.

e. The requestor is responsible for providing the test facilities necessary to perform the validation. A validation test using the GKS Validation Test Suite is conducted and a Final Test Report is produced summarizing the test results. If the validation results warrant, a Certificate of Validation is issued by the NCSL. If a Certificate is issued, then the Final Test Report will become publicly available.

f. Validation is performed on a cost-reimbursable basis. The NCSL will send the requester an estimate of validation cost that must be approved before beginning the validation process.

g. Unresolved questions and/or any ambiguities resulting from the validation process shall be referred to NIST for resolution in accordance with the FIPS PUB 29–2, Interpretation Procedures for Federal Information Processing Standards.

h. Requests for, and questions on, GKS validation services should be addressed to: Director, National Computer Systems Laboratory, Attention: GKS Validation Test Service, National Institute of Standards and Technology, Gaithersburg, MD. 20899 Telephone: (301) 975–3268 or FTS 975–3268.

i. AGENCY GUIDANCE: *Delayed Validation*—When an agency determines that the nature of the requirement is such that a GKS-FORTRAN implementation may be offered that has not yet been tested, the requirement statement in paragraph (j) below, under terminology option 'Delayed Validation', shall be included in requirements documents, including solicitations. This alternative allows a vendor to be responsive to the document if a request for validation has been made.

AGENCY GUIDANCE: *Prior Validation Testing*—When an agency determines that it is essential for a GKS-FORTRAN implementation to be previously tested for conformance before being offered, and the nature of the requirement is such that a GKS-FORTRAN implementation may be initially offered that has not yet been fully validated (i.e., has not demonstrated full compliance to FIPS PUB 120–1), the requirement statement in paragraph (j) below, under terminology option 'Prior Validation Testing', shall be included in requirements documents, including solicitations.

AGENCY GUIDANCE: *Prior Validation*—When an agency determines that it is essential for a GKS-FORTRAN implementation to be validated (i.e., implementation has demonstrated compliance to FIPS PUB 120–1) before being offered, such as a requirement for a validated GKS-FORTRAN implementation for performance evaluation or benchmarking, the requirement statement in paragraph (j) below, under terminology option 'Prior Validation', shall be included in requirements documents, including solicitations. This latter alternative may tend to restrict competition.

j. Solicitation Wording:

"Validation of GKS-FORTRAN Implementations"

"In addition to the GKS-FORTRAN implementation requirements specified elsewhere in this requirements document, all GKS-FORTRAN implementations that are brought into the Federal inventory as a result of this document for which validation is specified, and those implementations used by vendors to develop programs or provide services shall be validated using the official GKS Validation Test Suite as specified by the National Computer Systems Laboratory (NCSL). Validation shall be in accordance with NCSL validation procedures for FIPS PUB 120–1. The results of validation shall be used to confirm that the GKS-FORTRAN implementation meets the requirements of FIPS PUB 120–1 as specified in this document.

To be considered responsive the offeror shall:

(1) Provide validated GKS-FORTRAN implementations through 'Delayed Validation', 'Prior Validation Testing' or 'Prior Validation' as specified elsewhere in this requirements document.

For 'Delayed Validation' the offeror shall certify in the offer that all GKS-FORTRAN implementations offered in response to this document have been submitted for validation, or have been previously tested or validated and included on the current list of validated products maintained by the National Computer Systems Laboratory (NCSL). (The NCSL list is periodically published when sufficient changes warrant.) Unless specified elsewhere, proof of submission for validation shall be in the form of a letter from NCSL scheduling the validation. Proof of testing shall be provided in the form of a NCSL registered validation summary report (test report). Proof of validation shall be in the form of a NCSL Certificate of Validation.

For 'Prior Validation Testing' the offeror shall certify in the offer that all GKS-FORTRAN implementations offered in response to this document have been previously tested or validated and included on the current list of validated products maintained by the National Computer Systems Laboratory (NCSL). Unless specified elsewhere, proof of testing shall be provided in the form of a NCSL registered validation summary report (test report). Proof of validation shall be in the form of a NCSL Certificate of Validation.

For 'Prior Validation', the offeror shall certify in the offer that all GKS-FORTRAN implementations offered in response to this document have been previously validated and included on the current list of validated products maintained by the National Computer Systems Laboratory (NCSL). Unless specified elsewhere, proof of validation shall be in the form of a NCSL Certificate of Validation.

(2) Agree to correct all implementation nonconformance from FIPS PUB 120–1 reflected in the validation summary report not previously covered by a waiver. All areas of nonconformance must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of FIPS PUB 120–1 is required that will invoke the procedures set forth in FIPS PUB 29–2, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29–2 shall be completed within 12 months of the date of the formal notification to the contractor of the approval of the interpretation. Proof of correction in either case shall be in the form of a NCSL Certificate of Validation or registered validation summary report for the corrected GKS-FORTRAN implementation. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver the operating system or other software shall apply."

k. If the party offering the GKS-FORTRAN implementation is an activity of the U.S. Government, the particular

agency shall be responsible for securing the validation of the GKS-FORTRAN implementation in accordance with this paragraph.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 120–1 (FIPSPUB120–1), and title. Specify microfiche, if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 91–268 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification: C. Rachael Howell (P432)

Modification No. 1 to Permit No. 658

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), a Scientific Research Permit No. 658 issued to Ms. C. Rachael Howell, Corpus Christi State University, 3140 Ocean Drive, Corpus Christi, Texas 78404, on January 1, 1989 (54 FR 1758), is modified as follows:

Sections B.3 and B.6 are changed to read:

"B.3 The Holder shall submit a report by December 31 of each year the permit is valid describing the activities that have been conducted under Permit. The report should include

a. When, where, how and how many groups of dolphins were approached;

b. How individuals and groups responded to the approach;

c. Whether and how response varied by time, location, nature of approach, etc.;

d. Actual distances from the animals required to obtain clear observations and photographs;

e. Total number of shots taken and any incidents of harassment, measures taken to minimize disturbance, and the apparent effectiveness thereof; and

f. An evaluation and summary of the results of the research as it relates to the research objectives.

"B.6 The authority of this Permit extends from the date of issuance through December 31, 1991.

This modification becomes effective upon publication in the **Federal Register.**

Documents pertaining to the Permit and all modifications are available for review in the following Offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910. Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Dated: December 24, 1990.

Nancy Foster,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–239 Filed 1–7–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Receipt of application: U.S. Fish and Wildlife Service (P45I).

Notice is hereby given that an Applicant has applied in due form for a Permit for Scientific Purposes to take an endangered species as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

1. Applicant: Dr. Boyd Kynard, Northeast Anadromous Fish Research Lab, U.S. Fish and Wildlife Service, P.O. Box 796, Turners Falls, MA 01376.

2. Type of Permit: Scientific purposes under the Endangered Species Act.

3. Species: Shortnose sturgeon (*Acipenser brevirostrum*).

4. Type of Take and Numbers: The Applicant is requesting to take up to 190 shortnose sturgeon by capture, tagging, and release. Ninety (90) fish will be captured from the Taunton River and tagged with sonic and personal identification tags. Twenty (20) fish will be captured from the Connecticut River and tagged with radio and personal identification tags. Thirty (30) ripe female fish will be captured from the Connecticut River and held and spawned at the Northeast Anadromous Fish Research Lab, tagged with personal identification tags, and released. Thirty (30) fish from the Kennebec River will be captured, tagged with personal identification tags, and have the left barbel removed. Twenty (20) fish from the Merrimack River will be captured, tagged with personal identification tags, and have the left barbel removed. An undetermined number of larvae will be held for tests addressing the possible use of illuminated traps for capturing wild larvae, tagged with coded-nose-wire tags, and released.

5. Purpose of Proposed Research: The research is directed at determining the annual movement patterns, identifying different river stocks, and locating feeding and spawning sites of shortnose sturgeon in New England. Additionally,

the research will test the possibility of using illuminated traps to capture shortnose sturgeon larvae.

6. Location and Duration of Activity: The requested activity would occur in four (4) New England rivers—the Taunton, Connecticut, Kennebec, and Merrimack. The duration of the requested activity is for a period of three (3) years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Shortnose Sturgeon Recovery Team.

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

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

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

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 7324, Silver Spring, MD 20910 (301/427–2289); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200; and

Dated: December 31, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–240 Filed 1–7–91; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee meeting on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development that was previously scheduled for 14–18 January 1991, at HQ USAFE, Ramstein AB, Hahn AB, Fraunhofer Institute, Berghausen, and Bayern Chemie, MBB (GmbH), Ottobrun, Germany, has been changed to 15–17 January 1991, from 8 a.m. to 5 p.m. at the ANSER Corp, 1215 S. Jefferson Davis Hwy, Arlington, VA 22202.

The purpose of this meeting is to prepare the study outbrief.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–311 Filed 1–7–91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on Hypersonic Technologies will meet on 29–30 January 1991, from 8 a.m. to 5 p.m. at the ANSER Corp, 1215 S. Jefferson Davis Hwy, Arlington, VA 22202.

The purpose of this meeting is to gather information in support of the SAB study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1) and (4).

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–312 Filed 1–7–91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

January 3, 1991.

The USAF Scientific Advisory Board Ad Hoc Committee on Modeling and Simulation will meet on 23 January 1991 from 8 a.m. to 5 p.m. at the Air Force Operational Test and Evaluation Center, Kirtland AFB, MN.

The purpose of this meeting will be to review the uses of models and simulations by a variety of government and industrial organizations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–313 Filed 1–7–91; 8:45 am]

BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 16, 1991 beginning at 1 p.m. in the Goddard Conference Room of its offices at 25 State Police Drive, West Trenton, New Jersey.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at 11 a.m. at the same location will include discussions of the upper Delaware ice jam project and the Commission's water conservation performance standards for plumbing fixtures and fittings.

The subject of the hearing will be as follows:

Application for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: E. I. duPont de Nemours and Company, Inc. D–88–85.* An application to upgrade the Chambers Works Wastewater Treatment Plant located in Carneys Point Township, Salem County, New Jersey. The applicant seeks approval for the construction of secondary clarification facilities and a powdered activated carbon treatment system. The existing treatment plant was approved on January 24, 1974 by Docket No. D–69–194–2 to process 102 million gallons per day (mgd) of industrial wastewater, sludge, landfill leachate, recovered ground water, and some stormwater runoff. Treatment plant effluent will continue to be discharged through the existing outfall to the Delaware River in Water Quality Zone 5. The applicant also seeks approval to expand the service area of the treatment plant to process additional off-site wastes from sources other than the applicant's including those from sources outside of the Delaware River Basin. This hearing continues that of December 12, 1990.

2. *Jackson Township Municipal Utilities Authority D–79–8 CP (Renewal–2).* An application for the renewal of a ground water withdrawal

project to supply up to 26.42 million gallons (mg)/30 days of water to the Great Adventure Amusement Park from Well Nos. W–7 and W–10. Commission approval on October 24, 1984 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 26.42 mg/30 days. The project is located in Jackson Township, Ocean County, New Jersey.

3. *Eastern Foundry Company D–85–80 Renewal.* An application for the renewal of a ground water withdrawal project to supply up to 3.54 mg/30 days of water to the applicant's industrial facility from Well No. 1A. Commission approval on December 18, 1985 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 3.54 mg/30 days. The project is located in Boyertown Borough, Berks County, Pennsylvania.

4. *Fremont-Rockland Sewage Corporation D–89–42.* An application to construct Phase I (0.056 mgd) of a four-phased (0.33 mgd) sewage treatment plant (STP) project for Tennanah Lakes, a Planned Unit Development and motel complex located in the Town of Fremont, Sullivan County, New York. Phase I will be designed to serve 204 townhouse units. Ultimately, Phase IV will be designed to serve 947 townshouses and a 350 room motel. Tertiary treated effluent will discharge to the Gulf, a tributory of North Branch Callicoon Creek.

5. *Greenwich Township D–90–24 CP.* A project to modify and upgrade the applicant's existing 1.0 mgd sewage treatment plant (STP) and change the discharge point from Wiggins Pond to a new outfall on the Delaware River. Approximately one mile of 12" diameter force main will be constructed to convey treated effluent to the new STP outfall located just south of the Colonmell Creek confluence with the Delaware River. The STP is located on North School Street and the project is entirely within Greenwich Township, Gloucester County, New Jersey.

6. *Tamaqua Borough Authority D–90–60 CP.* A sewage treatment plant (STP) expansion project to increase the capacity of the existing STP from 1.75 mgd to 2.60 mgd, average daily flow, to serve Tamaqua Borough, Rush Township and a few residences in the Rahn area. The secondary treated effluent will discharge via the existing outfall structure to the Little Schuylkill River just east of the STP. The STP is located south of Tamaqua in Walker Township, Schuylkill County, Pennsylvania.

7. *Walnutport Authority D–90–87 CP.* An application for approval of a ground water withdrawal project to supply up to 8.0 mg/30 days of water to the applicant's distribution system from Well Nos. 4 and 5, and to limit the withdrawal from all wells to 8.0 mg/30 days. The project wells are located in Walnutport Borough and Lehigh Township, Northampton County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: December 31, 1990.

Susan M. Weisman,

Secretary.

[FR Doc. 91–246 Filed 1–7–91; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et. seq.). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Dest Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–542
3. 1902–0070
4. Gas Pipeline Rates: Purchased Gas Adjustment Tracking (Non-Formal)
5. Extension
6. Quarterly
7. Mandatory
8. Business or other for-profit
9. 80 respondents
10. 4 responses
11. 218.75 hours per response
12. 70,000 hours
13. Pursuant to sections 4, 5, and 16 of the Natural Gas Act, the Commission requires these data to determine if an interstate pipeline's purchased gas adjustment filing complies with requirements and that the rate/charge is just and reasonable.

The second energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–543.
3. 1902–0152.

4. Purchased Gas Adjustment Tracking (Formal).

5. Extension.

6. On occasion.

7. Mandatory.

8. Business or other for-profit.

9. 10 respondents.

10. 1 response.

11. 1,030 hours per response.

12. 10,300 hours.

13. Pursuant to sections 4, 5, and 16 of the Natural Gas Act, the Commission requires these data to determine if an interstate pipeline's purchased gas adjustment filing complies with requirements and that the rate/charge is just and reasonable.

The third energy information collection submitted to OMB for review was:

1. Energy Information Administration and Federal Energy Regulatory Commission

2. EIA–714.

3. 1905–0161 and 1902–0140.

4. Annual Electric Control and Planning Area Report.

5. Revision.

6. Annually.

7. Mandatory.

8. State or local governments, Businesses or other for profit, Federal agencies or employees, and Non-profit institutions.

9. 320 respondents.

10. 1 response.

11. 86 hours per response.

12. 27,520 hours.

13. EIA–714 gathers basic utility operating information primarily on a control area basis for the purpose of evaluating utility operations related to proposed mergers, interconnections, wholesale rate investigations, hydroelectric licensing, and wholesale market changes and trends under emerging competitive forces. Data will be published in various EIA publications. Respondents are major electric utilities.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, January 2, 1991.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

[FR Doc. 91–335 Filed 1–7–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER91–45–000, et al.]

Dayton Power and Light Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 28, 1990.

Take notice that the following filings have been made with the Commission:

1. Dayton Power and Light Company

[Docket No. ER91–45–000 through ER91–55–000]

Take notice that on December 21, 1990, Dayton Power and Light Company (Dayton) tendered a letter in these dockets in which Dayton acknowledged that its original filings in these dockets limited the terms of the various agreements instead of extending them.

Comment date: January 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Central Vermont Public Service Corporation

[Docket No. ER91–88–000]

Take notice that on November 30, 1990, Central Vermont Public Service Corporation tendered for filing its forecast cost report for the 1991 service year under its Tariff No. 3 for transmission and distribution service to various wholesale customers.

Comment date: January 10, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Central Vermont Public Service Corporation

[Docket No. ER91–89–000]

Take notice that on November 30, 1990, Central Vermont Public Service Corporation tendered for filing its forecast cost report for the 1991 service year under its Electric Service Rate Schedule FERC No. 135 for the sale of electric power to Connecticut Valley Electric Company Inc.

Comment date: January 10, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Central Vermont Public Service Corporation

[Docket No. ER91–90–000]

Take notice that on November 30, 1990, Central Vermont Public Service Corporation tendered for filing its forecast cost report for the 1991 service year under its Tariff No. 4 for unreserved system power service to various wholesale customers.

Comment date: January 10, 1991, in accordance with Standard Paragraph E end of this notice.

5. PacifiCorp Electric Operations Arizona Public Service Company

[Docket No. ER91–26–000]

Take notice that on December 12, 1990, as further supplemented by filings of December 13, 1990 and December 27, 1990, PacifiCorp Electric Operations and Arizona Public Service Company (together, "Applicants") tendered an amendment to their joint filing. The materials filed consist of further explanatory material concerning the rate filing in this docket.

Applicants requests waiver of the Commission's notice requirements for good cause shown in order that their originally proposed effective date of January 11, 1991 may be granted.

Copies of the amended filing have been served on all applicable state regulatory agencies who were originally served with the filing and upon those who have filed Motions to Intervene.

Comment date: January 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. New York Power Pool

[Docket No. ER90–562–000]

Take notice that on November 9, 1990, the New York Power Pool tendered for filing supplemental information concerning its rate filing in this docket. The information consists of load, deficiency chargee payment and system capability data.

Comment date: January 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Nevada Power Company

[Docket No. ER91–164–000]

Take notice that on December 26, 1990, Nevada Power Company (Nevada) tendered for amended filing a tariff schedule entitled Supplemental Service—Silver State Power Association (Silver State) hereinafter "the Schedule". The primary purpose of the Schedule is to establish the rates and terms for the sale of firm supplemental power to members of Silver State who have executed supplemental power agreements with Nevada.

Nevada requests an effective date of November 1, 1989 and therefore requests waiver of the Commission's notice requirements.

Nevada states that copies of the amended filing were served upon the members of Silver State.

Comment date: January 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. United Technologies Corporation, Pratt & Whitney

[Docket No. QF91-44-000]

On December 17, 1990, United Technologies Corporation, Pratt & Whitney Operations, 400 Main Street, M.S. 102-13, East Hartford, Connecticut 06108, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The combined cycle cogeneration facility will be located in East Hartford, Connecticut, and will consist of a combustion turbine generator (CTG) and an unfired heat recovery boiler (HRB). Exhaust heat recovered from CTG will be used to raise steam in HRB. High pressure steam from HRB will be utilized in extraction steam turbine driving boiler feed pumps, forced draft-fans, induced draft-fans and air compressors exhausting low pressure steam for process heating, domestic hot water and space heating of the offices. The net electric power production capacity of the facility will be 25.8 MW. The primary energy source will be natural gas. Installation of the facility commenced in July 1990.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-320 Filed 1-7-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-118; Docket No. EL85-19-119]

Nooksack River Basin, WA., Skagit River Basin, WA.; Intent To Prepare a Cumulative Environmental Assessment and Conduct Scoping Meetings

January 2, 1991.

The Federal Energy Regulatory Commission (Commission) has received 17 applications for original licenses, one application for new license (relicense), and one application for exemption from licensing from various applicants proposing to construct, operate, and maintain hydroelectric projects located in two areas in the State of Washington, the Nooksack and Skagit River Basins (see attachments).

In 1987 and 1988, the Commission staff conducted several public meetings attended by various agencies, license applicants, and the general public to discuss, among other things, the potential cumulative environmental impacts that might be associated with developing the proposed projects in the Nooksack and Skagit River Basins. Comments received during these meetings lead staff to believe that developing the proposed projects could have cumulative adverse environmental effects on the basin resources. Based on these meetings and the comments filed, the Commission has decided to prepare separate environmental assessments (EA) for the Nooksack and Skagit River Basins. These EA's will assess the potential for cumulative environmental impacts due to proposed hydropower development in these two river basins, and determine whether or not an Environmental Impact Statement (EIS) should be prepared.

The Commission's staff has examined the record of the 19 applications to determine the important resources (target resources) that may be subject to cumulative impacts from multiple hydropower developments in the Nooksack and Skagit River Basins. Staff's preliminary analysis suggests that water quality, fisheries, the bald eagle, and recreation should be target resources. The scoping meetings are designed to obtain information from the public and resource agencies determining what are important resources that may be subject to cumulative impacts.

Scoping Meetings

Two scoping meetings will be held by the Commission's staff in Seattle, Washington, on Thursday, January 31, 1990, at the Henry Jackson Federal Building, 915 Second Avenue. An afternoon scoping meeting will be held from 1 p.m. to 4 p.m. in room 166. The evening meeting will be held from 7 p.m. to 10 p.m. in the North Auditorium.

The afternoon scoping meeting will focus on resource agency concerns, while the evening meeting is designed primarily for public input. All interested individuals, organizations, and agencies are invited to attend these sessions and assist the Commission's staff in identifying the scope of the two EA's, which will examine cumulative impacts.

Ojectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues that it has identified; (2) provide opportunities for meeting participants to discuss any relevant information concerning significant environmental resources; (3) encourage statements and written documents from experts and the public on issues that should be analyzed in the cumulative impact EA's; and (4) request from meeting participants opinions on whether the Commission staff should prepare individual EA's for each project or EIS's for the two river basins.

Procedures

The meetings will be recorded by a stenographer and thereby become a part of the formal record of the Commission's proceedings for the proposed hydropower projects in the Nooksack and Skagit River Basins. Individuals presenting statements for the record will be asked to identify themselves and indicate the entity they represent.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the cumulative impact EA's. Those choosing not to speak at the evening meeting, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record. Written comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, until February 20, 1991.

All written correspondence should clearly show on the first page either one of the following captions: Nooksack River Basin Docket No. EL85-19-118 or the Skagit River Basin Docket No. EL85-19-119. If a single letter or other piece of correspondence includes information about both basins, the commenter should separate the information and identify the information by river basin.

For further information please contact Thomas Dean at (202) 219–2778 about projects located in the Nooksack River Basin, and Lee Emery at (202) 219–2779 about projects located in the Skagit River Basin.

Lois D. Cashell,

Secretary.

NOOKSACK RIVER BASIN PROJECTS

FERC Project No.	Project name	Applicant	Date of filing
3721–001	Nooksack Falls	Puget Sound Power	Feb. 23, 1982.
4270–001	Boulder Creek	Mountain Rhythum Res.	Apr. 15, 1983.
4282–001	Deadhorse Creek	Mountain Water Res.	Apr. 11, 1983.
4312–001	Canyon Creek	Watersong Resources	Apr. 14, 1983.
4628–001	Wells Creek	McGrew & Associates	Nov. 25, 1983.
4738–002	Glacier Creek	McGrew & McMaster, Koch	Oct. 26, 1984
9231–000	Canyon Lake	Scott Paper Co.	May. 20, 1985.

SKAGIT RIVER BASIN PROJECTS

FERC Project No.	Project name	Applicant	Date of filing
553–005	Skagit River	City of Seattle, WA	Sept. 29, 1977.
3913–001	Thunder Creek	Puget Sound Power	Aug. 01, 1983.
4376–001	Rocky Creek	High Country Res.	July 11, 1983.
4437–006	Diobsud Creek	Glacier Energy Co.	Oct. 24, 1984.
6984–000	Boulder Creek	Cascade Group	Jan. 06, 1983.
9787–000	Jordan Creek	Scott Paper Co.	Dec. 30, 1985.
10100–000	Irene Creek	Cascade River Hydro	May 31, 1990.
10141–002	Olson Creek	William Porter Farm Co.	Jun. 01, 1990.
10269–002	Jackman Creek	Washington Hydro Dev.	May 31, 1990.
10311–002	Rocky Creek	Skagit River Hydro	Apr. 24, 1990.
10371–003	Bear Creek	Bear Creek Water Power	Aug. 28, 1990.
10416–003	Anderson Creek	Washington Hydro Dev.	Sept. 28, 1990.

[FR Doc. 91–241 Filed 1–7–91; 8:45 am]
BILLING CODE 6717–01–M

[Docket Nos. CP77–253–026 et al.]

Panhandle Eastern Pipe Line Co. et al.; Natural Gas Certificate Filings

December 28, 1990.

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP77–253–026]

Take notice that on December 26, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77–253–026, an application pursuant to sections 7 (b) and (c) of the Natural Gas Act, for an order permitting and approving partial abandonment and amendment of existing certificated storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it seeks to abandon its Rate Schedules TS–3 and TS–6 and to partially abandon Rate Schedule TS–2 volumes and services. Panhandle states that it would replace Michigan Consolidated Gas Company (MichCon) as the supplier of storage services and would use Panhandle's existing storage capacity, particularly the recently contracted ANR Pipeline Company storage, to continue this jurisdictional service. Panhandle states that its contract with MichCon expires March 31, 1991, and that Panhandle is therefore requesting the extension of service to its customers be effective April 1, 1991.

Comment date: January 11, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Stingray Pipeline Co. Natural Gas Pipeline Co. of America, Natural Gas Pipeline Co. of America, Natural Gas Pipeline Co. of America, Natural Gas Pipeline Co. of America, and Southern Natural Gas Co.

Docket Nos. CP91–733–000,[1] CP91–734–000, CP91–735–000, CP91–736–000, CP91–737–000, and CP91–738–000

Take notice that on December 21, 1990, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120–day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: February 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] avg, annual	Points of [2]		Start up date rate schedule	Related [3] dockets
				Receipt	Delivery		
CP91-733-000 (12-21-90)	Stingray Pipeline Company, 701 East 22nd St., Lombard, IL 60148.	Brooklyn Interstate Natural Gas Corp.	10,000 10,000 3,650,000	LA	LA	11-1-90, FTS	PR89-70-000, ST91-5283-000.
CP91-734-000 (12-21-90)	Natural Gas Pipeline Company of America, 701 East 22nd St., Lombard, IL 60148.	The Polaris Corporation.	150,000 75,000 27,375,000	AK, CO, IA, IL, KS, LA, MO, NE, NM, OK, TX, OLA, OTX.	CO, IA, IL, LA, MO, NM, OK, TX, OLA, OTX.	11-1-90, ITS	CP86-582-000, ST91-4025-000.
CP91-735-000 (12-21-90)	Natural Gas Pipeline Company of America, 701 East 22nd St., Lombard, IL 60148.	Union Carbide Industrial Gases, Inc.	6,000 6,000 2,190,000	LA, TX	IL, TX	11-1-90, FTS	CP86-582-000, ST91-4175-000.
CP91-736-000 (12-21-90)	Natural Gas Pipeline Company of America, 701 East 22nd St., Lombard, IL 60148.	PSI Gas Marketing, Inc.	25,000 25,000 9,125,000	TX	LA, TX	11-1-90, FTS	CP86-582-000, ST91-4254-000.
CP91-737-000 (12-21-90)	Natural Gas Pipeline Company of America, 701 East 22nd St., Lombard, IL 60148.	Enron Gas Marketing, Inc.	15,000 15,000 5,475,000	NM	NM	11-1-90, FTS	CP86-582-000, ST91-4173-000.
CP91-738-000 (12-21-90)	Southern Natural Gas Company, P.O. Box 2563, Birmingham, AL 35202-2563.	Centran Corporation.	15,000 15,000 5,475,000	AL, LA, MS, TX, OLA, OTX.	LA, MS	20-24-90, IT	CP88-316-000, ST91-3013-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Colorado Interstate Gas Co.

[Docket No. CP91-713-000]

Take notice that on December 19, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP91-713-000 a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations for permission to abandon sales tap in Douglas County, Colorado, under CIG's blanket certificate issued in Docket No. CP83-21-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, CIG requests permission to abandon the Schauer Sales Tap used to effectuate the sale and delivery of natural gas to Public Service of Colorado (PSCo). CIG states that the tap was originally constructed to deliver up to 15 Mcf per day of gas to PSCo to serve a private residence which will be served by the existing distribution system of PSCo. CIG further states that PSCo has requested the proposed abandonment.

Comment date: February 11, 1991, in accordance with Standard Paragraph G at the end of the notice.

Colorado Interstate Gas Co. and Williston Basin Interstate Pipeline Co.

[Docket Nos. CP91-728-000, CP91-729-000, and CP91-730-000]

Take notice that Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, and Williston Basin Interstate Pipeline Company, suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, (Applicants) filed prior notice requests with the Commission in the above-referenced dockets pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86-589, *et al.* and Docket No. CP89-1118-000, respectively, pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.[2]

Information applicable to each transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day, and annual volumes; the initiation service dates; and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: February 11, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-726-000 (12-20-90)	PSI, Inc. (Marketer)	25,000 4,250 1,550,000	WY	TX	10-1-88, TI-1, Interruptible.	ST91-5338, 11-1-90.
CP91-729-000 (12-20-90)	PSI Gas Marketing, Inc. (Marketer).	10,000 3,000 1,000,000	WY	CO	08-1-90, TI-1, Interruptible.	ST91-5573, 11-22-90.
CP91-730-000 (12-20-90)	Hiland Patners (Marketer)	74,250 15,000 27,101,250	MT, ND, SD, WY	MT, ND, SD, WY	11-8-90, IT-1, Interruptible.	ST91-5530, 11-9-90.

5. Williston Basin Interstate Pipeline Company

[Docket No. CP91-731-000]

Take notice that on December 20, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP91-731-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to add two metering stations and appurtenant facilities under the blanket certificate issued in Docket No. CP82-487-000 *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin seeks authorization to construct and operate a metering station and appurtenant facilities for use in providing service to Montana-Dakota Utilities Co. (Montana-Dakota), a local distribution company. Williston Basin states that it is presently using an existing tap to provide gas service for ultimate consumption by 27 Montana-Dakota end users. Williston Basin states that the new meter station is required in order to measure the quantity of gas sold to Montana-Dakota for use by its customers instead of relying on individual Montana-Dakota customer meter readings. Williston Basin states that the estimated cost of the proposed facilities is $1,700.

Williston Basin also requests authorization to acquire and operate an existing meter station and appurtenances for the continued use in providing service to Montana-Dakota. Williston Basin states that due to an oversight, the facilities were not transferred to Williston Basin at the time of its formation authorized by the Commission in Docket No. CP82-487-000 *et al.* Williston Basin further states that the net book value of the meter station located in Yellowstone County, Montana is about $2,999.

Comment date: February 11, 1991, in accordance with Standard Paragraph G at the end of this notice.

6. Texas Gas Transmission Corp.

[Docket No. CP91-676-000]

Take notice that on December 13, 1990, Texas Gas Transmission Corporation (Texas Gas), Post Office Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP91-676-000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon partially a sales service provided to The City of Hamilton, Ohio (Hamilton), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas indicates that it originally received authorization to serve Hamilton by an order dated January 24, 1967, in Docket No. CP65-402, *et al.* Texas Gas states that pursuant to the service agreement dated July 1, 1969, as amended, between Texas Gas and Hamilton, Texas Gas currently provides for the sale of up to 39,205 MMBtu per day of natural gas to Hamilton for a primary term of twenty years from November 1, 1969, with a provision for extension on a year-to-year basis after the expiration of the primary term, unless terminated by either party upon twelve months notice. It is stated that by a letter dated October 29, 1990, Hamilton notified Texas Gas of its intention to terminate the subject service agreement effective October 31, 1991, and enter into a new service agreement beginning November 1, 1991, with a daily sales contract demand of 20,000 MMBtu. Thus, Texas Gas proposes herein to abandon its sales obligation to Hamilton by 19,205 MMBtu per day effective October 31, 1991.

Texas Gas is not proposing to abandon any facilities in connection with the proposed partial abandonment of sales service to Hamilton.

Comment date: January 11, 1991, in accordance with Standard Paragraph F at the end of this notice.

7. Williston Basin Interstate Pipeline Co., Williston Basin Interstate Pipeline Co., Williston Basin Interstate Pipeline Co., and Tennessee Gas Pipeline Co.

[Docket Nos. CP91-707-000, CP91-708-000, CP91-709-000, and CP91-752-000]

Take notice that Williston Basin Interstate Pipeline Company, suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, and Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP89-1118-000 and Docket No. CP87-115-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: February 11, 1991, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day average day annual Dth	Receipt [1] points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-707-000 (12-18-90)	Koch Hydrocarbon Company (producer).	12,858 12,858 1,941,558	ND	WY, MT	9-15-90, FT-1, Firm.	ST91-5246-000. 11-1-90.
CP91-708-000 (12-18-90)	Koch Hydrocarbon Company (producer).	3,255 3,255 491,505	ND	MT	9-15-90, FT-1, Firm.	ST91-5241-000. 11-1-90.
CP91-709-000 (12-18-90)	Koch Hydrocarbon Company (producer).	760 760 114,760	ND	WY	9-15-90, FT-1, Firm.	ST91-5242-000. 11-1-90.
CP91-752-000 (12-18-90)	Enron Gas Marketing, Inc. (marketer).	703,297 703,297 256,703,405	OLA, OTX, LA, TX, MS, AL, NY, MA.	Various	3-26-87, IT, Interruptible.	ST91-3154-000. 10-12-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

8. Thermal Exploration, Inc.

[Docket No. CI89-338-001]

Take notice that on December 11, 1990, Thermal Exploration, Inc. (Thermal) of 815 Mercer Street, Seattle, Washington 98109, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its unlimited-term blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI89-338-000 to include authorization for the sale for resale in interstate commerce of imported gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: January 16, 1991, in accordance with Standard Paragraph J at the end of this notice.

9. CanStates Petroleum Marketing

[Docket No. CI91-15-000]

Take notice that on November 29, 1990, CanStates Petroleum Marketing (CanStates), c/o CanStates Gas Marketing, 1220 SunLife Plaza, 144 Fourth Avenue, SW., Calgary, Alberta, Canada T2P 3N4, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing the sale for resale in interstate commerce of (1) All NGPA categories of gas subject to the Commission's NGA jurisdiction, (2) imported natural gas and liquified natural gas, and (3) gas purchased from interstate pipelines such as gas purchased under pipeline interruptible sales certificates, all as more fully set forth in the application which is on file with the Commission and open for public inspeciton.

Comment date: January 16, 1991, in accordance with Standard Paragraph J at the end of this notice.

10. Arcadian Corp.

[Docket No. CI91-1-000]

Take notice that on October 3, 1990, as supplemented on December 24, 1990, Arcadian Corporation (Arcadian) of 6750 Poplar Avenue, suite 600, Memphis, Tennessee 38138, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing the sale for resale in interstate commerce of natural gas subject to the Commission's NGA jurisdiction including Canadian gas and ISS gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: January 16, 1991, in accordance with Standard Paragraph J at the end of this notice.

11. Bonneville Fuels Marketing Corp.

[Docket No. CI91-18-000]

Take notice that on December 17, 1990, Bonneville Fuels Marketing Corporation (Bonneville Fuels) of 1600 Broadway, Denver, Colorado 80202, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sale for resale in interstate commerce of imported natural gas and gas purchased under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales for resale of surplus system supply gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: January 16, 1991, in accordance with Standard Paragraph J at the end of this notice.

12. Canadian Hydrocarbons Marketing (U.S.) Inc.

[Docket No. CI91-19-000]

Take notice that on December 13, 1990, Canadian Hydrocarbons Marketing (U.S.) Inc. (Canadian Hydrocarbons), c/o Canadian Hydrocarbons Marketing, Inc., suite 1820, SunLife Plaza, 144-4th Avenue SW., Box 44, Calgary, Alberta, Canada T2P 3N4, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of natural gas over which the Commission has or retains jurisdiction including Canadian gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: January 16, 1991, in accordance with Standard Paragraph J at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18th CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein musi file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91–321 Filed 1–7–91; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2910.
Name: Iris Montana-Lilerena dba I.M.L. International Freight Forwarding Co.
Addresses: 3595 N.W. 154 Terrace, Miami, LF 33054.
Date Revoked: November 23, 1990.
Reason: Failed to furnish a valid surety bond.

License Number: 3021.
Name: Air-Sea International Inc.
Addresses: P.O. Box 68, Grapevine, TX 76051.
Date Revoked: November 26, 1990.
Reason: Surrendered license voluntarily.

License Number: 1982R.
Name: Croft & Scully Co., Inc.
Addresses: 222 North Sepulveda Blvd., suite 1505, El Segundo, CA 90245.
Date Revoked: November 26, 1990.
Reason: Surrendered license voluntarily.

License Number: 2643.
Name: James G. Wiley Co. of San Francisco.
Addresses: P.O. Box 2837, San Francisco, CA 94126–2837.
Date Revoked: November 28, 1990.
Reason: Surrendered license voluntarily.

License Number: 2639.
Name: Clyde Ross Albright, Jr. dba Cross International.
Addresses: 1806 West Main Street, Louisville, KY 40203.
Date Revoked: November 29, 1990.
Reason: Failed to furnish a valid surety bond.

License Number: 2862.
Name: Omega Forwarding, Inc.
Addresses: 8493 N.W. 54th Street, Miami, FL 33166.
Date Revoked: December 1, 1990.
Reason: Failed to furnish a valid surety bond.

License Number: 482.
Name: Encargos International, Inc.
Addresses: 145–34 157th Street, Jamaica, NY 11434.
Date Revoked: December 9, 1990.
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Acting Director, Bureau of Domestic Regulation.

[FR Doc. 91–242 Filed 1–7–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 13, 1990

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 13, 1990.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests a weakening in economic activity. Total nonfarm payroll employment declined further in October, reflecting sizable job losses in manufacturing and construction; the civilian unemployment rate held steady at 5.7 percent. Industrial production declined sharply in October after rising moderately during the summer. Consumer spending is estimated to have flattened out in real terms over August and September when a surge in energy prices caused a substantial drop in real disposable income. Advance indicators of business capital spending point to considerable softening in investment in coming months. Residential construction weakened further in the third quarter. The nominal U.S. merchandise trade deficit widened substantially in July-August from its average rate in the second quarter as imports strengthened. Markedly higher oil prices have boosted consumer and producer prices in recent months. The latest data on labor costs suggest some slight improvement from earlier trends.

Most interest rates have fallen somewhat since the Committee on October 2. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G–10 currencies has declined considerably further over the intermeeting period.

In October, M2 grew only slightly after two months of relatively rapid expansion, while M3 was about unchanged. Through October, expansion of M2 was estimated to be somewhat below the middle of the Committee's range for the year and growth of M3 near the lower end of its range.

[1] Copies of the Record of policy actions of the Committee for the meeting of November 13, 1990, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Expansion of total domestic nonfinancial debt appears to have been near the midpoint of its monitoring range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established in February for M2 growth of 3 to 7 percent, measured from the fourth quarter of 1989 to the fourth quarter of 1990. The Committee in July also retained the monitoring range of 5 to 9 percent for the year that it had set for growth of total domestic nonfinancial debt. With regard to M3, the Committee recognized that the on-going restructuring of thrift depository institutions had depressed its growth relative to spending and total credit more than anticipated. Taking account of the unexpectedly strong M3 velocity, the Committee decided in July to reduce the 1990 range to 1 to 5 percent. For 1991, the Committee agreed on provisional ranges for monetary growth, measured from the fourth quarter of 1990 to the fourth quarter of 1991, for 2½ to 6½ percent for M2 and 1 to 5 percent for M3. The Committee tentatively set the associated monitoring range for growth of total domestic nonfinancial debt at 4½ to 8½ percent for 1991. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to decrease slightly the existing degree of pressure on reserve positions. Taking account of progress toward price stability, the strength of the business expansion, the behavior of the monetary aggregates, and development in foreign exchange and domestic financial markets, slightly greater reserve restraint might or somewhat lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of both M2 and M3 over the period from September through December at annual rates of about 1 to 2 percent.

By order of the Federal Open Market Committee, December 31, 1990.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 91–251 Filed 1–7–91; 8:45 am]

BILLING CODE 6210–01–M

Fleet-Norstar Financial Group, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 90–29529) published at pages 51961–62 of the issue for Tuesday, December 18, 1990.

Under the Federal Reserve Bank of Boston, the entry for Fleet/Norstar Financial Group, Inc. is amended to read as follows:

1. *Fleet/Norstar Financial Group, Inc.*, Providence, Rhode Island; to acquire Robinson Securities Division of John Dawson & Associates, Inc., Chicago, Illinois, through their subsidiary Norstar Brokerage Corporation, New York, New York, and thereby engage in providing retail securities brokerage service solely as agent for the account of customers pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Comments on this application must be received by January 15, 1991.

Board of Governors of the Federal Reserve System, January 2, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–252 Filed 1–7–91; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N–0349]

Hemoglobin-Based Oxygen Carriers: Draft Points to Consider; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft points to consider (PTC) document for hemoglobin-based oxygen carriers (HBOC's). The Center for Biologics Evaluation and Research (CBER) has reviewed data from studies with HBOC products and data on HBOC's that have been modified in various ways. Unexplained clinical reactions of varying intensity and severity have been observed in limited clinical trials and have raised concern. Therefore, CBER believes that HBOC products should be evaluated thoroughly. This document discusses aspects of testing that CBER considers important at this time.

ADDRESSES: Submit written requests for single copies of the document to the Congressional, Consumer, and International Affairs Staff (HFB–142), Food and Drug Administration, Metro Park North, Bldg. No. 3, rm. 109, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the draft PTC document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for, and comments on the draft PTC document, should be identified with the docket number found in brackets in the heading of this notice. Copies of the draft PTC document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For Other Information Regarding This Notice Contact:

Andrea Chamblee, Center for Biologics Evaluation and Research (HFB–132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

For Information on Submitting Written Requests for Copies of the PTC Document Contact:

Marilyn Veek, Congressional, Consumer, and International Affairs Staff (HFB–142) (address above), 301–295–8228.

SUPPLEMENTARY INFORMATION: Products that could be used as adjuncts or alternatives to transfusion of red blood cells have been under development for many years. One developmental approach has utilized hemoglobin derived from red blood cells. Although these products have been referred to as "blood substitutes" or "red blood cell substitutes," this document uses the broader designation "hemoglobin-based oxygen carriers" (HBOC's).

FDA is announcing the availability of a draft PTC document to facilitate development of HBOC's and to foster communications between CBER and individuals interested in submitting investigational new drug applications (IND's) and product license applications to CBER. As with other PTC documents circulated by FDA, this document is not intended to be all-inclusive for this product type and certain information may not be applicable in all situations. This document does not set forth requirements, but is intended to provide useful information.

In preparing this document, CBER considered the results of previous animal and clinical testing of these products and the recommendations from a meeting of the Blood Products Advisory Committee and consultants on March 14 and 15, 1990. CBER has reviewed data from studies in animals and humans conducted with products in varying stages of purity, including simple hemolysates, stroma-free hemoglobin and crystalline hemoglobin.

CBER has also reviewed data on HBOC's that have been modified in various ways.

Unexplained clinical reactions of varying intensity and severity have been observed in limited clinical trials and have raised concern. The data have demonstrated that multiple organs and systems have been affected, including kidney, liver, lung, and the cardiovascular and central nervous systems. In addition, other effector systems, including those utilizing complement kinins and cytokines, may be activated and the reticuloendothelial system may be affected.

Because the underlying cause for many of the observed effects is not known, CBER believes that HBOC products should be evaluated thoroughly. The draft PTC document is intended to facilitate product development and communication between CBER and individuals interested in making applications to CBER. It discusses aspects of testing that CBER considers important at this time. While the draft PTC document primarily addresses safety concerns, manufacturers should consider their approach to demonstrating efficacy at an early stage in development. Efficacy, as well as safety, should be demonstrated under experimental conditions that mirror the intended clinical use.

Dated: December 28, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-254 Filed 1-7-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90N-0458]

Drug Export; Dopamine Hydrochloride Injection, USP

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Lyphomed, Division of Fujisawa USA, Inc., has filed an application requesting approval for the export of the human drug dopamine hydrochloride injection, USP to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frank R. Fazzari, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Lyphomed, Div. of Fujisawa USA, Inc., 2045 North Cornell Ave., Melrose Park, IL 60160-1002, has filed an application requesting approval for the export of the drug dopamine hydrochloride injection, USP to Canada. This drug is indicated for the correction of hemodynamic imbalances present in the shock syndrome due to myocardial infarction, trauma, endotoxic septicemia, open heart surgery, renal failure and chronic cardiac decomposition as in congestive failure. The application was received and filed in the Center for Drug Evaluation and Research on November 20, 1990, which shall be considered the filing date for the purpose of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 18, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: December 24, 1990.

Sammie R. Young,

Acting Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 91-253 Filed 1-7-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPD-698-PN]

RIN 0938-AE85

Medicare Program; National Standardization of "Global Surgery" Policy

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice announces a uniform national "global surgery" policy to be used by all Medicare carriers. The notice proposes definitions for all of the components that would be considered part of the national global surgery policy. Establishing this policy is necessary for the implementation of section 6102 of the Omnibus Budget Reconciliation Act of 1989 that provides for payment of Medicare physician services under a resource-based relative value scale fee schedule beginning in 1992. We are considering implementing this policy beginning July 1, 1991 to minimize possible confusion between payment issues arising from the fee schedule implementation and those resulting from this policy standardization.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on March 11, 1991.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-698-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. In commenting, please refer to file code BPD–698–PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Ave. SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Terrence L. Kay, (301) 966–4494.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislation

On December 19, 1989, the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) was enacted. Section 6102 of Public Law 101–239 amended title XVIII of the Social Security Act (the Act) by adding a new section 1848, Payment for Physicians' Services. New section 1848 of the Act provides for replacing the current reasonable charge payment mechanism of actual, customary, and prevailing charges with a resource-based relative value scale (RBRVS) fee schedule beginning in 1992.

Specifically, section 1848 requires that the fee schedule include national uniform relative values for all physicians' services. The relative values must consist of three components: Physician work, practice expense (overhead), and the cost of malpractice insurance (physician liability). A national budget-neutral conversion factor must be calculated. A geographic practice cost index (GPCI) that measures the differences between Medicare payment localities and the national average in the relative cost of furnishing each of the three components must be incorporated to produce locality fee schedule amounts for each Medicare payment locality.

The fee schedule amount for a given service in a given locality will be computed as follows: The relative value units of the work, practice expense, and malpractice components will each be adjusted by its respective GPCI. The total adjusted relative values will then be multiplied by the national conversion factor to arrive at the fee schedule amount.

B. Need for Standardization

Since the fee schedule for physicians' services is based on national relative values, national uniform definitions of services must be established. Without standardization of these services, it would not be possible to compute a budget-neutral conversion factor with any degree of accuracy. Standardization is also necessary to assure equitable payment amounts, that is, to assure that, nationwide, payment is made for the same amount of work and resources involved in furnishing the specific service.

Surgical services make up about one-third of all billings for physician services and are expected to be about $9 billion in fiscal year 1990. Under the global surgery concept, surgeons bill a single fee for all their services usually associated with a surgical procedure. Currently, all intra-operative services necessary for the surgery itself and follow-up care such as hospital and office visits and services such as removal of sutures and casts are normally included. In many cases, pre-operative visits also are included. The practice of global billing, however, varies from one area of the country to another.

All Medicare carriers use the concept of global fees for major surgical procedures. There are, however, significant variations among Medicare carriers in defining pre-operative and post-operative periods of care and the specific services furnished. Recent surveys of carriers by our agency and the Physician Payment Review Commission (PPRC) yielded similar results. They showed that carriers include pre-operative visits by the primary surgeon in about 55 percent of the cases reviewed, and post-operative visits were included in about 90 percent of the cases reviewed. The variation in policy among carriers, however, is striking. For example, pre-operative periods range from 0 to 30 days, and post-operative periods range from 0 to 270 days depending on the procedure.

C. Concerns

Implementation of the RBRVS fee schedule will likely have significant redistributional effects among types of services and specialties. Preliminary simulations, for example, suggest that program payments for surgical services, in the aggregate, would be 16 percent less under the fee schedule, while payments for evaluation and management services would be 27 percent greater.

We believe lowered payments for surgical services under the RBRVS fee schedule could provide an incentive for surgeons to "unbundle" services now included within a global fee and bill separately for some pre- and post-operative services. "Unbundling" is the term describing a physician's fragmentation of a procedure, into its component parts, billing separately as if each component were performed as a separate surgical procedure. Separate billing for post-operative visits previously included in the surgical fee is another example of unbundling. This process can result in charges that are much higher than if the total procedure was correctly described and billed as a single service. The increased value of visits and consultations under the fee schedule could add to the incentive of some physicians to "unbundle". Unbundling could provide a means for a surgeon to compensate for expected payment reductions for surgery under the RBRVS fee schedule. "Unbundling" is not a new concept, and all third party payors, private insurers as well as Medicare, are concerned about it.

The PPRC issued its recommended global surgery policy in its 1989 annual report. In summary, the PPRC's policy would include only in-hospital visits the day before and the day of the surgery, normal intra-operative services, and all usual post-operative services including both hospital and office visits up to 90 days after the surgery. The PPRC would exclude from its policy the surgeon's initial evaluation and consultations, all pre-operative office visits, and any additional surgery related to the initial surgery.

The PPRC's recommended policy is narrower than the current policy followed by many Medicare carriers. We believe the PPRC's recommendation would further encourage physicians to "unbundle" and bill for services previously included in the global fee. The Center for Health Economics and Research (CHER) recently provided data tables showing pre- and post-operative visits associated with surgery for the 100 most frequently billed surgical procedures paid for by Medicare. The study shows that in the overwhelming majority of the cases reviewed, physicians do not presently bill for visits commonly included in the global surgery package outside of the carrier's global charge period. A narrower global surgery policy could result in billing for services previously included as part of the global fee.

The global surgery policy selected for Medicare should not be narrower than the policy followed by most carriers today. Indeed, a case could be made for a policy broader than that existing today because of the added incentive provided for "unbundling" under the fee schedule. In either case, we do not believe the physician community would be disadvantaged by either policy. In computing the relative values for the national uniform global surgeries, we

would add the value of the visits presently paid for separately by some carriers to the value of the surgery to arrive at a total value for the global surgery.

II. Provisions of this Proposed Notice

A discussion of the components of our proposed uniform national global surgery policy follows:

A. Initial Evaluation and/or Consultation by the Primary Surgeon

About 40 percent of all Medicare carriers currently include in the global surgery fee the initial evaluation/consultation by the primary surgeon to determine the need for surgery. The time period among carriers for including the initial evaluation/consultation, however, ranges from 3 to 7 days before the surgery. If the decision is made not to do the surgery, the surgeon may bill separately for the evaluation/consultation in all cases. The PPRC recommends that the initial evaluation/consultation be excluded from the global surgery fee.

We agree with the PPRC and propose that the initial evaluation/consultation be paid for separately. It is a distinct, readily identifiable service that is furnished whether or not the surgery is performed. The value of the initial evaluation/consultation work is the same whether the surgery is performed or not. Further, we are always billed when the surgery is not performed and are probably billed in many cases when the initial evaluation/consultation is included in the global surgery fee. In the case of elective surgery, we believe the initial evaluation/consultation probably takes place more than 3 to 7 days before the surgery. We believe it is preferable from both a policy and an operational standpoint to always pay for the consultation separately.

The underlying concept of the fee schedule is to uniformly base payment on the resources involved in furnishing a service. Paying for consultations separately in all cases will do this. A disadvantage of allowing separate billing of the initial evaluation/consultation is that it would subject the program to possible upcoding of the level of consultation billed. Currently, consultations are billed using three levels of codes reflecting varying levels of effort. The program, however, can be protected from financial risk by adjusting the budget-neutral conversion factor calculation by factoring in the additional consultations that are now included in the global surgery fee by some carriers, and the expected level of upcoding.

B. Pre-operative Visits

The majority of Medicare carriers include pre-operative hospital and office visits for periods averaging from 3 to 5 days before the date of the surgery within the global surgery fee. The PPRC recommended a global surgery policy of including only pre-operative hospital visits that occur the day before and the day of the surgery.

We believe the global surgery fee should include the total work required for the surgeon to complete the service once the decision for surgery is made. We are therefore proposing a pre-operative policy that does not include a specific number of days, but instead includes all normal pre-operative visits, in or out of the hospital, made by the primary surgeon from the time of the consultation when the decision to have the surgery is made. (Under this proposed rule, surgeons could always bill separately for services unrelated to the surgery regardless of when they were furnished.)

We believe this policy reflects the practice that most surgeons already follow. Once the surgical consultation occurs, we blieve no additional visits by the surgeon are usually necessary until the surgeon sees the patient the day of or the day before the surgery in the hospital. Also, by not setting a specific number of days, for example, 5, we are less susceptible to "gaming" the system, for example, by scheduling visits on days falling just outside of any fixed time period. Such as day 6 or 7.

We also realize, however, that a specific number of days may be necessary for operational purposes. We are interested in receiving comments from the physician community as to whether a specific number of days for pre-operaive visits is preferable. Additionally, we are soliciting comments on the period of time that would be sufficient to cover most pre-operative periods beginning with the initial consultation (for example, 30 days).

One possible objection to this general policy is that it would not allow the surgeon to bill for services furnished to seriously ill patients who need to be stabilized before surgery. We believe, however, that medical physicians, not surgeons, are usually responsible for stabilizing patients before surgery. In unusual cases when the surgeon is actively involved in treating the patient by providing visits before surgery, we would allow payment when documentation justifying the medical necessity of the surgeon's service is submitted.

C. Intra-operative Services

The American Medical Association's (AMA) Current Procedural Terminolgoy (CPT) contains codes and brief descriptions of all physicians' services. We believe there is a general understanding by physicians and insurers that intra-operative services, normally a usual and necessary part of a surgical procedure, are included as part of the global surgery concept. Both we and the PPRC propose that these normal intra-operative services be included in the global surgery policy.

We believe the inconsistencies that exist concerning the specific services that should be included as part of a surgical procedure should be eliminated so that there will be a unfiorm national global surgery policy. Our carrier medical directors have expressed concern that there is an even greater potential for unbundling of the intra-operative services than for unbundling of pre- and post-operative services. We plan to work with the carrier medical directors, the physician community, and the PPRC to arrive at a clear understanding for each global surgery package to identify exactly the usual and necessary intra-operative services for each surgery. We plan to include the specific procedures and procedure codes in manual instructions.

D. Complications Following Surgery

The PPRC recommendation does not include return trips to the operating room for complications arising following surgery in its global surgery policy. We would include some return trips in our global surgery policy, and thus, we would make no additional payment beyond the global surgery fee. Many of our carriers already follow this policy. We believe the global surgery fee should coverall of the surgeon's services necessary for successful completion of the surgery under normal circumstances. We believe this is the current practice of most surgeons and that they do not usually bill for additional services such as re-suturing. We do recognize that unforeseen circumstances can ccur, and an exceptions process would be established to allow additional payment under certain circumstances.

We are considering three methods of implementing this policy:

- One method would be to include all re-operations for complications that occur within a specific time period after the initial surgery. This period could be 24 hours, 72 hours, or the remainder of the inpatient stay. An exceptions process could be established for dealing

with re-operations in highly unusual cases.

• Another method would be to compile a list of complications, which if required, should be done at no extra charge by the surgeon. Examples of these complications include wound complications such as dehiscence, infection, and hemorrhage; other examples include cystitis, post-operative bleeding, and intubation injuries. Additional payment would be allowed outside of the global fee for re-operations, which because of the severity of the illness or other circumstances, could not ordinarily be anticipated or prevented.

• The third method would be to use a combination of a specific time period and a list. That is, a list of complications that must be included in the global fee, regardless of the time period, would be combined with a time period during which no payment would be made for re-operations unless documentation of the highly unusual circumstances justifying additional payment is submitted.

The list of complications could be general, or could be family or procedure specific. We are interested in the views of the medical community, especially the surgical specialties, and invite public comment on this matter.

E. Post-operative Visits

All carriers currently include post-operative visit services as part of the global surgery package, although the number of days varies by carrier and procedure. The PPRC recommends a standard 90-day post-operative period; the global surgery would include all visits by the primary surgeon during this period unless the visit is for a problem unrelated to the diagnosis for which the surgery is performed. Except for a slight modification, we agree with the PPRC recommendation. Although 90 days is ample time for most surgeries, some surgeries—such as open heart surgery and certain orthopedic procedures—require a longer period for complete recovery. We proposed to include all post-operative visits furnished within 90-days after the date of surgery in our global surgery policy. We request suggestions for specific surgeries that would require longer than 90 days for complete recovery, and we request that the commenters identify the number of days in which complete recovery could be expected. We also request comments concerning whether the post-operative period should be defined on a procedure-specific basis.

F. Minor Surgeries ("Starred Procedures") and "Scopies"

The surgery section of the AMA's CPT contains a number of minor surgeries and endoscopic procedures ("scopies") that are not traditionally paid for under a global surgery concept. The "starred" procedures are relatively minor surgical services that involve a readily identifiable surgical procedure but include variable pre- and post-operative services that usually can be reported (that is, billed) separately. The "scopies" are diagnostic procedures that may or may not involve actual surgery (for example, removal of a polyp). The CPT allows visits to be reported in addition to the "scopy" if a readily identifiable service (for example, patient evaluation) is performed in addition to the "scopy".

Presently, most carriers conform to the CPT instructions with minor variations as to when visits are allowed in addition to the surgery or "scopy" being performed. However, in research on this issue, using 1986 claims data, the CHER found that physicians do not often bill for office visits when performing scopies. Visit bills were submitted for only 18 percent of proctosigmoidoscopies, 10 percent of sigmoidoscopies, and 2 percent of other common scopies. (*Packaging Diagnostic Test Interpretation and Surgical Procedures with Office Visits.* Center for Health Economic Research, April 25, 1989. J. Bogen, R. Boutwell, and J. Mitchell, under HCFA Cooperative Agreement No. 99–C–985241–04. A copy (publication number PB 89–22382) is available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161.)

Under the RBRVS fee schedule, our payments would reflect the actual work performed. If the sole purpose of a visit is to have a minor surgical procedure or "scopy" performed, we would not pay for both a visit and the procedure. On the other hand, if evaluative services are performed unrelated to the surgical procedure or "scopy", we would pay for a visit.

We believe consideration also must be given to the "bundling" of post-operative visit services related to the procedure (for example, removal of sutures) into the payment for the procedure. This would guard against excessive billing for procedures not previously billed. We are therefore proposing that no visit generally be paid for in addition to a "starred" procedure or "scopy", unless a documented separately identifiable service is furnished. Further, we propose not to pay separately for post-operative services related to the procedure that occur within 30 days of the date the procedure is performed.

G. Implementation of Standardized Global Surgery Definition

The Medicare fee schedule for physicians' services must be implemented beginning January 1, 1992. Section 1848(c)(4) of the Act requires the establishment of a uniform system for the coding of all physicians' services paid under the fee schedule. Before implementation, we must calculate fee schedule amounts and transition payment levels, and establish a standard definition of the components of global surgery and any new code policy. Carriers will also be implementing the new balance billing limits of section 1848 of the Act. These demands will be heaviest during the last half of calendar 1991 when they will be competing with existing demands such as conducting the annual participating physician and supplier enrollment process and implementing any other changes that normally occur at that time because of new legislation.

Successful implementation can be assured only if changes are made in manageable increments, with the opportunity to satisfy ourselves and the physician community that the changes are made correctly. To this end, we are considering implementing the standardized global surgery policy beginning July 1, 1991, which is 6 months earlier than the January 1, 1992 date mandated by Public Law 101–239 for implementation of the fee schedule.

The national global surgery policy is one of the most significant of the uniform coding system changes required by the law. Implementing the global surgery payment policy on July 1, 1991 would allow the attention to detail necessary to minimize error in this important standardization. It would give physicians time to become familiar with the new policy and adjust their billing practices before their payments are affected by the fee schedule. It also would give carriers the necessary time to make needed changes in their systems in advance of the fee schedule implementation.

If we proceed with early implementation, we will consider whether to adjust prevailing charges for surgery for the last 6 months of 1991 in order for payment for global surgeries to be consistent with the global surgery policy. If we were to adjust prevailing charges, the value of services currently paid for by some carriers outside of the existing global surgery policy that would be included in the standardized policy

would be added into the new prevailing charges. Likewise, the value of services included by some carriers in existing global surgery packages that would be paid for outside of the new policy would be removed from the new global surgery prevailing charges. These values and adjustments in prevailing charges would be based on the average number of services to be included or excluded in the uniform global surgery policy. We would plan to adjust the customary charges and maximum actual allowable charges (MAACs) for each individual physician by the same percentage that the prevailing charges would be adjusted. We are specifically seeking comments on the effects of a July 1, 1991, rather than a January 1, 1992, implementation on physicians and beneficiaries.

H. Conclusion

For payment purposes under the Medicare fee schedule for physicians' services, the notice proposes to establish the following global surgery policy:

- *Initial Evaluation/Consultation*—We would pay separately for the initial evaluation/consultation by the surgeon to determine the need for surgery.
- *Pre-operative visits*—All normal pre-operative visits, in or out of the hospital, by the primary surgeon from the time of the surgeon's consultation when the decision to have surgery is made would be included in the global surgery fee. A limited except would be made if the surgeon is required to actively participate in stabilizing the patient before surgery.
- *Intra-operative services*—All usual and necessary intra-operative services required for performance of the surgery would be included in the global surgery fee.
- *Complications following surgery*—All additional surgical services resulting from complications, except in cases of highly unusual circumstances that could not have ordinarily been anticipated, would be included in the global surgery fee. We are considering including all re-operations within a specific time period, compiling a list of complications that should not be paid for outside of the global surgery fee, or using both a time period and a list.
- *Post-operative visits*—All visits up to 90 days after the date of surgery, with a longer period for certain specific procedures (for example, some orthopedic procedures) that require a longer recovery period would be included in the global surgery fee.
- *Minor surgeries and endoscopies*—All post-operative services related to a surgery or "scopy" that occur within 30 days of the date the procedure is performed (for example, removal of sutures) would be included in the global fee. Additional visits when the surgery or endoscopy is performed would not be paid for unless other documented services are also furnished at the same time.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Section 6102 of Public Law 101–239 requires us to implement a RBRVS fee schedule for physicians' services beginning January 1, 1992. This notice announces the policy to be used by carriers relating to "global surgery". Since the fee schedule is based on national relative values, uniform definitions of services that are national in scope must be established; otherwise it would not be possible to compute a budget-neutral conversion factor with any degree of accuracy. The term *global surgery* must be clarified in order for physicians and carriers to understand which services are associated with and are intended to be included in the payment for a specific surgical procedure. Standardization is necessary to assure equitable payment amounts, that is to assure that carrier payments are made for the same amount of work and resources involved in furnishing a service nationwide.

We recognize that an early implementation date of the global surgery policy may result in some administrative costs to both the carriers and physicians. We believe, however, that an early understanding of the uniform definitions of services outweigh these costs. We solicit comments on the expected costs of the early implementation date. We also believe this proposed notice does not meet the $100 million criterion and this approach would comply with Executive Order 12291. Therefore, an impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians are considered to be small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

The Medicare fee schedule for physicians' services must be implemented beginning January 1, 1992. Successful implementation can be assured only if changes are made in manageable increments. Therefore, we are proposing to implement the standardized global surgery policy beginning July 1, 1991. Implementing the global surgery payment policy 6 months early would benefit physicians by giving physicians time to become familiar with the new policy before their payments are affected by the fee schedule and would help minimize the financial effect of the fee schedule as intended by this transition provision. Prevailing charges for surgery would be adjusted for the last 6 months of 1991 to be consistent with the new global surgery policy.

We expect no significant economic impact as a result of this proposed notice because the aggregate effect on all physicians in a specific payment locality would be budget neutral. Though the effect on individual physicians may vary, we have determined that the Secretary certifies, that this proposed notice would not result in a significant economic impact on a substantial number of small entities and would not have a significant economic impact on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

IV. Information Collection Requirements

This proposed notice would not impose information collection and recordkeeping requirements.

Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

V. Responses to Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this preamble, and we will respond to the comments in the preamble of the final notice.

Authority: (Section 1848 of the Social Security Act (42 U.S.C. 1395w–4)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 12, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: September 27, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 91–325 Filed 1–7–91; 8:45 am]

BILLING CODE 4120–01–M

Health Resources and Services Administration

Program Announcement for Nursing Special Project Grants Continuing Education Offerings, Pediatric Emergency Care

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for Fiscal Year (FY) 1991 for grants for Nursing Continuing Education Offerings centered on pediatric emergency care authorized by section 820(a), title VIII of the Public Health Service (PHS) Act.

Purpose 1 under section 820(a) provides that the Secretary of Health and Human Services make grants to public and nonprofit schools of nursing and other nonprofit private entities to improve the quality and availability of nurse training through projects which provide continuing education to practicing professional nurses. On August 3, 1990, 55 FR 21941, a **Federal Register** announcement was published covering another fiscal year 1991 competitive grant cycle for Nursing Special Project Grants. This is an additional announcement that relates to one of the multiple purposes of section 820(a), continuing education for nurses.

Applications will be available to eligible entities for projects which will enhance the knowledge, skills and attitudes of professional nurses working in emergency care settings. This announcement is limited to particular projects focused only on pediatric emergency care.

Approximately $500,000 is expected to be available for Nursing Special Projects, Pediatrics Emergency Care. Of this amount, $116,000 is committed to a previously approved noncompeting continuation award. Approximately $384,000 is expected to be made available to fund 3 competing awards averaging $128,000.

Background

The Division of Nursing invites applications for continuing education projects which focus on care of pediatric emergencies, which account for 10–20 percent of the total visits made to emergency rooms. The target group of participants will be professional nurses who work in emergency rooms or emergency care settings. For the past six years the Health Resources and Services Administration has supported projects focused on pediatric emergency medical services. While these projects permit support of staff education, the need for such education is much greater than these projects can support. Additionally, the bulk of pediatric emergencies are treated in community based hospital emergency rooms.

Nurses employed in emergency rooms come from a variety of educational and experiential backgrounds. Their knowledge and skills in caring for pediatric clients vary considerably. To meet this need, it is proposed that eligible applicants be encouraged to undertake projects designed to provide continuing education offerings for practicing nurses employed in emergency rooms and emergency care settings. It is expected that each proposed project will involve nurses employed in a state or regional area and that the course will include both didactic and clinical experiences.

To receive support, applicants must meet the requirements of 42 CFR part 57, subpart T.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The national or special local need which the particular project proposes to serve;

2. The potential effectiveness of the proposed project in carrying out such purposes;

3. The administrative and managerial capability of the applicant to carry out the proposed project;

4. The adequacy of the facilities and resources available to the applicant to carry out the proposed project;

5. The qualifications of the project director and proposed staff;

6. The reasonableness of the proposed budget in relation to the proposed project; and

7. The potential of the project to continue on a self-sustaining basis after the period of grant support.

In addition, the following mechanisms may be applied in determining the funding of approved applications:

1. Funding priorities—favorable adjustments of review scores when applications meet specified objective criteria.

2. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Special Consideration for Fiscal Year 1991

Section 820(a)(1)

Special consideration will be given to projects which provide expansion of current curriculum or development and implementation of new curriculum concerning the prevention of HIV infection and the care of HIV infection-related diseases.

This special consideration was established in fiscal year 1990 after public comment and the Administration is extending it in fiscal year 1991.

Final Funding Priority for Fiscal Year 1991

A funding priority will be given to applications for continuing education programs in the area of Quality Assurance/Risk Management for nurses.

This funding priority was established in fiscal year 1990 after public comment and the Administration is extending it in fiscal year 1991.

The application deadline date for this initiative for fiscal year 1991 funding is March 1, 1991. Applications shall be considered as meeting the deadline date if they are either:

1. *Received on* or before the deadline date, or

2. *Postmarked on* or before the deadline and received in time for submission to an independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

Requests for applications materials and questions regarding grants policy should be directed to: Grants Management Officer (D–10), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915.

Application materials should be mailed to the Grants Management Officer at the above address.

Questions regarding programmatic information should be directed to: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 5C–14, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6193.

The standard application form and general instructions, PHS 6025–1, HRSA Competing Training Grant Application and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 93.359 in the *Catalog of Federal Domestic Assistance* and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: December 10, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 91–255 Filed 1–7–91; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

Administration for Children, Youth and Families Allotment Percentages for Child Welfare Services State Grants

AGENCY: Office of Human Development Services, HHS.

ACTION: Biennial publication of allotment percentages for States under the title IV–B Child Welfare Services State Grants program.

SUMMARY: As required by section 421(c) of the Social Security Act (42 U.S.C. 621(c)), the Department is publishing the allotment percentage for each State under the title IV–B Child Welfare Services State Grants Program. Under section 421(a), the allotment percentages are one of the factors used in the computation of the Federal grants awarded under the Program.

DATES: Effective for fiscal years 1992 and 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Ory Cuellar, Formula Grants Division, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 245–0899.

SUPPLEMENTARY INFORMATION: The allotment percentage for each State is determined on the basis of paragraphs (b) and (c) of section 421 of the Act. The allotment percentage for each State is as follows:

State	Allotment percentage
Alabama	61.22
Alaska	40.27
Arizona	54.42
Arkansas	63.23
California	42.87
Colorado	49.88
Connecticut	30.19
Delaware	47.36
District of Columbia	34.25
Florida	49.83
Georgia	53.92
Hawaii	48.67
Idaho	61.44
Illinois	46.75
Indiana	55.19
Iowa	55.93
Kansas	52.41
Kentucky	61.14
Louisiana	63.06
Maine	54.30
Maryland	40.56
Massachusetts	37.20
Michigan	50.23
Minnesota	49.69
Mississippi	66.66
Missouri	53.36
Montana	60.35
Nebraska	55.59
Nevada	46.00
New Hampshire	41.75
New Jersey	33.03
New Mexico	62.23
New York	40.81
North Carolina	56.87
North Dakota	61.09
Ohio	53.23
Oklahoma	59.68
Oregon	55.00
Pennsylvania	51.04
Rhode Island	49.06
South Carolina	61.02
South Dakota	60.98
Tennessee	58.11
Texas	55.39
Utah	62.82
Vermont	53.67
Virginia	46.33
Washington	49.99
West Virginia	64.79
Wisconsin	53.08
Wyoming	58.57
Guam	70.00
Northern Marianas	70.00
Puerto Rico	70.00
American Samoa	70.00
Virgin Islands	70.00

Dated: December 11, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: December 21, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 91–327 Filed 1–7–91; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF THE INTERIOR

Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization; Public Meeting

AGENCY: Department of the Interior.

SUMMARY: The Office of the Assistant Secretary—Indian Affairs is announcing the forthcoming meeting of the Joint/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization (Task Force).

DATES: Date, Time, and Place: January 22, 23, and 24, 1991; 9 a.m. to 5 p.m. daily; Jefferson, Monroe, and Arlington Rooms; Days Hotel Crystal City, 2000 Jefferson Davis Highway, Arlington, Virginia. The meetings of the Task Force are open to the public.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization may be obtained by contacting Ms. Veronica Murdock, Designated Federal Officer, at (202) 20–4173.

Agenda: The Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Afairs Reorganization will elect from the thirty-six tribal representative members of the Task Force a Co-Chairperson, develop a schedule of future activities, discuss the proposals for reorganizing the Bureau of Indian Affairs prepared by the Bureau of Indian Affairs and counter proposals submitted by tribal leaders, identify any changes that may be implemented prior to a full report to the Congressional Appropriations Committees, and discuss the methods to be used to provide information about and obtain recommendations for the Task Force's activities from tribal leaders. The charter of the Task Force and a complete list of its members may be obtained at the meeting or by contacting Ms. Veronica Murdock. Summary minutes of the meeting will be made available upon request from the contact person.

Dated: January 4, 1991.

Veronica Murdock,

Designated Federal Officer, Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization.

[FR Doc. 91-492 Filed 1-7-91; 8:45 am]

BILLING CODE 4310-02-M

Small Business Competitiveness Demonstration Program; Plan for Expansion in Targeted Industry Categories

AGENCY: Office of Small and Disadvantaged Business Utilization, Interior.

ACTION: Final notice.

SUMMARY: On August 16, 1990, Interior's proposed plan to expand small business participation in 10 industry categories appeared in the **Federal Register** (55 FR 33559) for a thirty day comment period ending on September 10, 1990. The only comment received came from Interior's Office of Information Resources Management, which estimated that the Department's need for ADP teleprocessing and timesharing services will diminish and that the level of acquisitions in this category will substantially drop. Accordingly, the category "processed film" has been substituted for "ADP teleprocessing and timesharing services" in the final list of selected categories.

FOR FURTHER INFORMATION CONTACT: Frank Gisondi, Business and Procurement Specialist, (202) 208-4907.

SUPPLEMENTARY INFORMATION: Among other things, title VII of the "Business Opportunity Development Reform Act of 1988" seeks to demonstrate whether targeted goaling and management techniques can expand Federal contract opportunities for small business in industry categories where such opportunities historically have been low despite adequate numbers of small business contractors in the economy. Interior has been selected as the tenth participant in the demonstration program.

For purposes of the expansion portion of the demonstration program, Interior has targeted the following industries:

Product/service code	SIC code	Industry category description
1. 4310	3563	Compressors and vacuum pumps.
2. 4330	3569	Centrifugals, separators & vacuum filters.
3. 6770	3861	Film, processed.
4. 7010	7373	ADP systems configuration.
5. 7021	3571	ADP Central Processing Unit, Digital.
6. B526	8731, 8733	Oceanological studies.
7. B534	8731, 8733	Wildlife studies.
8. D301	7376	ADP facility operation & maintenance services.
9. U006	8249, 8331	Vocational/technical services.
10. V222	4141, 4142	Passenger Motor Charter Service.

Interior's Initiatives To Increase Small Business Contract Awards in the Ten Industry Categories (TIC).

The Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for the development and management of Interior's small and small disadvantaged business programs. More specifically, this includes providing Department-wide coordination, direction and policy guidance on all matters related thereto. Designated OSDBU officials and bureau/office personnel are responsible for conducting individual counseling sessions with small and small disadvantaged business representatives seeking advice and guidance on how to best procure contracting opportunities with Interior. Specific guidance is provided regarding procedures for getting on solicitation mailing lists, current and planned procurement opportunities, arrangements for meeting with technical requirements personnel, and various assistance or preference programs which might be available.

Interior plans to expand small business participation in the ten selected categories by putting into effect the following initiatives:

—Disseminate the list of industry categories and instruct procurement personnel in their roles and responsibilities regarding the expansion program.
—Brief contracting personnel on the program at training conferences and stress its importance.
—Participate in procurement conferences, seminars, workshops, etc., sponsored by various members of Congress, state and local governments, chambers of commerce, trade organizations, and professional associations.
—Work closely with the Small Business Administration, Minority Business Development Agency, and other agencies participating in the Demonstration Program to share ideas for increasing small business participation.
—Develop a TIC source database from current acquisition data, PASS, and data obtained from a "sources sought" synopsis to be published in the Commerce Business Daily.
—Generate a TIC source list and distribute to bureaus and offices.
—Where possible, increase the number of set-asides in TIC acquisitions and continue including a maximum number of small businesses on solicitation mailing lists.
—Where possible, break out requirements to allow more participation by small businesses in areas where their participation has been historically low or nonexistent.
—Sponsor a small business trade fair which will focus on expanded participation in the TICs.

Dated: December 21, 1990.

Kenneth T. Kelly,

Acting Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 91-245 Filed 1-7-91; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

[NV-930-91-4212-24; Nev-056322]

Termination of Segregative Effect of Airport Lease

December 28, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action provides for the opening of 540.00 acres previously covered by an airport lease. The land will be opened to the public land laws generally, including the mining laws. The land has been and remains open to the mineral leasing laws.

EFFECTIVE DATE: February 7, 1991.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 850 Harvard Way, Reno, NV 89520, 702-785-6526.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.4-2(b), the segregative effect of airport lease Nev-056322 is hereby terminated. The following described land is affected:

Mount Diablo Meridian

T. 7 S., R. 44 E.,
Sec. 33, W½NE¼, SE¼NE¼, W½, SE¼.
The area contains 540 acres in Nye County.

The airport lease application was filed on October 21, 1960, at which time the land became segregated from all forms of appropriation. A 20-year lease was

subsequently issued on May 25, 1962, for public airport purposes pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214). In May 1990, the Federal Aviation Administration declared the airport deactivated and the airport lease was cancelled on September 7, 1990. At 10 a.m. on February 7, 1991, the land will be open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to or at 10 a.m. on February 7, 1991, will be considered as simultaneously filed. All other applications received will be considered in the order of filing. At 10 a.m. on February 7, 1991, the land will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land remains open to mineral leasing and material sale laws.

Fred Wolf,

Acting State Director.

[FR Doc. 91–310 Filed 1–7–91; 8:45 am]

BILLING CODE 4310–HC–M

[CACA–060–00–4212–13; CA–26271]

California Desert District, Realty Action, Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action CACA 26271, exchange of public and private lands.

SUMMARY: The following described public lands in San Bernardino County have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 7 N., R. 7 E.,
Sec. 10, E½SW¼SE¼, and W½SE¼SE¼.
Containing 40.00 acres.

In exchange for these lands, the All American Pipeline Company has offered the following non-Federal land in San Bernardino County:

San Bernardino Meridian, California

T. 11 N., R. 6 E.,
Sec. 16, SE¼SE¼.
Containing 40.00 acres.

The purpose of this exchange is to acquire a non-Federal parcel within the Afton Canyon Area of Critical Environmental Concern (ACEC), and create a more manageable public land unit. Acquisition of the offered parcel is specified in the management plan for the Afton Canyon Natural Area/ACEC.

Disposal of the public land parcel is consistent with the objectives of the California Desert Conservation Plan. The exchange would benefit the general public and the private sector. The public interest would be well served by completing the exchange.

The public land to be conveyed will be subject to the following terms and conditions:

A. Reservations to the United States.

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

There will be no mineral reservation to the United States. All minerals will be conveyed in the exchange patent.

B. Third Party Rights. Public lands will be conveyed subject to the following:

1. Those rights for construction, operation and maintenance of an underground natural gas pipeline, blowdown pipes and communications line granted to the Pacific Gas and Electric Company by right-of-way Serial No. CALA 0118349 under the Act of February 25, 1920, as amended (30 U.S.C. 185).

2. Those rights for construction, operation and maintenance of a 12kV electric distribution line granted to the Southern California Edison Company by right-of-way Serial No. CACA 18120 under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for construction, operation and maintenance of an underground natural gas pipeline and related equipment granted to the Mojave Pipeline Company by right-of-way Serial No. CACA 17204 under the Act of February 25, 1920, as amended (30 U.S.C. 185).

4. Those rights for construction, operation and maintenance of an underground cathodic protection system granted to the Pacific Gas and Electric Company by right-of-way Serial No. CACA 26848 under the Act of October 21, 1976 (43 U.S.C. 1761).

That portion of right-of-way Serial No. CACA 14013 for construction, operation and maintenance of an underground oil pipeline and heater station, granted to the All American Pipeline Company under the Act of February 25, 1920, as amended (30 U.S.C. 185), will be cancelled when the selected public lands are patented.

Lands to be conveyed to the United States will be subject to the following:

1. All mineral rights in the offered land were previously reserved by the State of California.

There are no other third party rights of record.

As provided in 43 CFR 2201.1(b), the publication of this notice in the **Federal Register** shall segregate, subject to existing valid rights, the public lands described herein from all other forms of appropriation under the public land laws, including the mining laws and mineral leasing laws. The segregative effect will terminate upon issuance of a conveyance document, upon publication in the **Federal Register** of a termination of the segregation, or two years from the date of this publication, whichever occurs first.

The values of the lands to be exchanged are in approximate balance. Equalization of values will be achieved by one of the following methods:

1. If the appraised value of the public lands exceeds the appraised value of the non-Federal lands, an equalization payment to the United States from All American Pipeline Company will be made.

2. If the appraised value of the offered non-Federal lands exceeds the appraised value of the public lands, the proponent will waive the value difference owed by the United States.

Additional information about this exchange is available at the Barstow Resource Area Office, 150 Coolwater Lanes, Barstow, CA 92311 (619–256–3591) and the California Desert District Office, 1695 Spruce Street, Riverside, CA 92507.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register** interested parties may submit comments to the District Manager, California Desert District at the above address. In the absence of any objections, 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. 91–22 Filed 1–7–91; 8:45 am]

BILLING CODE 4310–40–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 491]

Railroad Cost of Capital—1990

AGENCY: Interstate Commerce Commission.

ACTION: Correction of dates in notice of decision instituting a proceeding to determine the railroads' 1990 cost of capital.

SUMMARY: The Commission instituted a proceeding to determine the railroad industry's cost of capital rate for 1990, published in the **Federal Register** on December 20, 1990 (55 FR 52224). The dates for submission of comments by the railroads and other interested parties contained in that **Federal Register** Notice were in error, differing from the dates contained in the decision instituting the proceeding, served December 19, 1990. This notice corrects the dates in the **Federal Register** to agree with those in the decision.

DATES: Notices of intent to participate are due December 26, 1990. Statements of railroads are due February 15, 1991. Statements of other interested parties are due March 15, 1991. Rebuttal Statements by railroads are due March 29, 1991.

ADDRESSES: Send an original and 15 copies of statements and an original and 1 copy of the notice of intent to participate to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275–7489 (TDD for hearing impaired: (202) 275–1721).

Authority: 49 U.S.C. 10704(a).

By the Commission.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–340 Filed 1–7–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31789]

MNVA Railroad, Inc.—Continuance in Control Exemption—Wichita, Tillman & Jackson Railway Co.; Exemption

MNVA Railroad, Inc. (MNVA), a class III rail carrier, has filed a notice of exemption to continue to control Wichita, Tillman, & Jackson Railway Company (Wichita), a noncarrier, upon Wichita's becoming a carrier.

Concurrently with this notice, Wichita filed two notices of exemption. In Finance Docket No. 31787, it seeks to lease and operate lines owned or leased and operated by Missouri Pacific Railroad Company (MP). In Finance Docket No. 31788, it seeks to lease and operate a line owned by the State of Oklahoma over which MP now operates (Wichita will replace MP as the operator of the line). MNVA owns 51 percent of Wichita's stock, and it is sole owner of two other existing class III subsidiaries. Approximately 49 per cent of Wichita's stock is owned by Rio Grande Pacific Corporation (Rio Grande), a noncarrier having no assets or operations subject to Commission jurisdiction. Less than one per cent of Wichita's stock is owned by individuals who are also stockholders of Wichita or Rio Grande.

MNVA has also established two corporate subsidiaries to acquire and operate additional rail lines in Minnesota and South Dakota and North Dakota and Montana, respectively: Buffalo Ridge Railroad, Inc. (Buffalo Ridge), and Dakota, Missouri Valley and Western Railroad (Dakota).

The properties now operated by MNVA, Buffalo Ridge, and those to be operated by Wichita do not physically connect and there are no plans to acquire additional rail lines for the purpose of making a connection. The lines operated by these four companies are roughly a thousand miles apart. All of the carriers involved in this transaction are class III rail carriers.

Therefore, this transaction involves the continuance in control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, suite 1107, 1700 K Street, NW., Washington, DC 20006.

Decided: January 2, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–341 Filed 1–7–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31796]

The New York, Susquehanna and Western Railway Corporation and Staten Island Railway Corporation—Transfer of Stock Exemption—Rahway Valley Railroad Company and Rahway Valley Company, Lessee; Exemption

The New York, Susquehanna and Western Railway Corporation (NYS&W) and the Staten Island Railway Corporation (SIRY) have jointly filed a notice of exemption to transfer all the outstanding common stock of Rahway Valley Railroad Company (RVRR) and Rahway Valley Company, Lessee (RVC) owned by SIRY to NYS&W on or after December 18, 1990.

NYS&W owns 100 percent of the shares of SIRY. SIRY, in turn, owns 97.02 percent of the shares of RVRR and 100 percent of RVC. NYS&W is wholly owned by Delaware Otsego Corporation (DOC), a non-carrier, which owns 100 percent of the shares of Central New York Railroad Corporation and Cooperstown and Charlotte Valley Railway Corporation.

RVRR owns a line of railroad extending from Roselle Park, NJ (milepost 0.0), to Summit, NJ (milepost 7.1), and a connecting branch line extending 1 mile from Aldene, NJ (milepost 0.0), to Kenilworth, NJ; RVRR leases these lines to RVC. In addition, RVC owns a line of railroad extending 0.9 miles from Branch Junction, NJ, to Unionbury, NJ. The lines of SIRY and RVRR/RVC connect at Cranford Junction, NJ, but do not directly connect with NYS&W or any other carriers owned or controlled by DOC.

The proposed transaction is a corporate family restructuring. This is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347 the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Nathan R. Fenno, The New York, Susquehanna and

Western Railway Corporation, 1 Railroad Avenue, Cooperstown, NY 13326.

Decided: January 2, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-342 Filed 1-7-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31807]

Southern Pacific Transportation Company—Trackage Rights Exemption—Dallas Area Rapid Transit Property Acquisition Corporation; Exemption

The Dallas Area Rapid Transit Property Acquisition Corporation (DARTPAC) has agreed to grant local and overhead trackage rights to Southern Pacific Transportation Company (SPT) over 2.5 miles of line in Dallas County, TX: (1) Beginning at or near Tower 19 to and along Hickory Street; (2) beginning at or near Bellview Street to Holmes Street; and (3) between Ervay Street and Oakland Avenue. The trackage rights were to have become effective on or after December 27, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, Southern Pacific Transportation Company, One Market Plaza, room 846, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: January 2, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-343 Filed 1-7-91; 8:45 am]

BILLING CODE 7035-01-M

Exemption; Wichita, Tillman & Jackson Railway Co.—Lease and Operation Exemption—Missouri Pacific Railroad Co.

The Wichita, Tillman & Jackson Railway Company (Wichita) has filed a notice of exemption to lease and operate 40.5 miles of active rail line consisting of two unconnected segments. The first segment, known as the Western Branch, is owned by the Missouri Pacific Railroad Company (MP) and extends between milepost 0.99, at Wichita Falls, TX, and approximately milepost 17.5, at Burkburnett, TX, on the Texas-Oklahoma State line. The second segment, known as Walters Industrial Lead, extends between milepost 513.50, at Walters, OK, and milepost 537.43, at Waurika, OK. It is owned by the State of Oklahoma (State) and is operated by MP under a lease, purchase, and operating agreement with State. MP is assigning its rights under that agreement to Wichita, which will replace MP as the operator of the line.

This transaction is related to another exemption request by Wichita, in Finance Docket No. 31788, Wichita, Tillman & Jackson Railway Company—Lease and Operation Exemption—State of Oklahoma, filed concurrently with this exemption notice. There Wichita seeks an exemption to lease and operate that portion of the Western Branch within Oklahoma which State owns and which MP currently leases and operates. That 61.1 mile segment extends from approximately milepost 17.5, at the State line, to approximately milepost 78.6, at Altus, Ok.

Wichita currently owns no railroad lines and conducts no rail or transportation operations subject to the Commission's jurisdiction. MNVA Railroad, Inc. (MNVA), a class III shortline railroad which owns or operates several noncontinguous railroad properties,[1] owns approximately 51 percent of Wichita's stock. Rio Grande Pacific Corporation (Rio Grande) a noncarrier with no activities currently subject to Commission jurisdiction, owns approximately 49 percent of Wichita's stock. Several officers and directors of MNVA and Rio Grande own less than 1 percent of Wichita's stock. Concurrently with this notice, MNVA filed a notice of exemption to continue in control of Wichita in Finance Docket No. 31789.

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, suite 1107, 1700 K Street, NW., Washington, DC 20006; and Joseph Anthofer, Union Pacific Railroad, 1416 Dodge Street, Omaha, NE 68179.

[1] MNVA owns and operates a line of railroad between Hanley Falls and Norwood, MN. MNVA also controls Buffalo Ridge Railroad, Inc., a noncontiguous class III shortline carrier which operates a line between Agate, MN, and Sioux Falls, SD, as well as Dakota, Missouri Valley and Western Railroad, Inc., a shortline which leases and operates several lines in North Dakota and Montana.

Wichita shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d), may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 2, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-344 Filed 1-7-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31788]

Exemption; Wichita, Tillman & Jackson Railway Co.—Lease and Operation Exemption—State of Oklahoma

The Wichita, Tillman & Jackson Railway Company (Wichita) has filed a notice of exemption to lease and operate 61.1 miles of active rail line in Oklahoma, known as the Western Branch, owned by the State of Oklahoma (State), which Missouri Pacific Railroad Company (MP) currently leases and operates. The Oklahoma segment of the Western Branch extends between approximately milepost 17.5, at the Texas-Oklahoma State line near Burkburnett, TX, and approximately milepost 78.6, at Altus, OK.

This transaction is related to another exemption request by Wichita, in Finance Docket No. 31787, Wichita, Tillman & Jackson Railway Company—Lease and Operation Exemption—Missouri Pacific Railroad Company, filed concurrently with this exemption notice. There Wichita seeks an exemption to lease and operate two segments of rail line. The first segment, the portion of the Western Branch within Texas, is owned by MP and extends between milepost 0.99, at Wichita Falls, TX, and approximately milepost 17.5, at Burkburnett. The second segment, known as Walters Industrial Lead, extends between milepost 513.50, at Walters, OK, and milepost 537.43, at Waurika, OK. It is owned by State and is operated by MP under a lease, purchase, and operating agreement with State. MP is assigning its rights under that agreement to

Wichita, which will replace MP as the operator of the line.

Wichita currently owns no railroad line and conducts no rail or transportation operations subject to the Commission's jurisdiction. MNVA Railroad, Inc. (MNVA), a class III shortline railroad which owns or operates noncontiguous railroad properties,[1] owns approximately 51 percent of Wichita's stock. Rio Grande Pacific Corporation (Rio Grande) a noncarrier with no activities currently subject to Commission jurisdiction, owns approximately 49 percent of Wichita's stock. Several officers and directors of MNVA and Rio Grande own less than 1 percent of Wichita's stock. Concurrently with this notice, MNVA filed a notice of exemption to continue in control of Wichita in Finance Docket No. 31789.

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, suite 1107, 1700 K Street, NW., Washington, DC 20006; and Jerry D. Chambers, Oklahoma Department of Transportation, 200 NE. 21st Street, Oklahoma City, OK 73105.

Wichita shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C 10505(d), may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 2, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-345 Filed 1-7-91; 8:45 am]

BILLING CODE 7035-01-M

[1] MNVA owns and operates a line of railroad between Hanley Falls and Norwood, MN. MNVA also controls Buffalo Ridge Railroad, Inc., a noncontiguous class III shortline carrier which operates a line between Agate, MN, and Sioux Falls, SD, as well as Dakota, Missouri Valley and Western Railroad, Inc., a shortline which leases and operates several lines in North Dakota and Montana.

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of December 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,985; The Craig Plant Weyerhaeuser, Broken Bow, OK

TA-W-24,988; A.P. Green Industries, Troy, ID

TA-W-24,909; Hughes Display Products, Dover, NJ

TA-W-25,012; Sealed Air Co., Somerset, NJ

TA-W-24,956; R & M Shake & Ridge, Aberdeen, WA

TA-W-25,008; Penn Wire Rope, Williamsport, PA

TA-W-24,979; Sharfstein & Feigin Furs, New York, NY

TA-W-24,890; W.R. Case & Sons Cutlery Co., Bradford, PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,984; Western Union Corp., Allentown, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,872; Ford New Holland, Inc., Troy, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,980; Tri Country Cedar, Cosmopolis, WA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,968; Burlington Coat Factory, Columbus, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-24,953; Max West, Inc., West Veneer Div., Randle, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,046; Norval, Inc., Philadelphia, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,007; Olean Advanced Product, Olean, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,964; Vulcan Valley Mold Co., Latrobe, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,945; Flexicore Systems, Inc., Huber Heights, OH

U.S. imports of concrete products (precast concrete) are negligible.

TA-W-24,948; Ladd Petroleum Corp., Headquarters, Denver, CO

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24,949; Ladd Petroleum Corp., Mid Continent Region East, Tulsa, OK

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24,950; Ladd Petroleum Corp., Gulf Coast Region, Houston, TX

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24,951; Ladd Petroleum Corp., Natural Gas Dept., Denver, CO

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-24,952; Ladd Petroleum Corp., Mid-Continent Region, West Denver, CO

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-25,005; Mason Lumber Co., Beaver, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,991; Applied Biosystems, Inc., Ramsey, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,033; Haynes & Shirley Drilling, Inc., Electra, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,972; Hanlon & Gregory, Pittsburgh, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,919; Pentapco, Inc., Elizabeth, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,061; Valley Wood Products, Valley, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,044; McClanahan Lumber, Inc., Forks, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,048; Quinault Shingle & Lumber Co., Amanda Park, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,021; Brooklyn Steel & Tube Corp., Brooklyn, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,017; Winter Wood Products, Inc., Phillips, WI

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-24,990; Airfoil Textron, Inc. Fostoria, OH

A certification was issued covering all workers separated on or after October 8, 1989.

TA-W-25,000; Information Magnetics Caribe, Inc., Moca, PR

A certification was issued covering all workers separated on or after October 8, 1989.

TA-W-24,975; Pope & Talbot, Inc., Port Gamble, WA

A certification was issued covering all workers separated on or after September 1, 1990.

TA-W-24,959; Silgan Plastics Corp., Stonington, CT

A certification was issued covering all workers separated on or after June 1, 1990.

TA-W-24,936; Alleghany Apparel, Inc., Covington, VA

A certification was issued covering all workers separated on or after September 25, 1989.

TA-W-24,908; HPM Corp., Mt. Gilead, OH

A certification was issued covering all workers separated on or after September 26, 1989.

TA-W-24,946; Georgia Pacific Corp., Coquille, OR

A certification was issued covering all workers separated on or after September 28, 1989.

TA-W-24,967; Bay Chemical Co., Bay City, MI

A certification was issued covering all workers separated on or after October 5, 1989.

TA-W-24,905; Endicott Johnson Corp., Johnson City, NY

A certification was issued covering all workers separated on or after September 15, 1989.

TA-W-24,966; Akron Catheter, Chippewa Lake, OH

A certification was issued covering all workers separated on or after January 1, 1990.

TA-W-24,668; A.J.K. Manufacturing Co., Alberta, VA

A certification was issued covering all workers separated on or after September 11, 1989.

TA-W-24,907; Health-Tex, Inc., Lafollette, TN

A certification was issued covering all workers separated on or after September 26, 1989.

TA-W-25,002; Jay-Zee, Inc., Branson, MO

A certification was issued covering all workers separated on or after October 15, 1989.

TA-W-25,002A; Jay-Zee, Inc., Monett, MO

A certification was issued covering all workers separated on or after October 15, 1989.

TA-W-24,983; Waymart Knitting Co., Inc.

A certification was issued covering all workers separated on or after October 15, 1989.

TA-W-24,943; E.F. Johnson Co., Waseca & Eden Prairie, MN

A certification was issued covering all workers separated on or after October 2, 1989.

TA-W-24,997; Brush Fuses, Inc., Des Plaines, IL

A certification was issued covering all workers separated on or after October 19, 1989.

TA-W-24,887; Tektronix, Inc., Waveform Div., CRT Operation, Beaverton, OR

A certification was issued covering all workers separated on or after July 24, 1989.

TA-W-24,969; Dae Yang America, Kutztown, PA

A certification was issued covering all workers separated on or after October 12, 1989.

TA-W-24,962; Transfer Machine, Inc., Troy, MI

A certification was issued covering all workers separated on or after October 5, 1989.

TA-W-25,055; Simon-Horizon, Inc., Headquartered in Midland, TX

A certification was issued covering all workers separated on or after December 27, 1989.

TA-W-25,053; Simon-Horizon, Inc., Tyler, TX

A certification was issued covering all workers separated on or after December 27, 1989.

TA-W-25,054; Simon-Horizon, Inc., Houston, TX

A certification was issued covering all workers separated on or after December 27, 1989.

TA–W–25,056; Simon-Horizon, Inc., Denver, CO

A certification was issued covering all workers separated on or after December 27, 1989.

TA–W–25,057; Simon-Horizon, Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after December 27, 1989.

TA–W–25,058; Simon-Horizon, Inc., Dallas, TX

A certification was issued covering all workers separated on or after December 27, 1989.

TA–W–25,059; Simon-Horizon, Inc., Lubbock, TX

A certification was issued covering all workers separated on or after December 27, 1989.

I hereby certify that the aforementioned determinations were issued during the month of December 1990. Copies of these determinations are available for inspection in room C4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 28, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–318 Filed 1–7–91; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Bureau of Labor Statistics
Standard Industrial Classification Refiling Forms 1220–0032

The affected public are both public and private employers, including large and small businesses.

Form	FY 1991 respondents	Frequency	Avg. time resp.
BLS 3023–V	1,980,000	Annual	5 min.
BLS 3023–CA	45,000	Annual	10 min.
BLS 3023–VS *	0	Annual	5 min.
BLS 3023–VM *	0	Annual	15 min.
BLS 3023–P **	0	Every 5 yrs.	10 min.

Total hours are 171,855.

* BLS 3023–VS and BLS 3023–VM will be implemented in 1992.

** Public Administration will not be surveyed in FY 1991.

For each of Fiscal Years 1991, 1992, 1993, and 1994 and based on an establishment's industrial classification, one-third of the universe and public employers classified as operating establishments will be surveyed. This information will be used by BLS and SESAs to review and update the industrial and geographic codes of employers.

Extension

Employment Standards Administration
Agreement and Undertaking
1215–0034; OWCP–1
On occasion
Businesses or other for profit
300 respondents; 75 total hours; .25 min. per response; 1 form

OWCP–1 is a joint use form (Long Shore and Black Lung programs) completed by employers to provide the Secretary of Labor with authorization to sell securities, or to bring suit under indemnity bonds deposited by self-insured employers in the event there is a default in the payment of benefits.

Signed at Washington, DC this 3rd day of January, 1991.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 91–319 Filed 1–7–91; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–24, 756]

Midwest Foundry Company Coldwater, Missouri; Determination Regarding Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice corrects the State location previously published in the Federal Register on November 30, 1990, (55 FR 49718) in FR Document 90–28185 indicating Coldwater, Missouri as the location of Midwest Foundry Company.

Under Negative Determinations, TA–W–24, 756; Midwest Foundry Co., the location should be Coldwater, Michigan instead of Coldwater, Missouri.

Signed at Washington, DC, this 28th day of December 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–317 Filed 1–7–91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

Date: January 3, 1991.

The National Credit Union Administration has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submissions may be obtained by calling the NUCA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Administrative Office, room 7344, 1776 G Street NW., Washington, DC 20456.

National Credit Union Administration

OMB Number: 3133–0040.

Form Number: FCU 109A & B.

Type of Review: Reinstatement of a previously approved collection for which approval has expired.

Title: FCU Ownership of Fixed Assets.

Description: 12 CFR 701.36 requires that federal credit unions with $1 million or more in assets obtain the approval of the Agency prior to investing in fixed assets in excess of 5 percent of shares and retained earnings.

Respondents: Federal Credit Unions.

Estimated Number of Respondents: 100.

Estimated Burden Hours per Response: 10.

Frequency of Response: On Occasion.

Estimated Total Reporting Burden: 1,000 hours.

OMB Number: 3133–0092

Form Number: None.

Type of Review: Reinstatement of a previously approved collection for which approval has expired.

Title: Loans to Members and Lines of Credit to Members.

Description: Information collection is required of federal credit unions. Written lending policies required of all federal credit unions, a legal opinion as to mortgage forms required if standard forms are not used. The information is used by the NCUA in examinations and by the FCUs and their members.

Respondents: Federal credit unions.

Estimated Number of Respondents: 8,657.

Estimated Burden Hours per Response: 12.

Frequency of Response: On Occasion.

Estimated Total Reporting Burden: 207,768 hours.

Clearance Officer: Wilmer A. Theard, (202) 682–9700, National Credit Union Administration, room 7344, 1776 G Street, NW., Washington, DC 20456.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 91–314 Filed 1–7–91; 8:45 am]

BILLING CODE: 7535-01-M

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application.

SUMMARY: The National Credit Union Administration ("NCUA") will accept applications for participation in the Community Development Revolving Loan Program For Credit Unions through February 28, 1991. Application procedures are set forth in part 705 of NCUA's Rules and Regulations ("Community Development Revolving Loan Program for Credit Unions") (12 CFR part 705).

ADDRESSES: Applications to participate in the Program should be submitted to: NCUA, Community Development Revolving Loan Program for Credit Unions, 1776 G Street NW., Washington, DC 20456.

DATES: Applications must be received by February 28, 1991.

FOR FURTHER INFORMATION CONTACT: Robert J. LaPorte, Central Liquidity Facility, at the above address or telephone (202) 682–9780.

SUPPLEMENTARY INFORMATION: Part 705 of NCUA's Regulations (12 CFR part 705) implements the Community Development Revolving Loan Program for Credit Unions (the "Program"). The purpose of the Program is to make reduced rate loans to both federally and state-chartered credit unions serving low-income communities so that the credit unions may provide needed financial services and help to stimulate the economy in the communities they serve.

This Notice is published pursuant to § 705.9 of NCUA's Regulations (12 CFR 705.9) stating that NCUA will provide notice in the **Federal Register** when funds in the Program are available for loans, and the time period during which applications for participation in the Program will be accepted. Funds are currently available for loans. Applications for participation in the Program will be accepted through February 28, 1991. Credit unions wishing to participate in the Program should refer to part 705 of NCUA's Regulations for the application procedures and Program Requirements. Only credit unions currently in existence may apply.

By the National Credit Union Administration on December 17, 1990.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 91–315 Filed 1–7–91; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings; Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Catherine Wolhowe, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the

Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of title 5, United States Code.

1. *Date:* January 11, 1991.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Humanities Projects in Museums and Historical Organizations applications submitted to the Division of Public Programs, for projects beginning after July 1, 1991.

2. *Date:* January 17–18, 1991.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Humanities Projects in Museums and Historical Organizations applications submitted to the Division of Public Programs, for projects beginning after July 1, 1991.

3. *Date:* January 24–25, 1991.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Humanities Projects in Museums and Historical Organizations applications submitted to the Division of Public Programs, for projects beginning after July 1, 1991.

4. *Date:* January 31-February 1, 1991.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Humanities Projects in Museums and Historical Organizations applications submitted to the Division of Public Programs, for projects beginning after July 1. 1991.

5. *Date:* February 7–8, 1991.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Humanities Projects in Museums and Historical Organizations applications submitted to the Division of Public Programs, for projects beginning after July 1, 1991.

Catherine Wolhowe,
Advisory Committee, Management Officer.

[FR Doc. 91–305 Filed 1–7–91; 8:45 am]
BILLING CODE 7536–01–M

Performance Review Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces membership in the National Endowment for the Humanities' Executive Resources and Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Timothy G. Connelly, Director of Personnel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c), the National Endowment for the Humanities (NEH) hereby revises the notice of membership published in the **Federal Register** on January 28, 1990.

The members of the Executive Resources and Performance Review Board are: (1) Thomas Kingston, Assistant Chairman for Operations—Board Chairman (until designated otherwise); (2) Donald Gibson, Director, Division of Public Program; (3) Marguerite Sullivan, Director, Office of Publications and Public Affairs; Marjorie Berlincourt, Director, Division of State Programs, and Anne Neal, General Counsel, Office of the General Counsel and Congressional Liaison. Appointment of all former Board members are rescinded and the above members are appointed through December 31, 1991.

Lynne Cheney,
Chairman.

[FR Doc. 91–306 Filed 1–7–91; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electrical Illuminating Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 151 to Facility Operating License No. NPF–3, issued to the Toledo Edison Company and the Cleveland Electric Illuminating Company (the licensee), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment was effective as of the date of its issuance.

The amendments extended the expiration date of Facility Operating License No. NPF–3 for Davis-Besse from its present date of March 24, 2011 to April 22, 2017. The latter date is 40 years from the issuance of the operating license whereas the earlier date is 40 years after the issuance of the construction permit (CP).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on November 29, 1990 (53 FR 49582). No requests for a hearing or petition for leave to intervene was filed following this notice.

For further details with respect to the action see: (1) The application for amendment dated May 31, 1990, as supplemented December 17, 1990, (2) Amendment No. 151 to License No. NPF–3, (3) the Commission's related Safety Evaluation dated December 31, 1990, and (4) the Environmental Assessment, dated December 21, 1990 (55 FR 53216). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III/IV/V.

Dated at Rockville, Maryland, this 31st day of December 1990.

For the Nuclear Regulatory Commission.

M.D. Lynch, Sr.,
Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–296 Filed 1–7–91; 8:45 am]
BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection Submitted to OMB for Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., chapter 35), this notice announces a request to revise the use of OPM Form 805 that collects information from the public. OPM Form 805, Application to be Listed Under the

Voting Rights Act of 1965, is used to elicit information from persons applying for voter registration under the authority of the Voting Rights Act of 1965. The requirements for voter eligibility vary from State to State; therefore, OPM Form 805 is a blanket number covering 10 forms which conform to the individual State's requirements.

Approximately 250 individuals complete the form annually which requires 20 minutes to complete for a total public burden of 83 hours.

For copies of this proposal call C. Ronald Trueworthy on (202) 606–2261.

DATES: Comments on this proposal should be received by February 7, 1991.

ADDRESSES:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., room 6410, Washington, DC 20415.

Joseph Lackey, OPM Desk Officer, OIRA, Office of Management and Budget, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stephanie J. Peters, (202) 606–1701.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–347 Filed 1–7–91; 8:45 am]

BILLING CODE 6325–01–M

Request for Clearance for RI 20–7 and RI 30–3 Submitted to OMB

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the clearance of two information collections. RI 20–7, Representative Payee Questionnaire, is used to collect information from persons applying to be fiduciaries for annuitants or survivor annuitants who appear to be incapable of handling their own funds or for minor children. RI 30–3, Information Necessary for a Competency Determination, collects medical information regarding the annuitant's competency for OPM's use in evaluating the annuitant's condition. RI 30–3 is an enclosure to RI 20–7 and is needed for adult annuitants who are alleged to be incompetent.

The number of respondents for RI 20–7 is 12,480; we estimate it takes 20 minutes to fill out the form. The annual burden is 4,160 hours. The number of respondents for RI 30–3 is 250; we estimate it takes 60 minutes to fill out the form. The annual burden is 250 hours. The total burden is 4,410 hours.

For copies of this proposal, call C. Ronald Trueworthy on (202) 606–2261.

DATES: Comments on this proposal should be received by February 7, 1991.

ADDRESSES: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E. Street NW., room 6410, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–348 Filed 1–7–91; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28715; File No. SR–NSCC–90–21)]

Self-Regulatory Organizations; National Securities Clearing Corporation, Proposed Rule Change Relating to its Authority To Permit Book-Entry Money Settlements With Members

Pursuant to section 19(b)(1) of the Securties Exchange Act of 1934,[1] notice is hereby given that on October 5, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securties and Exchange Commission ("Commission") the proposed rule change (File No. SR–NSCC–90–21) as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify Section 1 of NSCC's Rule 12 (Settlement) by expressly authorizing NSCC to permit its members to use inter-bank and intra-bank funds transfers to settle their obligations due NSCC.

II. SRO's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed anv comments it had received on the proposed rule change. The text of these statements may be examined at the places specifed in Item IV below. NSCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC Rule 12 currently requires NSCC members to meet their money settlement obligations to NSCC through the payment of a check, which must be certified for amounts of $5,000 or greater. Except where payment to NSCC is late, in which case a Federal Funds wire is required, the existing rule does not expressly provide for alternate payment mechanisms. In order to reflect the practice that NSCC already has adopted, under certain circumstances, of allowing its members to use bank funds transfers to satisfy their money settlement obligations to NSCC and in order to move generally to a funds transfer settlement environment, NSCC proposes to modify its Rule 12 to authorize expressly such alternative methods of payment.

The proposed practice would enable NSCC members of pay, as permitted by NSCC, their NSCC settlement obligations at a bank where both NSCC and the members have accounts through intra-bank debits of members' accounts and corresponding intra-bank credits to NSCC's account (and vice versa). NSCC believes that the proposed use of book-entry funds transfers would have many advantages, including (1) the elimination of the burdens and costs that arise from paper movements, and (2) earlier finality of payment. Ultimately, NSCC contemplates executing a contract with a bank located in each of its operating regions that will allow money settlements to be effected by intra-bank book-entry settlement in every region. In this regard, a pre-requisite to creating an intra-bank funds transfer arrangement would be the establishment of such a contractual agreement between NSCC, the bank, and the member delineating, among other things, terms under which the right of NSCC to such payment is final and irrevocable.

[1] 15 U.S.C. 78s(b)(1).

The proposed rule change would help ensure that ability of NSCC to effect money settlements with it members in a timely, cost-efficient, and secure manner. Thus, it is consistent with the requirements of the Act, particularly section 17A of the Act, and of the rule and regulations thereunder.

B. SRO's Statement on Burden on Competition

NSCC believes that the proposed rule changes will not have an impact on or impose a burden on competition.

C. SRO's Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule changes have not yet been solicited or received. NSCC will notify its members of the rule filing and solicit their comments by an Important Notice. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the SRO consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-90-21 and should be submitted by January 29, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Dated: December 21, 1990.

Margaret H. MacFarland,

Deputy Secretary.

[FR Doc. 91-243 Filed 1-7-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28727; File No. SR-NSCC-90-27]

Self-Regulatory Organizations; National Securities Clearing Corporation; Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change Regarding Members' Required Clearing Fund Deposits

December 31, 1990.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, as amended ("the Act"), [1] notice is hereby given that on December 18, 1990, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-NSCC-90-27) as described. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. This order also temporarily approves the proposal on an accelerated basis until June 30, 1991.

I. Description of the Proposal

The proposed rule change [2] modifies the amount of a Member's Clearing Fund Deposit that may be collateralized by letters of credit. Specifically, the proposed rule change will increase the minimum cash contribution for those Members who use letters of credit from $50,000 to the greater of $50,000 or 10% of their Clearing Fund Required Deposit up to a maximum of $1,000,000. The proposed rule change also provides that only 70% of a Member's Required Deposit may be collateralized with letters of credit. Finally, the proposed rule change has added headings to the Clearing Fund formula section of NSCC's rules for clarity and has made other nonsubstantive drafting changes.

The intended effect of the proposed rule change is to increase the liquidity of the Clearing Fund and to limit NSCC's exposure to any unusual risk from the reliance on letters of credit. NSCC indicates that this is a goal that the Commission has endorsed to insure the liquidity of the clearing system in the event of a major Member insolvency, catastrophic loss, or a major settlement suspense.

II. NSCC's Rationale for the Proposal

NSCC believes that because the proposed rule change enhances its capacity to safeguard securities and funds in its custody or control and to protect the public interest, it is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to NSCC.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provision of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-90-27 and should be submitted by January 29, 1991.

IV. Accelerated Temporary Approval

The Commission believes that good cause exists for approving the proposal on a temporary basis in that it is consistent with the requirements of section 17A(b)(3)(A)&(F) of the Act.[3] The Commission agrees with NSCC that the proposed rule change will reduce the possibility of the liquidity risk associated with letters of credit in the event of a default by a major NSCC participant. As such, the proposal, while allowing the continued use of this form of collateral, enables NSCC to improve its capacity to safeguard securities and funds for which it is responsible and thus promotes the prompt and accurate

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[2] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b).

[2] The proposed rule change was filed originally on October 27, 1989 (File No. SR-NSCC-89-16) and was approved temporarily through December 31, 1990. (Securities Exchange Act Rel. No. 27664 (January 31, 1990), 55 FR 4297.

[3] 15 U.S.C. 78q 1(b)(3)(A) & (F).

clearance and settlement of securities transactions.[4]

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular, with section 17A. Accordingly, the Commission is approving the proposed rule change temporarily until June 30, 1991. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register** in that the proposed rule change will help reduce the exposure of NSCC's Clearing Fund to the possibility of the liquidity risk associated with letters of credit. As noted above, the proposed rule change was originally filed on October 27, 1989, and was approved on a temporary basis through December 31, 1990. No comments were received at that time. NSCC's proposed rule change, if approved, would extend, without modification, NSCC's current Clearing Fund contribution rules.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SE–NSCC–90–27) be, and hereby is, approved on a temporary basis until June 30, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–244 Filed 1–7–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28728; File Nos. SR–NSCC–90–25, SR–MCC–90–08, and SR–SCCP–90–03]

Self-Regulatory Organizations; National Securities Clearing Corporation, Midwest Clearing Corporation, and Securities Clearing Corporation of Philadelphia; Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Changes Relating to Earlier Trade Guarantees and Revised Clearing Fund Formulas

December 31, 1990.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, as amended ("Act"),[1] notice is hereby given that the National Securities Clearing Corporation ("NSCC"), the Midwest Clearing Corporation ("MCC"), and the Securities Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (SR–NSCC–90–25, SR–MCC–90–08, and SR–SCCP–90–03) described below.[2] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. This order also approves temporarily the proposals on an accelerated basis until June 30, 1991.

I. Description of the Proposals

The proposals seek permanent approval of proposed rule changes that would permit NSCC, MCC, and SCCP (collectively "Clearing Corporations") to: (1) Guarantee at an earlier time settlement of member trades in their respective Continuous Net Settlement ("CNS") systems; and (2) revise the CNS portion of their respective clearing fund formulas to protect against increased risk posed by such earlier guarantees.[3] The Commission approved temporarily these proposals for the Clearing Corporations on August 29, 1989.[4] Such approval expires on December 31, 1990. The salient features of these proposals are described briefly below.[5]

A. NSCC

NSCC's proposal permits it to guarantee settlement of pending CNS trades as of midnight plus one day after the trade date for locked-in trades and on midnight on the day trades are reported to members as compared for non-locked-in trades. Prior to its original proposal, NSCC guaranteed settlement of CNS trades on the fourth day after trade date (T+4). NSCC's proposal reduces the time during which clearing members are exposed to the risk of contra-side default but increases the time during which NSCC is exposed to such risk.

To protect against increased CNS system risk associated with an earlier guarantee, NSCC proposes to revise the CNS portion of its clearing fund formula. NSCC's revised clearing fund formula requires each member to contribute as the CNS portion of its clearing fund requirement an amount approximately equal to: (1) Two percent (2%) of the member's projected total long CNS positions; plus (2) the net of each day's difference between the contract price of pending, compared CNS trades and the current market price for all guaranteed pending CNS trades that have not yet reached settlement; plus (3) one-fourth of one percent (.25%) of the net of all guaranteed, pending CNS trades and open CNS positions.

NSCC calculates the CNS portion of its clearing fund requirement daily and collects clearing fund deposits monthly unless circumstances justify additional deposits on a more frequent basis. As a part of NSCC's monitoring of clearing fund deposits, NCSS will determine on a daily basis whether changes in a member's required deposit relating to CNS activity breaks certain parameters. NSCC may collect additional intramonth deposits from a member if: (1) That member's current clearing fund requirement (based on the previous twenty business days' activity) for CNS activity is more than twenty-five percent (25%) higher than the previous month-end required clearing fund deposit; or (2) the average of that member's last five calculations, as described in (1) above, is more than fifteen percent (15%) higher than the previous month-end requirement. NSCC collects intramonth deposits on the day these parameter breaks occur if a member's clearing fund deposit is insufficient to cover the deficiency. NSCC does not require an increased contribution if the deficiency is less than either ten percent (10%) of the member's clearing fund deposit or $10,000. NSCC may grant exemptions from the additional deposit requirement in certain circumstances.

B. MCC

MCC's proposal provides for earlier guarantees in precisely the same fashion as does NSCC's proposal. MCC also has revised the CNS portion of its clearing fund formula to help protect against risks associated with earlier guarantees.

Under MCC's proposal, assessments for the clearing fund will be based on the following formula: (1) All presettlement long and short settling CNS trades will be summarized daily for the previous twenty day period; (2) for each day that a member has a net debit exposure, based on mark-to-market, such member will be assessed at a rate of 102% of the net debit exposure; and

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[4] The Commission incorporates its comprehensive discussion approving temporarily NSCC's revised clearing fund requirements for deposits secured by letters of credit as set forth in Release No. 34–27664.

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b).

[2] The proposed rule changes were filed as follows: NSCC (SR–NSCC–90–25) on December 12, 1990; MCC (SR–MCC–90–08) on December 24, 1990; and SCCP (SR–SCCP–90–03) on December 10, 1990.

[3] These policies were first proposed by the Clearing Corporations as follows: NSCC (SR–NSCC–87–04) on February 27, 1987, with amendments on March 11, 1987, and October 1, 1987; MCC (SR–MCC–87–03) on June 2, 1987; and SCCP (SR–SCCP–87–03) on October 26, 1987, with an amendment on June 8, 1989.

[4] Securities Exchange Act Rel. No. 27192 (August 29, 1989) 54 FR 37010 ("Temporary Approval Order").

[5] The Commission incorporates herein its comprehensive description of the Clearing Corporations' proposals as set forth in the Temporary Approval Order.

(3) the average twenty day net debit exposure figure will serve as the additional clearing fund contribution. Members whose average net debit exposure for the twenty day period is below the minimum $5,000 clearing fund deposit will not be required to provide additional funds.

Procedures pertaining to contributions to the clearing fund will be as follows: (1) Calculation of clearing fund requirements will take place daily; (2) increases of the net debit exposure less than or equal to 10% of the twenty day net debit exposure moving average will be assessed weekly; and (3) a net debit exposure increase of more than ten percent (10%) over the twenty day net debit exposure moving average could be requested on the day of calculation. MCC, in its discretion, may defer such requests until the weekly assessment. Any interest received from the investment of the clearing fund, less a daily service charge of .05% to cover the administration of the invested funds, shall accrue to the members.

C. SCCP

SCCP's proposal also provides for earlier guarantees in precisely the same fashion as does NSCC's and MCC's proposals. In order to help minimize any additional risks from earlier guarantees and to more adequately collateralize any CNS system risks, SCCP also has modified its existing formula for calculating required CNS clearing fund contributions. The new formula enables SCCP to collect the current mark-to-market value of the securites still pending settlement. Under the old system, SCCP only collected the value of such securities on or after the settlement date (T+5).

Contributions to the clearing fund are assessed based upon the larger of: (1) A member's monthly average of trading activity based on the preceding quarter with an assessment of $1,000 for every 25 trading units of 100 shares (with a $5,000 minimum and $50,000 maximum contribution); the first $25,00 must be in cash and the remainder may be in high grade bonds; or (2) a member's aggregate dollar amount of all long trades at their execution price for each quarter divided by the number of days in such quarter times two percent (2%) (with a maximum $100,000 contribution). In addition to the above adjustments and as a further means of reducing risks generated by earlier guarantees, all clearing fund contributions will be adjusted daily with respect to any mark-to-market exposure. Adjustments of less than $10,000 may be waived by SCCP.[6]

II. The Clearing Corporations' Rationale for the Proposal

The Clearing Corporations believe that the proposed rule changes are consistent with section 17A of the Act in that they facilitate the prompt and accurate clearance and settlement of securities transactions for which they are responsible.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal offices of NSCC, MCC, and SCCP. All submissions should refer to File Nos. SR–NSCC–90–25, SR–MCC–90–08, and SR–SCCP–90–03 and should be submitted by January 29, 1991.

IV. Accelerated Temporary Approval

Following the approval on a temporary basis of the Clearing Corporations' original proposals, the Commission has examined the effects of the Clearing corporations' procedures for earlier guarantees and their revised formulas for calculating CNS clearing fund contributions. The commission believes that these procedures have functioned adequately during the applicable temporary approval period and that good cause exists for reapproving the proposals on a temporary basis in that they are consistent with section 17A of the Act. Specifically, the Commission believes the proposals are designed to increase trade settlement certainty without compromising the safety of member funds and securities.[7] The Commission is approving the proposal on a temporary basis, however, while it continues to monitor the adequacy of the NSCC, MCC, and SCCP safeguards applicable to earlier guarantees. In this respect, the Commission notes that during the ensuing temporary approval period, the Clearing Corporations are subject to a continuing obligation to provide data to the Commission pertaining to the ability of the revised CNS clearing fund formulas to guard against increased risk posed by earlier guarantees.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication in the **Federal Register** in order to allow NSCC, MCC and SCCP to continue to provide their participants with access to the improved trade guarantee that is currently in effect and which expires on December 31, 1990.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule changes (SR–NSCC–90–25, SR–MCC–90–08, and SR–SCCP–90–03) be, and hereby are, approved on a temporary basis until June 30, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–328 Filed 1–7–91; 8:45 am]

BILLING CODE 8010–01–M

[6] SCCP has examined the effects of the new formula for calculating Partcipants Fund Contributions. Only one participant has been significantly effected, and that firm was made aware of their potential exposure prior to the onset of the new program. SCCP has also placed a $100,000 cap on any member's contribution in order to limit extreme increases. That cap has only been applied for one member.

[7] For a more comprehensive discussion, *see* Temporary Approval Order.

[8] The Commission's data request is delineated in the Temporary Approval Order. The Commission reserves the right to amend the data request during the ensuing temporary approval period for any of the Clearing Corporations in order to obtain the most useful and accurate information available.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[Rel. No. IC–17926; 812–7174]

Gateway Mortage Acceptance Corp.; Application

December 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Gateway Mortgage Acceptance Corporation (the "Applicant") on behalf of itself and

certain trusts (each, a "Trust") that it has formed or may establish in the future. (Applicant and the Trusts are referred to collectively as "Issuers").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from all provisions of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks a conditional order exempting the Issuers from all provisions of the 1940 Act with respect to the issuance and sale of series of collateralized mortgage obligations and residual interests relating thereto, and to elect to treat the issuance of any series as a real estate mortgage investment conduit ("REMIC") under the Internal Revenue Code.

FILING DATE: The application was filed on November 16, 1988, and amended on July 19, 1989, August 18, 1989, September 18, 1990, December 14, 1990, and December 18, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 29, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Gateway Mortgage Acceptance Corporation, 333 West Wacker Drive, Suite 300, Chicago, Illinois 60606, Attn: Thomas Cleason.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Applicant was organized as a Delaware corporation and a wholly-owned limited purpose financing subsidiary of Underwood, Neuhaus & Co. Incorporated. On November 15, 1989, all of Applicant's outstanding shares of capital stock were acquired by Lovett Underwood Neuhaus & Webb, Inc., which was subsequently merged into Kemper Securities Group, Inc. ("Kemper"). Simultaneous which such merger, all of Applicant's capital stock was transferred to Kemper Securities Group Holdings, Inc., Kemper's parent company. The Applicant was organized solely for the purpose of engaging in mortgage-backed financing, including (a) Issuing or selling, or establishing separate Trusts to issue and sell, one or more series of collateralized mortgage obligations ("Bonds"),[1] and (b) purchasing, owning and selling to the Trusts the Collateral (as defined below) and pledging such Collateral to an Indenture Trustee (as defined below) as security for each series of Bonds.

2. Each Trust has been or will be formed pursuant to a separate deposit trust agreement ("Deposit Trust Agreement") between the Applicant, acting as depositor, and a bank or trust company or other fiduciary acting as owner-trustee ("Owner Trustee"). Each Trust or the Applicant will issue one or more series of Bonds under the terms of an indenture ("Indenture") between an independent trustee ("Indenture Trustee") and the Owner Trustee or the Applicant, as supplemented by one or more series supplements. The Indentures with respect to each series of Bonds which are publicly offered will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

3. The Mortgage Collateral [2] securing each series of Bonds will be owned either by the Issuer ("Direct Mortgage Collateral") or by limited purpose financing entities affiliated with homebuilders, thrifts, commercial banks, mortgage bankers, and other entities engaged in mortgage finance (each a "Participant"). The Direct Mortgage Collateral will be pledged to the Indenture Trustee as security for the respective series of Bonds. Mortgage Collateral owned by Participant ("Indirect Mortgage Collateral") will be pledged to the Issuer as security for loan from the Issuer to the Participant of all or a portion of the proceeds from the sale of a series of Bonds, pursuant to a funding agreement ("Funding Agreement"). The indebtedness created by each Funding Agreement will be evidenced by one or more promissory notes ("Funding Notes"), each of which will be pledged as part of the Collateral securing the respective series of Bonds.

4. Direct Mortgage Collateral securing a series of Bonds will consist of one or more of the following: (a) Fully-modified pass-through certificates ("GNMA Certificates") guaranteed as to timely payment of principal and interest by the Government National Mortgage Association ("GNMA"), mortgage pass-through certificates ("FNMA Certficates") guaranteed as to timely payment of principal and interest by the Federal National Mortgage Association ("FNMA"), or mortgage participation certificates ("FHLMC Certificates") guaranteed as to timely payment of interest and under some programs timely payment of principal or under other programs ultimate collection of principal by the Federal Home Loan Mortgage Corporation ("FHLMC") (collectively, "Agency Certificates"),[3] or (b) mortgage pass-through certificates and participation certificates ("Non-Agency Certificates") which are neither issued nor guaranteed by an agency or instrumentality of the United States and which evidence the entire undivided interest in the underlying pool of Mortgage Loans (as defined below). The Indirect Mortgage Collateral securing the Funding Notes will consist of Agency and Non-Agency Certificates ("Mortgage Certificates") and Mortgage Loans. With respect to Non-Agency Certificates and Indirect Mortgage Collateral, "Mortgage Loans" shall consist of whole mortgage loans secured by first liens on single (one to four) family residential properties. Each series

[1] The term Bond means: (A) A debt instrument which entitles the holder or owner only to (1) A specified principal amount, provided that interest (determined as provided below) that is not paid currently may be accrued and added to the principal of a Bond, and (2) either (a) Interest based on such principal amount calculated by reference to (i) A fixed rate, (ii) a floating rate determined periodically by reference to an index that is generally recognized in financial markets as a reference rate of interest, or (iii) a rate or rates determined through periodic auctions among holders and prospective holders or through periodic remarketing or the instrument, or (b) an amount equal to specified portions of the interest received on the Mortgage Collateral held by the Issuer, provided that the portion of the interest payable to the Bond holder or owner must be expected to provide a rate of return on the specified principal amount which bears a reasonable relationship to a market rate of interest; or (B) a zero coupon debt instrument which does not have a stated interest rate but on which interest effectively accrues from its issuance at a discount and which entitles the holder or owner only to a stated principal amount payable on or before a stated maturity date.

[2] Mortgage Collateral consists of Direct Mortgage Collateral and Indirect Mortgage Collateral as described in the application.

[3] All or a portion of the Agency Certificates securing a Series of Bonds may be "partial pool" Agency Certificates which evidence less than 100% of the entire undivided interest in an underlying pool of mortgage loans.

of Bonds also may be secured by certain other collateral which may include funds and accounts (including collection accounts, debt service funds, reserve funds and overcollateralization funds), servicing agreements, insurance policies and other credit enhancement devices. (The Mortgage Collateral and all other collateral securing the Bonds are collectively referred to as the "Collateral").

5. Each Funding Agreement securing a series of Bonds will provide that: (a) The Issuer make a loan, evidenced by one or more Funding Notes, to each Participant from the proceeds of the sale of such series; (b) each Participant pledge Indirect Mortgage Collateral to the Issuer as security for its Funding Notes; and (c) each Participant be obligated to repay its loan by causing payments on the Indirect Mortgage Collateral securing its Funding Notes to be made directly to the Indenture Trustee for the Bond holders in amounts sufficient to pay the Participant's share of principal and interest on the Bonds, together with certain administrative expenses of the Issuer. The Issuer will in turn assign its entire right, title, and interest in such Funding Agreements (other than the Issuer's right to receive fees, indemnification and reimbursement as provided in the related Indenture), the related Funding Notes, and Indirect Mortgage Collateral to the Indenture Trustee as security for such series of Bonds. The Indirect Mortgage Collateral pledged by a Participant pursuant to its Funding Agreement to secure its Funding Notes will consist of Mortgage Certificates or Mortgage Loans that were initially originated by or on behalf of an affiliate of such Participant or that were purchased by an affiliate of such Participant in the mortgage market.

6. With respect to any series of Bonds, the Issuer may sell its right ("Residual Rights") under the Indenture to receive (a) The excess cash flow from the Collateral after each payment of principal and interest on such series of Bonds and of expenses from the administration of the Bonds, plus (b) any remaining value in the Collateral after the payment in full of the principal and interest on such series of Bonds. If a REMIC election is made with respect to a series of Bonds, the Issuer may issue certificates representing the right to receive cash flow from the Collateral included in such REMIC in excess of the amounts required to be paid on the Bonds issued by such REMIC ("REMIC Certificates"), or may issue a single class of residual bonds representing the residual interest in such REMIC ("Residual Bonds"). The Residual Rights, REMIC Certificates, and Residual Bonds are referred to collectively as "Residual Interests."

7. In the case of each series of Bonds: (a) The Issuer will own or hold no substantial assets other than the Morgage Collateral and a limited amount of other collateral securing such Bonds; (b) such Mortgage Collateral will have a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) the scheduled distributions of principal and interest on the Direct Mortgage Collateral securing the Bonds and on the Indirect Mortgage Collateral securing Funding Notes pledged as security for such Bonds (together with cash available to be withdrawn from any reserve funds, debt service funds, overcollateralization funds or other funds), plus reinvestment income thereon, will be sufficient to make timely payments of principal and interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Collateral will be assigned to the Indenture Trustee and will be subject to the lien of the related Indenture. The Issuer of a series of Bonds does not intend to pledge Collateral to the Indenture Trustee with a collateral value, as determined under the Indenture, which exceeds 120% of the aggregate principal amount of the Bonds of such series.

8. The Applicant, the Residual Interest holders, the Owner Trustee, and the Indenture Trustee will not be able to impair the security afforded by the Collateral to the Bond holders. Without the consent of each Bond holder to be affected, neither the Applicant, the Residual Interest holders, the Owner Trustee, nor the Indenture Trustee will be able to: (a) Change the stated maturity on any Bonds, (b) reduce the principal amount or the rate of interest (or the formula by which such rate is computed) on any Bonds, (c) change the priority of payment on any class of any series of Bonds, (d) impair or adversely affect the Mortgage Collateral securing a series of Bonds, (e) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture with respect to the Collateral; or (f) otherwise deprive the Bond holders of the security afforded by the lien of the related Indenture.

9. The sale of the Residual Interests will not alter the payment of cash flows under the Indenture, including, if applicable, the amounts to be deposited in the collection account or any reserve fund created pursuant to the Indenture to support payments of principal and interest on the Bonds.

10. Except to the extent permitted by the limited right to substitute Collateral, it will not be possible for the Residual Interest holders to alter the Collateral initially pledged to the Indenture Trustee, and in no event will such right to substitute Collateral result in a diminution in the value or quality of such Collateral. Although it is possible that any Mortgage Collateral substituted for Mortgage Collateral initially pledged to the Indenture Trustee may have a different prepayment experience than the original Mortgage Collateral, the interests of the Bond holders will not be impaired because: (a) The prepayment experience of any Mortgage Collateral will be determined by market conditions beyond the control of the Residual Interest holders, which market conditions are likely to affect all Mortgage Collateral of similar payment terms and maturities in a similar fashion, and (b) the interests of the Residual Interest holders are not likely to be greatly different from those of the Bond holders with respect to Mortgage Collateral prepayment experience.

Applicant's Legal Conclusion

11. The requested order is necessary and appropriate in the public interest because: (a) The Issuers should not be deemed to be entities to which the provisions of the 1940 Act were intended to apply; (b) the Issuers may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Issuers' activities are intended to serve a recognized and critical public need; (d) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933, as amended (the "1933 Act"), and thereafter by the Indenture Trustee representing their interests under the Indenture; and (e) the Residual Interests will be held entirely by the Applicant or offered only to a limited number of sophisticated institutional or "accredited" non-institutional investors.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following:

A. Conditions Relating to the Bonds

1. Each series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from

registration pursuant to section 4(2) of the 1933 Act.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Direct Mortgage Collateral securing the Bonds will be limited to Agency Certificates and Non-Agency Certificates, and the Indirect Mortgage Collateral securing the Funding Notes securing the Bonds will be limited to Agency Certificates, Non-Agency Certificates and Mortgage Loans. Non-Agency Certificates will be only "whole pool" Non-Agency Certificates evidencing the entire undivided interest in the underlying pool of Mortgage Loans.

3. If new Mortgage Collateral is substituted for Mortgage Collateral initially pledged as security for a series of Bonds or as security for Funding Notes securing such series, the substitute Mortgage Collateral must: (a) Be of equal or better quality than the Mortgage Collateral replaced, (b) have similar payment terms and cash flow as the Mortgage Collateral replaced, (c) be insured or guaranteed to the same extent as the Mortgage Collateral replaced, and (d) meet the conditions set forth in Conditions 2 and 4 of this section A. New Non-Agency Certificates may be substituted for Non-Agency Certificates initially pledged only in the event of default, late payments, or defect in such Non-Agency Certificates being replaced. In addition, new Mortgage Collateral will not be substituted for more than 40% of the aggregate face amount of the Mortgage Collateral initially pledged. With respect to a series of Bonds secured by Funding Notes which are secured by Mortgage Loans, (a) New Mortgage Loans will not be substituted for more than 20% of the aggregate face amount of the Mortgage Loans initially pledged, and (b) new Mortgage Loans may be substituted for Mortgage Loans initally pledged as Mortgage Collateral only in the event of default, late payments, or defect in such Mortgage Collateral.

4. All Mortgage Collateral, funds, accounts, or other collateral securing a series of Bonds or securing Funding Notes securing such series will be held by the Indenture Trustee or on behalf of the Indenture Trustee by an independent custodian (a "Custodian"). Neither the Indenture Trustee nor the Custodian will be an "affiliate" (as the term "affiliate" is defined in rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant, any Trust, the Owner Trustee, any Participant, master servicer, any servicer (if there is no master servicer), or originating lender of any Mortgage Loans (including, for purposes of this condition, any Mortgage Loans underlying Non-Agency Certificates) securing a series of Bonds or securing Funding Notes securing such series. The Indenture Trustee will be provided with a first priority perfected security or lien interest in and to all Mortgage Collateral.

5. Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. No less often than annually, an independent public accountant will audit the books and records of the Issuers and, in addition, with respect to each series of Bonds will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Indenture Trustee.

7. The master servicer of the Mortgage Loans underlying Non-Agency Certificates securing a series of Bonds or securing Funding Notes may not be an affiliate of the Indenture Trustee or Custodian. If there is no master servicer for such Mortgage Loans, no servicer of those Mortgage Loans may be an affiliate of the Indenture Trustee or Custodian. In addition, any master servicer and any servicer of such a Mortgage Loan will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional mortgage loans. The agreement governing the servicing of such Mortgage Loans shall obligate the servicer to provide substantially the same services with respect to such Mortgage Loans as it is then currently required to provide in connection with the servicing of mortgage loans insured by Federal Housing Administration, guaranteed by the Veterans Administration, or eligible for purchase by FNMA or FHLMC.

8. Beneficial and legal ownership of all Mortgage Collateral deposited with the Indenture Trustee will not be transferred until such time as the Indenture Trustee releases such Mortgage Collateral from the Indenture.

B. Additional Conditions Relating to Variable-Rate Bonds

1. The interest rate for each class of variable-rate Bonds will be subject to maximum interest rates ("interest rate caps") which may vary from period to period, and always will be specified in the related prospectus supplement for a series of Bonds.

2. The Collateral deposited with the Indenture Trustee to secure a series of Bonds will at all times be sufficient to provide for the full and timely payment of all principal and interest on the Bonds of such series under the assumption that the interest rate on all Bonds of such series (including any class thereof) is the maximum rate for each specified period.[4]

3. No Direct Mortgage Collateral or Funding Notes securing a series of Bonds may be released from the lien of the Indenture prior to retirement in full of all Bonds of such series and no Indirect Mortgage Collateral securing a Funding Note may be released from the lien of the related Funding Agreement prior to the retirement of such Funding Note, except to the extent permitted by the limited right to substitute Collateral as described in the application.

C. Conditions Relating to the Sale of Residual Interests

1. The Residual Interests will be initially held by the Applicant which may in turn sell or assign all or a portion of its Residual Interests to a limited number, in no event more than one hundred, of institutional investors or

[4] In the case of a Series of Bonds that contains a class or classes of adjustable or floating rate Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increase in the interest rate applicable to the adjustable or floating rate Bonds. Procedures that have been identified to date for achieving this result include the use of (a) Interest rate caps for the adjustable or floating rate Bonds; (b) "inverse" floating rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" floating rate Bonds); (c) floating rate collateral (such as adjustable rate GNMA Certificates) to secure the Bonds; (d) interest rate swap agreements (under which the Issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount); and (e) hedge agreements (including interest rate futures and option contracts, under which the Issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds). It is expected that other mechanisms may be identified in the future. Applicant will give the staff of the Division of Investment Management notice by letter of any such additional mechanisms before they are utilized, in order to give the staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories.

non-institutional investors which are "accredited investors" as defined in rule 501(a) of the 1933 Act. Residual Interests will be sold or assigned only with respect to a series of Bonds in which the Mortgage Collateral is limited to Agency Certificates or Funding Agreements secured by Agency Certificates. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Residual Interests and to understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage related securities, and residual interests therein. Non-institutional accredited investors will be limited to not more than fifteen, will be required to purchase $200,000 (measured by market value at the time of purchase) of such Residual Interests, and will have a net worth at the time of purchase exceeding $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage related securities, as to be able to evaluate the risk of purchasing Residual Interests and will have direct, personal, and significant experience in making investments in mortgage related securities. Holders of Residual Interests will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts, or other institutions or non-institutional investors as described above which customarily engage in the purchase or origination of mortgages and other types of mortgage related securities. Each registered investment company acquiring a Residual Interest will be required to satisfy itself that such acquisition will comply with section 12(d)(1) of the 1940 Act.

2. Each purchaser of a Residual Interest will be required to represent that it is purchasing such Residual Interest for investment purposes and not for distribution, and that it will hold such Residual Interest in its own name and not as nominee for undisclosed investors. Each purchaser of a Residual Interest will be required to agree that it will not resell such Residual Interest unless (a) The subsequent purchaser would have been eligible to purchase the Residual Interest directly from the Issuer under the terms of Condition 1 of this Section C, (b) after the sale there would be no more than one hundred Residual Interest Holders, and (c) the subsequent purchaser agrees to be subject to the same representations and undertakings as are applicable to the reselling purchaser. Transfers of Residual Interests will be prohibited in any case where, as a result of the proposed transfer, there would be more than one hundred Residual Interest holders with respect to a series of Bonds at any time.

3. No holder of a controlling interest in an Issuer (as the term "control" is defined in rule 405 under the 1933 Act) will be affiliated with either the Custodian or any nationally recognized statistical rating agency rating the Bonds.

4. No holder of a Residual Interest will be affiliated with the Indenture Trustee, the Custodian, or any nationally recognized statistical rating agency rating the Bonds.

5. If the sale of Residual Interests results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of a Trust, the relief afforded by any order granted on the application would not apply to subsequent Bond offerings by such Trust. If any of the equity interests in the Applicant are sold and such sale results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded by any order granted on the application would not apply to subsequent Bond offerings by the Applicant or any Trust.

D. Conditions Relating to REMICs

1. The election by an Issuer to treat the arrangement by which any series of Bonds is issued as a REMIC will have no effect on the level of the expenses that would be incurred in connection with the Bonds of such series. If such REMIC election is made with respect to any series of Bonds, the respective Issuer will provide that all fees and expenses in connection with the issuance and the administration of the Bonds will be paid or provided for in a manner satisfactory to the agency or agencies rating such series of Bonds.

2. Any Issuer making a REMIC election will ensure that the anticipated level of administrative fees and expenses will be more than adequately provided for regardless of which method or combination of methods is selected by such Issuer to provide for the payment of the administrative fees and expenses relating to such series of Bonds.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-329 Filed 1-7-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17927; 812-7448]

Gateway Tax Credit Fund II Ltd., et al.; Notice of Application

December 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Gateway Tax Credit Fund II Ltd., a Florida limited partnership (the "Partnership"), and its managing general partner, RJ Credit Partners, Inc., a Florida corporation (the "Managing General Partner").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from all provisions of the 1940 Act.

SUMMARY OF APPLICATION: The Partnership, formed to invest in other limited partnerships which will own and operate multi-family housing projects to be qualified for the low income housing tax credits under the Internal Revenue Code of 1986, and the Managing General Partner seek an order exempting the Partnership from all provisions of the 1940 Act in connection with the Partnership's proposed offering of beneficial assignee certificates representing limited partnership interests in the Partnership.

FILING DATES: The application was filed on December 22, 1989 and amendments to the application were filed on July 16 and November 2, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 30, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Raymond James & Associates, Inc., 880 Carillon Parkway St. Petersburg, Florida 33716.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Partnership was organized on September 12, 1989 under the Florida Revised Uniform Limited Partnership Act. Pursuant to registration under the Securities Act of 1933, the Partnership is offering 40,000 units of beneficial interest at $1,000 each with a minimum investment of $5,000. Purchasers of these units ("Investors" or "BAC Holders") will become holders of beneficial assignee certificates ("BACs") evidencing an assignment of the limited partnership interest in the Partnership of Gateway Assignor Corporation, a Florida corporation (the "Assignor Limited Partnership").

2. The Assignor Limited Partnership was formed for the sole purpose of acting as assignor of all of its limited partnership interest in the Partnership. Virtually all of the rights and interest of the Assignor Limited Partner in the limited partnership interests will be assigned by the Assignor Limited Partner to the purchasers of BACs. The Assignor Limited Partner will not retain any beneficial interest in the limited partnership interests, but will have only record ownership of said interests and the right to vote directly on matters submitted to limited partners for a vote; however, such votes shall be cast by the Assignor Limited Partner only as directed by the BAC Holders.

3. Each BAC Holder will be entitled to all the economic benefits of a limited partner of the Partnership and may convert his BACs into limited partnership interests. The only difference between BAC Holders and holders of limited partnership interests is that holders of limited partnership interests will have record ownership of their interests and the right to vote directly on matters submitted to Investors for a vote. The Partnership's partnership agreement (the "Partnership Agreement") specifically grants BAC Holders all of the rights of limited partners under the Florida Revised Uniform Limited Partnership Act. The BACs are used solely for administrative convenience and to facilitate transferability.

4. The Partnership will operate as a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in other limited partnerships ("Project Partnerships") which will acquire, develop, construct and/or rehabilitate, operate and maintain multi-family housing projects ("Projects"), each of which will qualify for the low-income housing tax credit ("Housing Tax Credit") under Section 42 of the Internal Revenue Code of 1986, as amended. The Partnership's objectives are to provide tax benefits in the form of Housing Tax Credits to BAC Holders which, subject to certain limitations, may be used to offset their Federal income tax liability, to preserve and protect the capital contributions of Investors, to participate in any capital appreciation in the value of the Projects and to provide passive losses to offset passive income from other passive activities.

5. The Partnership will offer BACs in one or more series. If more than one series is offered, investors in each series of BACs will share in different pools of interest in Project Partnerships. The issuance of BACs in series will help to equalize the tax benefits available to BAC Holders who acquire their BACs at different times during the offering period. If only one series of BACs were offered, those Investors who acquire their BACs early in the Partnership's offering period would receive more tax benefits than those that would be available to investors who purchased BACs during the later portion of the offering period. This is because Housing Tax Credits will generally be available to the Partnership for a ten year period beginning on the date in which a Project is first placed in service.

6. Although the Partnership's direct control over the management of each Project will be limited, the Partnership's ownership of interests in Project Partnerships will, in an economic sense, be tantamount to direct ownership of the Projects themselves. The Partnership will normally acquire at least a 90% interest in the profits, losses and tax credits of each Project Partnership.

7. The Partnership will be controlled by the Managing General Partner and Raymond James Partners, Inc., its general partners (the "General Partners"), pursuant to the Partnership's Partnership Agreement. The BAC Holders, consistent with their limited liability status as assignees of limited partnership interests, will not be entitled to participate in the control of the Partnership's business. BAC Holders, by majority vote, have the right to dissolve the Partnership, remove a General Partner and elect a replacement therefor, approve or disapprove of the sale of all or substantially all of the Partnership's assets and amend the Partnership Agreement. Copies of the list of the names and addresses of BAC Holders and the limited partners, including the number of units owned by each of them, will be obtainable by any BAC Holder or limited partner upon reimbursing the costs to the Partnership of duplication and mailing.

8. All proceeds of the offering of BACs will initially be deposited in an escrow account with Southeast Bank, N.A., Tampa, Florida. Pending release of the offering proceeds deposited in the escrow account to the Partnership, Southeast Bank, N.A. will invest the funds in short-term certificates of deposit, insured bank accounts, or short-term Government securities backed by the full faith and credit of the United States Government.

9. Upon receipt of a prescribed minimum number of subscriptions, the Managing General Partner is empowered to cause funds in escrow to be released to the Partnership and held in trust pending investments in Project Partnerships. The Partnership may invest any proceeds not immediately utilized to acquire interests in Project Partnerships or for other permitted Partnership purposes (such as the establishment of a reserve) in short-term tax-exempt securities or commercial paper rated in the highest rating category by a nationally recognized statistical rating organization; direct obligations of, or obligations unconditionally guaranteed by, the United States Government or any agency thereof; certain certificates of deposit or Eurodollar certificates of deposit issued by any bank whose deposits are federally insured; certain collateralized repurchase agreements with domestic banks whose deposits are federally insured; and shares of certain specific types of open-end investment companies that invest primarily in securities of the type enumerated above or bankers' acceptances; provided, however, that if the value of "investment securities" (as defined in the 1940 Act and which term shall not include the value of their interests in the Project Partnerships) exceeds 40% of the value of the Partnership's total assets (exclusive of Government securities, as defined in the 1940 Act, and cash items) at any time, such excess may be invested only in Government securities. The Partnership does not intend to trade in temporary investments, and there will

be no speculation in any of such investments.

Applicants' Legal Conclusions

1. The exemption of the Partnership from all provisions of the 1940 Act is necessary and appropriate in the public interest, because, among other things, investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Further, the limited partnership form insulates each Investor from personal liability, limits his financial risk to the amount he has invested in the program, and permits the pass-through to the Investor, on his individual tax return, of his proportionate share of the Housing Tax Credit, income and losses from the investment.

2. The Partnership will operate in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (Aug. 9, 1974) ("Release No. 8456"). The final paragraph of Release No. 8456 contemplates that the exemptive power of the SEC under section 6(c) may be applied to two-tier partnerships which engage in the kind of activities in which the Partnership will engage, that is, "two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons * * *." Release No. 8456 lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for such an exemption: (1) "Interests in the issuer should be sold only to persons for whom investment in limited profit, essentially tax-shelter, investments would not be unsuitable"; and (b) "requirements for fair dealing by the general partners of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company."

3. Any subscriptions for BACs must be approved by the General Partners, which approval will be conditioned upon representations as to the suitability of the investment for each subscriber. Such suitability standards provide, among other things, that investment in the Partnership is suitable only for an investor who either (a) Has a net worth (exclusive of home, furnishings and automobiles) of at least $50,000 and an annual gross income of not less than $30,000, (b) has a net worth (exclusive of home, furnishings and automobiles) of at least $75,000, or (c) is purchasing in a fiduciary capacity for a person or entity having such net worth and annual gross income as set forth in clause (a) or such net worth as set forth in clause (b). Transfers of BACs may be made only with the approval of the General Partners. The General Partners will permit transfers of BACs and limited partnership interests only if the transferee meets the same suitability standards as had been imposed upon the transferor.

4. The Partnership Agreement and the Partnership's prospectus ("Prospectus") contain numerous provisions designed to insure fair dealing by the General Partners with the limited partners and the BAC Holders. All compensation to be paid to the General Partners and their affiliates is specified in the Partnership Agreement and Prospectus and no compensation will be payable to the General Partners or any of their affiliates unless so specified. Although not determined in arm's-length negotiations, all such compensation is believed to be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Further, such compensation meets all applicable guidelines necessary to permit the BACs to be offered and sold in all fifty states, including those states which adhere to the guidelines comprising the statement of policy adopted by the North American Securities Administrators Association, Inc. applicable to real estate programs in the form of limited partnerships.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-330 Filed 1-7-91; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 17929; International Series Rel. No. 214; 812-7643]

Landmark International Equity Fund; Notice of Application

December 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Landmark International Equity Fund ("Applicant").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and Rule 12d3-1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3-1.

FILING DATE: The application was filed on November 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 28, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6 St. James Avenue, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Staff Attorney, at (202) 272-3026 or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company registered under the Act. Citibank, N.A. ("Citibank") acts as investment adviser to the Applicant. Citibank is a commercial bank offering a wide range of banking and investment services to customers throughout the United States and around the world. Citibank is a wholly-owned subsidiary of Citicorp, a registered bank holding company.

2. Applicant seeks to be able to diversify its portfolio further by being permitted to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a

broker, dealer, underwriter, or investment adviser.

3. Applicant seeks relief from section 12(d)(3) of the Act and Rule 12d3–1 thereunder to invest in securities of foreign securities companies to the extent allowed in the proposed amendments to Rule 12d3–1. See Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). Proposed amended Rule 12d3–1 would, among other things, facilitate the acquisition by Applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisition of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended Rule 12d3–1.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of Rule 12d3–1 provides that "any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." "Margin Security" status is generally available only to securities traded in the United States.[1] Accordingly, Applicant seeks an exemption from the "margin security" requirements of Rule 12d3–1.

2. Proposed amended Rule 12d3–1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition to the requested relief, if granted:

Applicant will comply with the provisions of the proposed amendments to Rule 12d3–1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendments may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment. Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–331 Filed 1–7–91; 8:45 am]

BILLING CODE 8010–01–M

[1] The staff of the Division of Investment Management notes that the Board of Governors of the Federal Reserve System recently amended Regulation T to include "foreign margin stock[s]." However, since the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements for a "margin security" traded in United States markets, securities issued by many foreign secutities firms are not included in the definition of "foreign margin stocks" under Regulation T. *See* 12 CFR 220.2(i) and (q)(6).

[Rel. No. IC–17928; 812–4790]

The Revere Fund, Inc., et al.; Application

December 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The Revere Fund, Inc. ("Revere Fund"), Revere Capital Corporation ("Revere Capital") and Sunwestern Advisors, L.P. (the "Investment Adviser").

RELEVANT ACT SECTIONS: Order requested under section 57(i) of the 1940 Act and Rule 17d–1 thereunder permitting certain joint transactions otherwise prohibited by section 57(a)(4).

SUMMARY OF APPLICATION: Applicants seek an order under section 57(i) of the 1940 Act and rule 17d–1 thereunder permitting certain co-investments between Revere Fund, revere Capital, and certain affiliates of the Investment Adviser.

FILING DATE: The application was filed on March 9, 1990, and amended on October 26, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 29, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 575 Fifth Avenue, 18th Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Revere Fund, a Maryland corporation, was originally registered under the 1940 Act as a closed-end, non-diversified, management investment company. On March 14, 1990, it filed an election under section 54 of the 1940 Act to be treated as a business development company subject to the provisions of sections 55 through 65 of the 1940 Act. The company invests principally in long-term, fixed-income debt obligations, when possible with equity features, purchased directly from the issuer in private placements.

2. Revere Fund expects to acquire all of the outstanding voting stock of Revere Capital, a recently organized Delaware corporation that has applied to the Small Business Administration for a license to operate as a small business investment company ("SBIC") under the Small Business Investment Act of 1958. If the license is granted, Revere Capital also will file an election under section 54 of the 1940 Act to be treated as a business development company. The board of directors of Revere Fund has eight members, six of whom are disinterested directors within the meaning of section 2(a)(19) of the 1940 Act, and all of whom will serve as directors of Revere Capital.

3. The Investment Adviser, a Delaware limited partnership registered as an investment adviser under the Investment Advisers Act of 1940, will act as investment adviser to both Revere Fund and Revere Capital. The Investment Adviser receives a quarterly management fee equal to the sum of: (a) 0.1875% of up to $50,000,000 of Revere Fund's net assets and 0.125% of such net assets in excess of $50,000,000 as of the end of each quarter, and (b) 2.5% of cash dividends and interest received by

Revere Fund during the quarter, provided that, if net income available to Revere Fund for dividends for any fiscal year does not exceed $1.35 per share, the Investment Adviser's fee payable pursuant to (a) above will be reduced (but not to less than 0.125%) to the extent necessary to pay dividends of at least $1.35 per share. Revere Capital will not pay a separate advisory fee to the Investment Adviser.

4. Certain officers and directors of Revere Fund are also general partners or employees of the Investment Adviser,[1] and own interests in, act as officers, directors or general partners of, control the investment advisers to, or otherwise may be deemed to control nine other partnerships and corporations, including four SBICs, engaged in making venture capital investments in smaller and emerging growth companies (the "Sunwestern Funds"). The Sunwestern Funds either qualify for the exception from the definition of investment company under section 3(c)(1) of the 1940 Act, or are not subject to the 1940 Act because they are not organized or otherwise created under the laws of the United States or any state and have not made use of the mails or other means of interstate commerce in connection with any public offering of their securities. Each of the Sunwestern Funds and any other entity which is not subject to the registration requirements of the 1940 Act for the foregoing reasons and which is created, advised, sponsored, or otherwise organized by the Investment Adviser or its affiliates, are hereinafter referred to collectively as the "Sunwestern Affiliates."

5. Revere Fund obtained exemptive relief in prior orders to permit it to co-invest with Paul Revere Life Insurance Company which was then the parent company of the investment adviser to Revere Fund.[2] The investment advisory agreement with the present adviser was approved by shareholders on August 24, 1989. Applicants now propose to allow Revere Fund and Revere Capital (the "Revere Applicants") to invest in tandem with the Sunwestern Affiliates in portfolio companies in accordance with investment procedures adopted by the board of directors of Revere Fund and set forth below. The Investment Adviser will offer to the Revere Applicants in advance the opportunity to participate in all investments offered to or identified by any of the Sunwestern Affiliates, provided that the investment opportunity is consistent with the investment policies and restrictions of the Revere Applicants. The disinterested directors of Revere Fund may engage independent experts, including lawyers and accountants, to assist them in reaching decisions regarding the co-investments.

[1] James F. Leary, a director and chairman of Revere Fund, Michael E. Chaney, president of Revere Fund, and Thomas W. Wright, vice president of Revere Fund, are general partners or employees of the Investment Adviser.

[2] Investment Company Act Release Nos. 66753 (Sept. 30, 1971) and 8862 (July 18, 1975).

Applicants' Legal Analysis

6. The Revere Applicants and the Sunwestern Affiliates may be deemed to be precluded from co-investing in portfolio companies under section 57(a) of the 1940 Act and Rule 17d–1 because certain officers and directors of Revere Fund who are general partners or employees of the Investment Adviser also (a) directly or indirectly own more than five percent of the securities of certain Sunwestern Affiliates, (b) are general partners, officers or directors of certain Sunwestern Affiliates, (c) control the investment advisers to certain Sunwestern Affiliates, and (d) may be deemed to control certain Sunwestern Affiliates.

7. Applicants assert that the terms of the proposed co-investment program are not less advantageous to the Revere Applicants than they are to the Sunwestern Affiliates. Co-investments by the Revere Applicants and the Sunwestern Affiliates on the terms set forth in the application are consistent with the provisions, policies, and purposes of the 1940 Act. The Revere Applicants will be offered the opportunity to participate in all transactions on all identical basis. All co-investments will also be consistent with the policies of the Revere Applicants, and will be subject to certain conditions to ensure that all such transactions are reasonable and fair to the Revere Applicants and do not involve overreaching by any other party. For these reasons, Applicants assert that co-investments by the Revere Applicants and the Sunwestern Affiliates on the terms described in the application meet the standards set forth in under section 57(i) of the 1940 Act and Rule 17d–1 thereunder.

8. Applicants state that the co-investment transactions would benefit the Revere Applicants by providing favorable investment opportunities from which they would otherwise be precluded by their size and allowing the Revere Applicants to further diversify their portfolio. Since co-investing with the Sunwestern Affiliates will make larger amounts of capital available to portfolio companies, the Revere Applicants may be able to invest on more favorable terms and exert greater influence on the management and operation of portfolio companies.

Applicants' Conditions

Applicants agree that any order of the Commission permitting co-investments by the Revere Applicants and the Sunwestern Affiliates will be subject to the following conditions:

1. The disinterested directors of Revere Fund will approve in advance all co-investment transactions by a Revere Applicant and a Sunwestern Affiliate. The directors of Revere Fund, including the disinterested directors, will be provided with periodic information, compiled by the Investment Adviser, listing all venture capital investments made by Sunwestern Affiliates.

2. (a) Before a co-investment transaction will be effected, the Investment Adviser will make an initial determination on behalf of the Revere Applicants regarding investment suitability. Following this determination, a written investment presentation respecting the proposed co-investment transaction will be made to the directors of Revere Fund. The Investment Adviser will maintain at Revere Fund's office a copy of the written records detailing the factors considered in any such preliminary determination.

(b) Information regarding the Investment Adviser's preliminary determinations referred to in condition (2)(a) will be reviewed by the board of directors of Revere Fund, including the disinterested directors. Such board, including a majority of the disinterested directors, will make an independent decision as to whether, and how much, to participate in an investment based on what is appropriate under the circumstances. If a majority of the disinterested directors of Revere Fund determines that the amount proposed to be invested by the Revere Applicants is not sufficient to obtain an investment position that they consider appropriate under the circumstances, the Revere Applicants will not participate in the joint investment. Similarly, the Revere Applicants will not participate in a co-investment transaction if a majority of the disinterested directors of Revere Fund determines that the amount proposed to be invested is an amount in excess of that which is determined to be appropriate under the circumstances (the disinterested directors of Revere Fund may, however, make a determination that the Revere Applicants take other than their allotted portion of an investment, pursuant to condition 4 below). The Revere Applicants will only make a joint

investment with a Sunwestern Affiliate if a majority of the disinterested directors of Revere Fund concludes, after consideration of all information deemed relevant, that the investment by the Sunwestern Affiliate(s) would not disadvantage the Revere Applicants in the making of such investment, in maintaining their investing position, or in disposing of such investment, and that participation by the Revere Applicants would not be on a basis different from or less advantageous than that of the Sunwestern Affiliate(s). The disinterested directors will maintain at Revere Fund's office written records of the factors considered in any decision regarding the proposed investment.

(c) The disinterested directors of Revere Fund will, for purposes of reviewing each recommendation of the Investment Adviser, request such additional information from the Investment Adviser as they deem necessary to the exercise of their reasonable business judgment, and they will also employ such experts, including lawyers and accountants, as they deem appropriate to the reasonable exercise of this oversight function.

3. The directors of Revere Fund, including a majority of the disinterested directors, will make their own decision and have the right to decide not to participate in a particular investment with Sunwestern Affiliates. There will be no consideration paid to the Investment Adviser (or affiliated persons of the Investment Adviser), directly or indirectly, including without limitation any type of brokerage commission, in connection with a co-investment transaction. However, affiliates of the Investment Adviser will continue to receive advisory fees from Sunwestern Affiliates and may participate indirectly in a co-investment transaction through their existing interests in Sunwestern Affiliates.

4. The Revere Applicants and each Sunwestern Affiliate will be entitled to purchase a portion of each co-investment transaction equal to the ratio of the Revere Fund's total consolidated assets to the total consolidated assets of each other co-investment participant. A Revere Applicant may determine not to take its full allocation, as long as a majority of the disinterested directors of Revere Fund determines that to do so would not be in the best interest of such Revere Applicant. All follow-on investments, including the exercise of warrants or other rights to purchase securities of the issuer, will be allocated in the same manner as initial co-investment transactions. If either Revere Applicant or any Sunwestern Affiliate decides to participate in an investment opportunity offered pursuant to the co-invest program to a lesser extent than its full allocation, that entity's portion may be allocated to the other co-investing entities based on their respective net assets. If the Revere Applicants decline to participate in an investment opportunity offered pursuant to the co-investment program, the Sunwestern Affiliates shall have the right to pursue such investment independently. Similarly, if no Sunwestern Affiliates desires to participate in a co-investment opportunity, the Revere Applicants shall have the right to pursue such investment independently.

5. All co-investment transactions will consist of the same class of securities, including the same registration rights (if any) and other rights related thereto, at the same unit consideration and on the same terms and conditions, and the approvals will be made in the same time period.

6. The Revere Applicants and the Sunwestern Affiliates will participate in the disposition of securities held by them as co-investments on a proportionate basis at the same time and on the same terms and conditions (a "lock-step" disposition). For this purpose, a distribution of securities to the partners or shareholders of a Sunwestern Affiliate upon dissolution shall not be deemed a "disposition" of securities. (However, to the extent that such Sunwestern Affiliate distributes securities in dissolution to partners or shareholders who are affiliates of the Revere Applicants, such partners or shareholders will be bound by the lock-step disposition procedures established herein.) If a Sunwestern Affiliate elects to dispose of a security purchased in a co-investment with a Revere Applicant, notice of the proposed sale will be given to the disinterested directors of Revere Fund at the earliest practical time. The Revere Applicant and the Sunwestern Affiliate will participate in the disposition of such security on a lock-step basis, unless the disinterested directors of the Revere Fund determine that the Revere Applicant should not participate in such sale or not participate on a lock-step basis. The Revere Applicants need not participate on a lock-step basis in the disposition of securites sold by a Sunwestern Affiliate if the disinterested directors of Revere Fund find that the retention or sale, as the case may be, of the securities is fair to the Revere Applicants and that the Revere Applicants' participation or choice not participate in the sale is not the result of overreaching by the Sunwestern Affiliate. If the disinterested directors of Revere Fund do not make such a finding, then the Revere Applicants must participate in such sale on the basis of lock-step disposition. If at any time the result of a proposed disposition of any portfolio security held by the Revere Applicants would alter the proportionate holdings of each class of securities held by the Revere Applicants and a Sunwestern Affiliate, then the disinterested directors of Revere Fund must determine that such a result is fair to the Revere Applicants and is not the result of overreaching by the Sunwestern Affiliate. The disinterested directors will record in the records of the Revere Applicants the basis for their decision as to whether to participate in such sale.

7. If a Sunwestern Affiliate determines that it should make an additional investment in a particular portfolio company whose securities are held by a Revere Applicant and a Sunwestern Affiliate (a "follow-on investment") or that it should exercise warrants or other rights to purchase securities of such an issuer, notice of such transaction will be provided to the Revere Applicants, including the disinterested directors of Revere Fund, at the earliest practical time. The Investment Adviser will formulate a recommendation as to the proposed participation by the Revere Applicants in a follow-on investment and provide the recommendation to the disinterested directors of Revere Fund along with notice of the total amount of the follow-on investment. Revere Fund's disinterested directors will make the determination with respect to follow-on investments. Follow-on investments will be entered into on the same basis as initial investments and will be subject to the same approval procedures as those required for initial investments. The Revere Applicants will participate in such investment only if a majority of the disinterested directors of Revere Fund determines that such action is in the best interest of the Revere Applicants. The disinterested directors of Revere Fund will record in the Revere Applicants' records the Investment Adviser's recommendation and their decision as to whether to engage in a follow-on transaction with respect to a portfolio company, as well as the basis for such decision.

8. A decision by the directors of Revere Fund (a) not to participate in a co-investment transaction, (b) to take less or more than the Revere Applicants' full allocation, or (c) not to sell, exchange or otherwise dispose of a co-investment in the same manner and at the same time as a Sunwestern Affiliate shall include a finding that such

decision is fair and reasonable to the Revere Applicants and not the result of overreaching of the Revere Applicants or their stockholders by the Sunwestern Affiliate. The disinterested directors of Revere Fund will be provided quarterly for review all information concerning co-investment transactions made by Sunwestern Affiliates, including co-investment transactions in which the Revere Applicants or Sunwestern Affiliates have declined to participate, so that they may determine whether all co-investment transactions made during the preceding quarter, including those co-investment transactions that were declined, complied with the conditions set forth above. In addition, the disinterested directors of Revere Fund will consider at least annually the continuing appropriateness of the standards established for co-investment transactions by the Revere Applicants, including whether use of the standards continues to be in the best interest of the Revere Applicants and their stockholders and does not involve overreaching of the Revere Applicants or their stockholders on the part of any party concerned.

9. No disinterested director of Revere Fund will be an affiliated person of any Sunwestern Affiliate or have had, at any time since the beginning of the last two completed fiscal years of any Sunwestern Affiliate, a material business or professional relationship with any Sunwestern Affiliate.

10. The Revere Applicants and each Sunwestern Affiliate will each bear their own expenses associated with the disposition of portfolio securities. The expenses, if any, of distributing and registering securities under the Securities Act of 1933 sold by a Revere Applicant and a Sunwestern Affiliate at the same time will be shared by such Revere Applicant and Sunwestern Affiliate in proportion to the respective amounts they are selling.

11. The disinterested directors of Revere Fund will maintain the records required by section 57(f)(3) of the 1940 Act and will comply with the provisions of section 57(h) of the 1940 Act, and will otherwise maintain all records required by the 1940 Act. All records referred to or required under these conditions will be preserved permanently and available for inspection by the SEC.

12. No director of Revere Fund nor the Investment Adviser nor any of its affiliates (other than the Sunwestern Affiliates) pursuant to any order issued on this application) will participate in a transaction with the Revere Applicants unless a separate exemptive order with respect to such transaction has been obtained. For this purpose, the term "participate" shall not include either the existing interests of affiliates of the Investment Adviser in, or their normal management fee and expense reimbursement arrangements with, Sunwestern Affiliates.

13. No co-investment transaction will be made pursuant to the requested order respecting portfolio companies in which the Investment Adviser, any of its affiliates (including the Sunwestern Affiliates), or any affiliated person of the Revere Applicants has previously acquired an interest.

14. Any exemptive relief granted by the SEC on this application will pertain only so long as Revere Capital is a wholly-owned subsidiary of the Revere Fund.

For the Commission, by the Division of Investment Management, under to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–332 Filed 1–7–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1313]

Advisory Committee on International Communications and Information Policy; Meeting

The Department of State announces that the Advisory Committee on International Communications and Information Policy will hold an open meeting on January 23, 1991, from 9 a.m. to 11:30 a.m. in room 1207, Department of State, 2201 C Street, NW., Washington DC.

The Advisory Committee deals with issues of international communications and information policy, especially as the issues involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, and the activities of international organizations with regard to the development of communications and information policy.

The meeting will deal with five issues:

1. A status report by the U.S. Representative to the International Telecommunication Union's High Level Committee which is studying that organization's future structure and function;

2. Consideration of the report of the Advisory Committee's Subcommittee on International Standards;

3. A status report on the visit to the USSR of the Advisory Committee's Blue Ribbon Panel;

4. Consideration of the feasibility and desirability of United States hosting of the International Telecommunication Union's Plenipotentiary Conference in 1998/1999; and,

5. Review and discussion of the Advisory Committee's study project to strengthen U.S. embassy support to the international efforts of the U.S. telecommunications and broadcasting industries.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and individual building passes are required for each attendee. Arrangements must be made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise Mr. Rick Griffin, Department of State, Washington, DC; telephone 202–647–5212. All attendees must use the C Street entrance to the building.

Dated: December 21, 1990.

Bohdan Bulawka,

Executive Secretary, Advisory Committee on International Communications & Information Policy.

[FR Doc. 91–250 Filed 1–7–91; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Arkansas Federal Savings Bank, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Arkansas Federal Savings Bank, F.A., Little Rock, Arkansas, on December 21, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–301 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Association of Andalusia, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift

Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings and Loan Association of Andalusia, F.A., Andalusia, Alabama on December 28, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–304 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

North Jersey Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for North Jersey Federal Savings Association, Passaic, New Jersey ("Association"), on December 21, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–333 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

Southern Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Southern Federal Savings Bank, New Orleans, Louisiana, on December 28, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–302 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

Arkansas Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Arkansas Federal Savings Bank, Little Rock, Arkansas, Docket No. 7899, on December 21, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–300 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

Enterprise Savings Bank, F.A., Chicago, Illinois; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Enterprise Savings Bank, F.A., Chicago, Illinois, OTS Docket No. 3418, on December 27, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

First Federal Savings and Loan Association of Andalusia; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Andalusia, Andalusia, Alabama, on December 28, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–303 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

North Jersey Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for North Jersey Savings and Loan Association, Passaic, New Jersey ("Association"), on December 21, 1990.

Dated: January 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–334 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–68; OTS No. 5018]

American Federal Savings, Franklin, PA; Final Action; Approval of Conversion Application

Notice is hereby given that on November 15, 1990, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of American Federal Savings, Franklin, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552 and District Director, Office of Thrift Supervision, One Riverfront Center, 20 Stanwix Street, Pittsburgh, Pennsylvania 15222–4893.

Dated: December 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–298 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–69; OTS No. 0182]

Volunteer Savings Bank, SLA, Little Ferry, New Jersey; Final Action; Approval of Conversion Application

Notice is hereby given that on November 30, 1990, the office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to the delegated authority, approved the application of Volunteer Savings Bank, SLA, Little Ferry, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and District Director, Office of Thrift Supervision of New York, 10 Exchange Place Centre, 17th Floor, Jersey City, New Jersey 07302.

Dated: December 10, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–299 Filed 1–7–91; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 5
Tuesday, January 8, 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 COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, January 10, 1991

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 10, 1991, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Policy and Rules Concerning Rates for Dominant Carriers (CC Docket No. 87–313), *Memorandum Opinion and Order on Reconsideration.* Summary: The Commission will consider petitions for reconsideration of the Commission's 1990 *AT&T Price Cap Order.*

2—Mass Media—Title: Petition for Emergency Relief and Expedited Action by Timothy S. Brumlik Concerning Station WFXL(TV), Albany, Georgia and Several Low Power Television Construction Permits and Applications. Summary: The Commission will consider a pending petition requesting relief pursuant to the Minority Distress Sale Policy.

3—Chief Engineer and Private Radio—Title: Interactive Video Data Service: Allocation in the 218–218.5 MHz Band and Establishment of Service Rules (RM–6196). Summary: The Commission will decide whether to adopt a Notice of Proposed Rulemaking to allocate spectrum and establish service rules for an interactive video data service in 218–218.5 MHz band.

4—Private Radio—Title: Amendment of Parts 2 and 80 of the Commission's Rules Regarding Revision of the High Frequency (HF) Channels for the Maritime Mobile Service to Implement the Final Acts of the World Administrative Radio Conference for the Mobile Services, Geneva, 1987 (PR Docket No. 90–133). Summary: The Commission will consider whether to amend its rules regarding the now exclusively maritime mobile HF bands (4000–27500 kHz) to reflect international agreements.

5—Private Radio and Chief Engineer—Title: Amendment of Parts 2 and 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS) (GEN Docket No. 88–372, RM–5712). Summary: The Commission will consider whether to adopt a Report and Order concerning a proposal that AMTS Service be expanded nationwide.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: January 3, 1991.
Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 91–406 Filed 1–4–91; 10:16 am]
BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM; BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, January 14, 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. Matter relating to Board employment practices.
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: January 4, 1991.
Jennifer J. Johnson,
Associate Secretary of the Board
[FR Doc. 91–499 Filed 1–4–91; 3:58 am]
BILLING CODE 6210–01–M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, January 15, 1991.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Special Tariff Authority Nos. 90–110 and 90–110 (Sub-No. 1), *Fuel Related Increases on Short Notice*

No. MC–C–30093, *B.J. Alan Company, Inc., et al. v. United Parcel Service, Inc., et al.*

Docket No. AB–336 (Sub-No. 1X), *Indiana Hi-Rail Corporation and Garden Spot and Ohio Limited Partnership—Discontinued of Service and Abandonment—in White County, Illinois and Posey County, Indiana*

Ex Parte No. 346 (Sub-No. 23), *Railroad Exemption—Filing Quotations Under Section 10721*

Docket No. 40131 (Sub-No. 1), , *Ashley Creek Phosphate C. v. Chevron Pipeline Co., et al.*

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252, TDD: (202) 275-1721.

Sidney L. Strickland, Jr.,
Secretary.
[FR Doc. 91–339 Filed 1–3–91; 2:02 pm]
BILLING CODE 7035–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 1:05 p.m., January 3, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTER CONSIDERED:

1. Requests under section 306 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board voted unanimously to close the meeting under the exemptions listed above. General Counsel Robert Fenner certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,
Secretary of the Board.
[FR Doc. 91–445 Filed 1–4–91; 12:53 pm]
BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 7, 14, 21, and 28, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 7

Thursday, January 10

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 14—Tentative

Friday, January 18

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 21—Tentative

Thursday, January 24

1:30 a.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 28—Tentative

Thursday, January 31

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, February 1

10:00 a.m.
Briefing on Status of Final Rule on License Renewal Part 54 (Public Meeting)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: January 3, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–483 Filed 1–4–91; 2:29 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 56, No. 5
Tuesday, January 8, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

[Docket No. AO-160-A66, etc; DA-90-024]

Milk in the Middle Atlantic and Other Marketing Areas; Emergency Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Correction

In proposed rule document 90-27150 beginning on page 48112 in the issue of Monday, November 19, 1990, make the following correction:

On page 48116, in the first column, in the third full paragraph beginning with "Dividing each side", in the formula, ".025" should read ".0028".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Legal Description of Lands Transferred Pursuant to the National Forest and Public Lands of Nevada Enhancement Act of 1988; Correction Notice

Correction

In notice document 90-27592 appearing on page 49660 in the issue of Friday, November 30, 1990, make the following correction:

In the second column, in item 3, in the second line "269,932.488" should read "269,932.448".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP91-660-000. et al.]

Trunkline Gas Co., et al.; Natural Gas Certificate Filings

Correction

In notice document 90-30389 beginning on page 53336 in the issue of Friday, December 28, 1990, make the following correction:

On page 53341, in the first column, under **Transcontinental Gas Pipe Line Corp.**, the docket line should read "[Docket No. CP89-710-002]".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Atlantic Swordfish Fishery

Correction

In notice document 90-29485 appearing on page 51943, in the issue of Tuesday, December 18, 1990, in the 3rd column, in the 12th line, "not" should read "now".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations and Rules: Miscellaneous Amendments

Correction

In rule document 90-27369 beginning on page 48597, in the issue of Wednesday, November 21, 1990, make the following corrections:

§ 401.61 [Corrected]

1. On page 48599, in the 1st column, in § 401.61, in the 13th line, "156.55 Mhz" should read "156.55 MHz".

Schedule III [Corrected]

2. On page 48600, under **Schedule III**, in the first column of the table, in the first entry, "9." should read "19."

3. On page 48601, in the first column, in the file line at the end of the document, "FR Doc. 90-2736" should read "FR Doc. 90-27369".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-107-88]

RIN 1545-AM60

Normalization: Inconsistent Procedures and Adjustments

Correction

In proposed rule document 90-27702 beginning on page 49294 in the issue of Tuesday, November 27, 1990, make the following corrections:

§ 1.168(i)-1 [Corrected]

1. On page 49297, in § 1.168(i)-1(b), in the fourth line from the bottom of the page, "consistent" should read "inconsistent"

2. On page 49299, in the 2nd column, in § 1.168(i)-1(d)(2), in the paragraph designated (B) in the 10th line,"O" should read "0".

3. On the same page and in the section, in the third column, in the first paragraph, in the fifth line, after

"return", insert "tax", and in the seventh line, after "for" insert "the".

4. On page 49300, in the same section, in the 3rd column, in the 1st paragraph, in the 15th line, "of" should read "for".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 701 and 702

[IA-74-90]

RIN 1545-AP21

Financing of Presidential Election Campaigns

Correction

In proposed rule document 90-29241 appearing on page 51303 in the issue of Thursday, December 13, 1990, make the following correction:

In the second column, under the **ADDRESSES**, in the last line, the room number should read "4429".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 702

[IA-74-90]

RIN 1545-AP21

Financing of Presidential Election Campaigns

Correction

In proposed rule document 90-29240 beginning on page 51301 in the issue of Thursday, December 13, 1990, make the following correction:

§ 702.9037-2 [Corrected]

On page 51303, in the first column, in § 702.9037-2(a), in the fourth line, "Elected" should read "Election".

BILLING CODE 1505-01-D

federal register

Tuesday
January 8, 1991

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

Pacific Coast Groundfish Fishery; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 900941-0342]

RIN 0648-AC43

Pacific Coast Groundfish Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement conservation and management measures as prescribed in Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan (FMP). This rule: (1) Updates and reorganizes the FMP's implementing regulations consistent with Amendment 4 to the FMP; (2) revises the operational definition of optimum yield and establishes framework procedures to specify allowable harvest levels for any species; (3) revises and provides new framework administrative procedures for establishing and adjusting management measures based on resource conservation, social, and economic factors; (4) deletes certain outdated management measures and revises other measures to meet current needs of the fishery; (5) revises the process for issuing experimental fishing permits; (6) provides a process for acknowledging scientific research; and (7) establishes a process by which state regulations can be reviewed for consistency with the FMP, the Magnuson Act, and other applicable Federal law.

EFFECTIVE DATE: January 1, 1991.

ADDRESSES: Copies of Amendment 4 and the documents supporting this rule may be obtained from: Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115-0070; E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731-7415; or Larry Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 S.W. First Avenue, Portland, Oregon 97201-5344.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, Rodney R. McInnis at 213-514-6199, or Larry Six at 503-326-6352.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the United States (3 to 200 miles offshore) in the Pacific Ocean off the coasts of California, Washington, and Oregon are managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The FMP was developed by the Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act), was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982, and became effective on September 30, 1982. Implementing regulations were published in the **Federal Register** on October 5, 1982 (47 FR 43964) and appear at 50 CFR parts 611, 620, and 663.

Amendment 4 to the FMP was prepared by the Council under the provisions of the Magnuson Act. A notice of availability of the proposed Amendment was published in the **Federal Register** on August 21, 1990 (55 FR 34034). The proposed rule to implement Amendment 4 was published in the **Federal Register** on September 17, 1990 (55 FR 38105) with a request for comments through November 1, 1990. Amendment 4 was approved by the NMFS Regional Director under his delegation of authority from the Assistant Administrator for Fisheries. One comment was received from the U.S. Fish and Wildlife Service; it was supportive of the Amendment.

The Pacific coast groundfish fishery is the largest fishery managed by the Council in terms of landings and value. The fishery has become more competitive with greater numbers of vessels competing for stable or declining amounts of fish. As a result, management of the fishery has become more complex and controversial. The original FMP contained numerous management measures and administrative procedures that have become outdated as fishing effort has increased. Pressure has grown for management of the fishery to be more flexible and responsive to rapid changes in stock conditions, markets, fleet movements, and a variety of biological, social, and economic issues. Of special concern is the ability of management to respond quickly to the potentially large number of vessels that may shift from the Alaskan groundfish fishery to the Pacific coast groundfish fishery in response to progressively restrictive management or to the implementation of a limited entry regime in Alaskan waters.

Although the original FMP provided limited flexibility to modify management measures to prevent biological stress on a stock, it contained no flexible provisions for making management adjustments for social or economic reasons other than by amending the FMP. This Amendment, among other things, provides framework administrative procedures for implementing, modifying, or deleting management measures for all these reasons. It responds to a variety of problems that the Council has identified during the past several years. These changes were described more fully in the proposed rule at 55 FR 38105 and are not discussed here.

Amendment 4 specifically provides for public review of proposed management measures in a variety of ways. The amendment requires that the information and analyses that the Council will use in making its management recommendations be available to the public from the Council office before and during the Council meetings at which the recommendations are made. In some cases, analytical and other documents providing information about issues under consideration may be sent directly to those on the Council's mailing list. Persons interested in being informed of the issues under consideration should contact the Council and ask to be included on the mailing list. In addition, the Council will announce its consideration of adjustments to management measures or its consideration of new measures in its newsletter.

Other than technical revisions and corrections, this final rule is the same as proposed, with the following two exceptions: (1) The "routine" designation for bag and size limits for lingcod in Amendment 4 needed further explanation of its rationale that is included in the preamble to this rule; and (2) to minimize confusion over the intended purpose of management measures that are designated as routine, the reasons for those management measures will be included in the codified rule that announces the routine designation.

I. Lingcod—Recreational Gear

Review of Amendment 4 by NOAA suggested the need for additional rationale to explain the designation of bag and size limits as "routine" management measures in the recreational fishery for lingcod. Bag and size limits for lingcod were designated as "routine" management measures by Amendment 4 and were proposed in the **Federal Register** on September 17, 1990 (55 FR 38105).

The Federal regulations in the EEZ currently set the recreational bag limit for lingcod as 3 fish per day. The State of California, however, has established the bag limit as 5 fish per day with a

minimum size limit of 22 inches. Because of this difference, enforcement of both regulations has been inconsistent and difficult, and the general public has been confused as to which regulations to follow. Thus, the Council determined that it needed the flexibility to recommend that NOAA be able to implement and adjust recreational bag and size limits for Federal waters to be consistent with adjacent state regulations provided that state regulations were, themselves, consistent with the requirements of the FMP and the Magnuson Act.

Amendment 4 describes the purpose of bag limits as spreading the recreational harvest among the greatest number of fishermen to achieve the greatest overall benefits from the sport harvest, and preventing waste by restricting the number of fish an individual can retain to a reasonable number. Size limits can serve at least two purposes. First, they can protect juvenile fish until such time as they mature and can contribute to the reproductive potential of the stock before harvest. The 22-inch size limit, for example, protects about 25 percent of the female lingcod population. Second, restricting sport retention to larger fish can enhance the quality of the fishing experience by emphasizing the values associated with a "trophy" fishery.

This rule further explains that bag limits are designated "routine," as defined in Amendment 4, in order to facilitate their implementation and adjustment in a timely manner to conform with adjacent state regulations.

At its November 13–16, 1990 meeting, the Council recommended changing the Federal regulation for lingcod caught off California to be consistent with the California State bag limit of five fish and the minimum size limit of 22 inches. The analysis of this proposal is available from the Council (see ADDRESSES). The bag and size limits for lingcod caught off California are expected to be announced concurrent with other routine management measures to be implemented January 1, 1991.

II. Codification of the Purposes of Each "Routine" Management Measure Designation

Amendment 4 classifies a variety of management measures as "routine" for certain species and gear types. The proposed implementing regulations (55 CFR 38105, September 17, 1990) list these "routine" designations without specifying the specific reasons for their designation. Because an important criterion that proposed management measures must meet before they can be treated as "routine" includes a finding that they are proposed to achieve a particular purpose, NOAA believes that purpose should be codified in the regulations that designate each type of management measure by species and gear type as "routine."

III. Public Comments

Only one comment was received during the public comment period for the proposed rule; it expressed support of Amendment 4. The public has been actively involved with the development of Amendment 4 over the past three years, and numerous drafts have been available for public review and comment.

IV. Changes to the Proposed Rule

In addition to the changes made regarding the designation of routine management measures at § 663.23(c) described above, several technical revisions or corrections are made, which are explained below.

50 CFR 611.70

1. In the introductory language of paragraph (c) Authorized amounts, the words "incidental catch and retention allowance percentages" are changed to "incidental allowances" for consistency with the following paragraph (c)(1). Amendment 4 enables incidental allowances to be applied in various ways (for example, as percentages, tonnages, or numbers; or based on receipt in some fisheries and retention in others). Therefore, the implementing regulations have been revised throughout to refer more generically to incidental allowances, rather than to incidental retention percentages in the joint venture and incidental catch percentages in the directed foreign fishery, except where the current application is described in paragraph (c)(1).

2. In the introductory language of paragraph (g) Closed areas, reference to paragraph "(2)(i)" is corrected to read "(2)".

3. In paragraph (j)(2) Daily reports, the first sentence is revised by deleting the words "an incidental retention allowance," and "catch", so that it refers more generically to incidental allowances for either foreign or joint venture fisheries, consistent with paragraph (c) of § 611.70. The first sentence also is clarified to state that daily reports may be required not only when the appropriate limit has been reached, but also when it is projected to be reached.

4. In paragraph (j)(3)(ii)(a), the word "catch" is deleted so that it refers only to the "incidental allowance," consistent with paragraph (c).

50 CFR Part 663

In § 663.2 Definitions, in the definition for: closure—the word "possession" is corrected to read "possessing"; Domestic Annual Harvest (DAH)—"reserve" is corrected to read "receive"; quota—is revised so that the word "specified" is added before "numerical harvest objective"; Total Allowance Level of Foreign Fishing (TALFF)—"allowance" is corrected to read "allowable". In addition, several typographical errors in the current regulations defining "groundfish" are corrected: the scientific names for Pacific whiting and kelp rockfish are corrected, and the last sentence of the paragraph at the end of the rockfish listing is corrected by changing "genera and" to "genera are".

Appendix to Part 663

1. The index to the appendix is corrected by adding the letter "C." in front of the phrase that begins "Identification of Species or Species Groups . . .".

2. In Section II.D, in the next to the last paragraph, "30° N. latitude" is corrected to read "39° N. latitude."

3. Section II.F. is revised so that, in the first sentence of the fourth paragraph, "he may recommend" is changed to "the Secretary may recommend".

4. Section III.A. is revised so that, in the last sentence of the sixth paragraph, "Pacific Marine Fisheries Commission" is changed to "Pacific States Marine Fisheries Commission". The last sentence of the next to the last paragraph is revised so that "persons on the mailing list receive" is changed to "persons on the mailing list may receive".

5. Section III.B.(b) is corrected by including text that was deleted inadvertently in the proposed rule. This language, which precedes item 10, starts with the paragraph beginning "In developing its recommendation for management action . . ." and continues through item 9, explaining the types of management measures that may be used under the points of concern framework. Also, the first sentence of the third paragraph following item 14 is revised so that "if he concurs" is changed to "if concurring".

Whereas the proposed rule published only the proposed changes to the regulations at 50 CFR 611.70 and part 663, this final rule publishes 50 CFR 611.70 and part 663 in their entirety, including those portions that have not been changed. (The nationwide provisions at 50 CFR part 620 are not repeated here since they are not

affected by implementation of Amendment 4.)

Classification

Magnuson Act

The Regional Director has determined that Amendment 4 to the FMP and its implementing rule are necessary for the conservation and management of the Pacific coast groundfish fishery off Washington, Oregon, and California, and are consistent with the national standards and other provisions of the Magnuson Act. The best available scientific information was used in making these determinations.

National Environmental Policy Act (NEPA)

The Council prepared a final supplementary environmental impact statement (SEIS) for the amendment that discusses the impact on the environment as a result of this rule, and responds to comments received on the draft Amendment/SEIS. The final SEIS was filed with the Environmental Protection Agency on November 16, 1990, and notice of availability was published in the **Federal Register** November 23, 1990 (55 FR 48901) with a 30-day comment period until December 24, 1990. A copy of the SEIS may be obtained from the Council at the address listed above.

Executive Order 12291

The Under Secretary for Oceans and Atmosphere, NOAA, has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the regulatory impact review prepared by the Council that demonstrates positive net short-term and long-term economic benefits to the fishery under Amendment 4. This rule is not expected to have an annual impact of $100 million or more; nor to lead to an increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; nor to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete in domestic or export markets.

Regulatory Flexibility Act

The General Counsel of the Department of Commerce has certified to the Small Business Administration (SBA) that this implementing rule will not have a significant economic impact on a substantial number of small entities. A summary of this certification was published at 55 FR 38109. As a result, a regulatory flexibility analysis was not prepared.

Paperwork Reduction Act

This rule contains no new collection of information requirements subject to the Paperwork Reduction Act, although the Amendment provides authority to implement regulations for certain types of future collections of information. At such time that a future collection of information is proposed, it will be submitted to the Office of Management and Budget (OMB) for approval. This rule does contain existing collection of information requirements previously approved by OMB under control numbers 0648–0075, 0648–0203, and 0648–0243. Some minor changes in the language of these requirements have been made for clarification, but they have primarily been reprinted for public convenience.

Coastal Zone Management Act

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of California, Oregon, and Washington. Letters have been sent to all of the States listed above for review under section 307 of the Coastal Zone Management Act, stating that the Council concluded that Amendment 4 is consistent to the maximum extent practicable with the State's coastal zone management program. The responsible State agencies reviewed this finding under section 307 of the Coastal Zone Management Act. The States of Washington and Oregon have concurred in this determination. The State of California did not comment within the statutory time period, and, therefore, consistency is automatically inferred.

Endangered Species Act

Management measures in Amendment 4 and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect a critical habitat.

Marine Mammal Protection Act

Amendment 4 and its implementing rule will not have a significant adverse impact on marine mammals.

Executive Order 12612

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

Administrative Procedure Act

This rule was published in the **Federal Register** in proposed form on September 17, 1990 (55 FR 38105) with a request for comments through November 1, 1990. The public also was involved in the development of Amendment 4 over the past three years, and numerous drafts were made available for public review and comment.

The Administrative Procedure Act requires that publication of a final rule be made not less than 30 days before its effective date unless the Secretary finds and publishes with the rule good cause for an earlier effective date. This final rule is being published as expeditiously as possible following the close of the public comment period and approval of Amendment 4. It must be implemented by January 1, 1991, in order to be effective at the start of the new fishing year, and to form the basis for management actions that the Council intends to take beginning in 1991. Therefore, the final rule is effective January 1, 1991.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Vessel permits and fees, Reporting and recordkeeping requirements.

50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 31, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 611 and 663 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. Section 611.70 is revised to read as follows:

§ 611.70 Pacific Coast groundfish fishery.

(a) *Purpose:* This subpart regulates all foreign fishing for groundfish conducted under a Governing International Fishery Agreement within the EEZ seaward of the States of Washington, Oregon, and California. For regulations governing fishing for groundfish in the same area by vessels of the United States, and for procedures to modify the regulations in this § 611.70, see part 663 of this chapter.

(b) *Definitions.* For purposes of this section, the following terms are defined:

(1) *Directed fishing* means any fishing by the vessels of a foreign nation for allocations of fish granted that nation under § 611.21.

(2) *Factory weight* means the product weight converted to round weight.

(3) *Foreign fishing vessel (FFV)* means any fishing vessel other than a vessel of the United States (as defined at § 620.2), except those foreign vessels engaged in recreational fishing (as defined at § 611.2).

(4) *Incidental species* means groundfish species that are unavoidably caught while fishing for allocated or authorized species.

(5) *Joint venture* means any operation by a foreign vessel assisting fishing by U.S. fishing vessels, including catching, scouting, processing and/or support. (A joint venture generally entails a foreign vessel processing fish received from U.S. fishing vessels and conducting associated support activities.)

(6) *Processing* means any operation by an FFV to receive fish from foreign or U.S. fishing vessels and/or the preparation of fish, including but not limited to cleaning, cooking, canning, smoking, salting, drying, or freezing, either on the FFV's behalf or to assist other foreign or U.S. fishing vessels.

(7) *Product weight* means the weight of the fish after processing and is explained further at § 611.9(j)(2).

(8) *Prohibited species*, with respect to any vessel, means salmonids, Pacific halibut, Dungeness crab, and any species of fish that vessel is not specifically allocated or authorized to retain, including fish caught or received in excess of any allocation or authorization.

(9) *Regional Director* means the Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115, or a designee.

(10) *Round weight* means the weight of the whole fish before processing.

(11) *Secretary* means the Secretary of Commerce or a designee.

(12) *Target fishing* means fishing for the primary purpose of catching a particular species (the target species). The only legal target species are those specifically allocated under § 611.21 for the directed fishery or authorized for joint venture receipt under a foreign fishing permit.

(c) *Authorized amounts.* The total allowable level of foreign fishing (TALFF), joint venture processing (JVP), incidental allowances, amounts of fish set aside as reserves, and the estimated domestic annual harvest (DAH) and domestic annual processing (DAP) are published in the **Federal Register** prior to the beginning of each fishing season, and during the season if these amounts are modified, to reflect changes in resource conditions and performance of the U.S. industry. Procedures for setting or changing these specifications and corresponding incidental allowances appear in 59 CFR part 663, appendix II G, H, I, and J. Current TALFF and JVP amounts are available from the Regional Director.

(1) *Incidental allowances.* Incidental allowances are published in the **Federal Register**, concurrent with the annual specifications of JVP and TALFF, to reflect changes in resource conditions and performance of the U.S. industry. Unless otherwise specified under paragraph (d) below, incidental allowances are percentages that determine the maximum amount of incidental species that may be retained in the joint venture or caught in the directed foreign industry.

(i) In the directed foreign fishery, the incidental allowance for a species or species group is determined by applying the incidental percentage to a nation's allocation of TALFF.

(ii) In the joint venture for Pacific whiting, the incidental percentages are applied to each 5,000 metric tons (mt) of Pacific whiting received by vessels of a foreign nation from U.S. vessels. If the retained amount of an incidental species or species complex reaches the specified percentages, no further amount of that species or species complex may be retained until vessels of that nation have received a full 5,000 mt of Pacific whiting. In a joint venture for any other species, the application of incidental allowances will be determined by the Regional Director, in consultation with the Council, on a case-by-case basis.

(2) [Reserved]

(d) *Modification to authorized foreign fishing.* The definitions, authorized amounts (including the amounts and applications of incidental allowances), and management measures in this section (including seasons, areas, gear restrictions, and reporting and recordkeeping requirements) for the directed or joint venture fisheries may be established, modified , or deleted according to the procedures at 50 CFR part 663 and its appendix or under the conditions and restrictions of a foreign vessel permit, except for certain areas closed to the directed and joint venture fisheries for Pacific whiting at paragraphs (g)(1)(i) through (iii) and (g)(2) of this section, which will remain closed.

(e) *Fishery closures.* In addition to the provisions at § 611.13, the catching or receipt of any species or species complex is prohibited after: the applicable open season has ended; a harvest guideline or quota for the target species has been or is projected to be reached; or, the fishery has been closed under this section, part 663, or under the conditions and restrictions of a foreign fishing permit.

(1) *Directed fishery.* Catching any species or species complex is prohibited after the vessels of a foreign nation have caught or are projected to have caught:

(i) That nation's allocation of TALFF; or

(ii) The maximum incidental catch allowance for that nation of any species or species complex.

(2) *Joint venture fishery.* (i) The receipt of any species of U.S.-harvested fish is prohibited after the JVP quota for the target species has been or is projected to be received.

(ii) The retention of a species or species complex of U.S.-harvested fish having an incidental retention allowance is prohibited after the maximum incidental retention allowance for that species or species complex has been or is projected to be retained.

(f) *Seasons.* Unless otherwise specified according to paragraph (d) of this section, the following provisions apply:

(1) *Directed fishery.* Directed foreign fishing authorized under this subpart may begin at 0701 g.m.t. (0001 Pacific Daylight Time) June 1 and will end not later than 0800 g.m.t. on November 1 (2400 Pacific Standard Time on October 31).

(2) *Joint venture fishery.* There is no season restriction.

(g) *Closed areas.* Unless otherwise specified according to paragraph (d) of this section (which does not allow deletion of the closed areas in paragraphs (g)(1)(i), (ii), and (iii) or (2) of this section for Pacific whiting fisheries), the following provisions apply:

(1) *Directed fishery.* No directed foreign fishing may be conducted:

(i) Shoreward of a line drawn twelve nautical miles from the baseline used to measure the U.S. territorial sea;

(ii) North of 47°30′ N. latitude;

(iii) South of 39°00′ N. latitude;

(iv) Within the "Columbia River Recreational Fishery Sanctuary"—that area between 46°00′ N. latitude and 47°00′ N. latitude and east of a line connecting the following coordinates in the order listed: 46°00′ N. latitude, 124°55′ W. longitude; 46°20′ N. latitude, 124°40′ W. longitude; and 47°00′ N. latitude, 125°20′ W. longitude; or

(v) Within the "Klamath River Pot Sanctuary"—that area between 41°20′ N.

latitude and 41°37′ N. latitude and east of a line connecting the following coordinates in the order listed: 41°20′ N. latitude, 124°32′ W. longitude; and 41°37′ N. latitude, 124°34′ W. longitude.

(2) *Joint venture fishery.* No U.S.-harvested fish may be received or processed south of 39° N. latitude.

(h) *Gear restrictions—directed fishery.* (1) Except as authorized under paragraph (h)(2) of this section or as otherwise specified under paragraph (d) of this section, gear other than a pelagic trawl with a minimum stretched mesh size of 100 mm, measured between the inside of one knot and the inside of the opposing knot when wet, is prohibited. Liners must not be used in the codend of the trawl. Devices of methods of gear use that have the effect of reducing the mesh size in the codend are prohibited. Fishing on the seabed is prohibited.

(2) Any outer protective mesh covering (outer bag or chafing gear) of a mesh size less than two times the mesh size of the inner codend is prohibited. Any outer protective mesh covering that is not aligned knot-to-knot to the inner net and tied to the straps and riblines is prohibited. Such outer mesh must not be connected directly to the terminal (closed) end of the codend. Thread size of an outer protective mesh covering must not be greater than four times the diameter of the thread size of the inner net.

(i) *Target fishing—directed fisheries.* (1) It is unlawful for any operator or owner of a foreign fishing vessel to conduct target fishing for any species or species complex for which that nation does not have an allocation of TALFF.

(2) It is a rebuttable presumption that any trawl that contains more than 50 percent by weight of any species or species complex (such as "other species") was conducted for the purpose of catching that species or species complex and therefore constitutes target fishing for that species or species complex.

(j) *Reports and recordkeeping*—(1) *Weekly reports.* The requirements at § 611.4(f) are modified as follows:

(i) *Catch estimates.* In the weekly catch report (CATREP) and weekly receipts report (RECREP), catches of salmonids, Pacific halibut, and Dungeness crab must be recorded in numbers of individuals.

(ii) *Weekly receipts report.* (A) In addition to the requirements at §§ 611.4(f)(3) and 611.70(j)(1)(i), the weekly receipts reports (RECREP) must contain amounts of fish that are discarded or retained by an FFV operating in a joint venture off Washington, Oregon, and California, for each species and fishing area, to the nearest tenth of a metric ton (0.1 mt) round weight (except for salmonids, Pacific halibut and Dungeness crab, which are recorded in numbers of individuals), and must be followed either by the letter "D" (for discarded) and the confirmation code, or by the letter "K" (for retained or kept) and the confirmation code.

(B) For the purposes of this § 611.70, the product disposition code "P" (referenced in appendix G to subpart A of part 611) must not be used in the RECREP. The only disposition codes required in this report are "D" (for discarded), "K" (for retained), and, if specifically authorized in the vessel permit conditions and restrictions, "R" (for fish that are returned to a U.S. vessel).

(iii) Any weekly catch report (CATREP) submitted under § 611.4(f)(2) or weekly receipts report (RECREP) submitted under § 611.4(f)(3) must state if it pertains to target species other than Pacific whiting by following the word "CATREP" or "RECREP" with the name of the target species. If more than one target fishery is conducted in the same week, a separate CATREP or RECREP must be submitted for each fishery.

(2) *Daily reports.* From the time the Secretary estimates that 90 percent of JVP, a nation's fishing allocation, or incidental allowance of any species or species complex has been or is projected to be reached, and so notifies the designated representative of the nation(s) involved, the weekly catch report (CATREP) and the weekly receipts report (RECREP) must be submitted on a daily basis and must reach the Regional Director no later than three days after the reported fishing day.

(3) *Annual report.* Each nation with fishing vessels conducting directed fishery operations must report annual catch and effort statistics by May 31 of the following year in tabular form as follows:

(i) Effort in hours trawled, by vessel class, by gear type, by months, by ½° latitude by 1° longitude statistical areas.

(ii) Catch by vessel class, by gear type, by month, by ½° latitude by 1° longitude statistical areas:

(A) To the nearest tenth of a metric ton (0.1 mt round weight), any species for which that nation has a fishing allocation or incidental allowance; and

(B) The numbers of salmonids, Pacific halibut, and Dungeness crab.

(4) *Logs.* (i) The owner and operator of each foreign fishing vessel must maintain logs in accordance with the requirements of § 611.9, as modified by the regulations in this § 611.70 and the conditions and restrictions of that vessel's foreign fishing permit.

(ii) These logs are the basis for all reports required under §§ 611.4, 611.9, and 611.70.

(iii) Required data must be recorded clearly and concisely, in duplicate, and in English.

(iv) An authorized officer may remove the duplicate pages at any time. All duplicate pages of the logs not removed by an authorized officer must be submitted to the Regional Director within three weeks (21 days) after termination of a fishery due either to closure of the fishery, departure of a vessel from the grounds for the remainder of the season, or expiration of the fishing permit. The original logs must be retained on the foreign fishing vessel whenever it is in the EEZ for three years after the end of the permit period as stated at § 611.9(a)(2).

(v) *Measurements.* (A) Estimates of discards in Section Two-Catch of the daily fishing and joint venture logs are on-deck estimates of round weight to at least the nearest tenth of a metric ton (0.1 mt) for Pacific whiting and to the nearest hundredth of a metric ton (0.01 mt) for incidental species.

(B) Transfer logs and Section Three-Production of the daily fishing and joint venture logs must be in product weights to the nearest 0.01 mt.

(C) Section Two-Catch of the daily fishing and joint venture logs (for processed fish) must be in factory weights to at least the nearest 0.1 mt for Pacific whiting, and to the nearest 0.01 mt for incidental species.

(D) *Numbers of individuals.* Salmonids, Pacific halibut, and Dungeness crab must be recorded in numbers of whole individuals.

(vi) If more than one target fishery is conducted, information for each fishery must be maintained in a separate log. If the target species is not Pacific whiting, the name of the target species must be entered after the title Section Two-Catch in the daily fishing or daily joint venture logs.

3. Part 663 is revised to read as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

Subpart A—General Provisions

Sec.

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

Subpart A—General Provisions

§ 663.1 Purpose and Scope.

(a) The regulations in this part govern fishing for groundfish by fishing vessels of the United States in the EEZ off the coasts of Washington, Oregon, and California.

(b) Regulations governing fishing for groundfish by fishing vessels other than vessels of the United States are published at 50 CFR part 611, subparts A, B, and E (§ 611.70).

(c) These regulations implement the Pacific Coast Groundfish Plan developed by the Pacific Fishery Management Council for groundfish fisheries off the coasts of Washington, Oregon, and California.

(d) The general provisions in this subpart may be modified according to the procedures described in the appendix to this part.

§ 663.2 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:

Acceptable biological catch (ABC) is a biologically based estimate of the amount of fish that may be harvested from the fishery each year without jeopardizing the resource. It is a seasonally determined catch that may differ from the maximum sustainable yield (MSY) for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. The ABC may be modified to incorporate biological safety factors and risk assessment due to uncertainty. Lacking other biological justification, the ABC is defined as the MSY exploitation rate multiplied by the exploitable biomass for the relevant time period.

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

Commercial fishing means

(a) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal government as a prerequisite to taking, landing and/or sale; or,

(b) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Council means the Pacific Fishery Management Council, including its Groundfish Management Team (GMT), Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel (GAP), and any other committee established by the council.

Domestic Annual Harvest (DAH) means the estimated total harvest of groundfish by U.S. fishermen. It includes the portion expected to be utilized by domestic processors (DAP) and the estimated portion, if any, that will be delivered to foreign processors (JVP) permitted to receive U.S.-harvested groundfish in the EEZ.

Domestic Annual Processing (DAP) means the estimated annual amount of U.S. harvest that domestic processors are expected to process and the amount of fish that will be harvested but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

Fishery management area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, and bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico.

Fishing gear:

(a) *Bobbin trawl* means the same as a roller trawl.

(b) *Bottom trawl* means a trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes Danish and Scottish seine gear. It also includes pair trawls fished on bottom.

(c) *Chafing gear* means webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear.

(d) *Codend* means the terminal, closed end of a trawl net.

(e) *Commercial vertical hook-and-line* means commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

(f) *Double-ply mesh* means double twine tied into a single knot.

(g) *Double-walled codend* means a codend constructed of two walls of webbing.

(h) *Fixed gear (anchored nontrawl gear)* means longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

(i) *Gillnet* means a rectangular net that is set upright in the water.

(j) *Hook-and-line* means one or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll).

(k) *Longline* means a stationary, buoyed, and anchored groundline with hooks attached.

(l) *Mesh size* means the opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

(m) *Nontrawl gear* means all legal commercial groundfish gear other than trawl gear.

(n) *Pelagic (midwater or off-bottom) trawl* means a trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. It includes pair trawls if fished in midwater.

(o) *Pot* means a trap.

(p) *Roller trawl (bottom trawl)* means a trawl net with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material that keep the footrope above the seabed, thereby protecting the net.

(q) *Set net* means a stationary, buoyed, and anchored gillnet or trammel net.

(r) *Single-walled codend* means a codend constructed of a single wall of webbing knitted with single or double-ply mesh.

(s) *Spear* means a sharp, pointed, or barbed instrument on a shaft.

(t) *Trammel net* means a gillnet made with two or more walls joined to a common float line.

(u) *Trap (or pot)* means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats.

(v) *Trawl net* means a cone or funnel-shaped net that is towed through the water by one or two vessels.

(w) *Trawl riblines* means heavy rope or lines that run down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

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

Fishing year means the year beginning at 0801 GMT (0001 local time) on January 1 and ending at 0800 GMT on January 1 (2400 local time on December 31).

Groundfish means species managed by the Pacific Coast Groundfish Plan, specifically:

Sharks

leopard shark, *Triakis semifasciata*

soupfin shark, *Galeorhinus zyopterus*
spiny dogfish, *Squalus acanthias*

Skates

big skate, *Raja binoculata*
California skate, *R. inornata*
longnose skate, *R. rhina*

Ratfish

ratfish, *Hydrolagus colliei*

Morids

finescale codling, *Antimora microlepis*

Grenadiers

Pacific rattail, *Coryphaenoides acrolepis*

Roundfish

cabezon, *Scorpaenichthys marmoratus*
jack mackerel (north of 39° N. latitude), *Trachurus symmetricus*
kelp greenling, *Hexagrammos decagrammus*
lingcod, *Ophiodon elongatus*
Pacific cod, *Gadus macrocephalus*
Pacific whiting, *Merluccius productus*
sablefish, *Anoplopoma fimbria*

Rockfish

aurora rockfish, *Sebastes aurora*
bank rockfish, *S. rufus*
black rockfish, *S. melanops*
black and yellow rockfish, *S. chrysomelas*
blackgill rockfish, *S. melanostomus*
blue rockfish, *S. mystinus*
bocaccio, *S. paucispinis*
bronzespotted rockfish, *S. gilli*
brown rockfish, *S. auriculatus*
calico rockfish, *S. dalli*
California scorpionfish, *Scorpaena guttata*
canary rockfish, *Sebastes pinniger*
chilipepper, *S. goodei*
China rockfish, *S. nebulosus*
copper rockfish, *S. caurinus*
cowcod, *S. levis*
darkblotched rockfish, *S. crameri*
dusty rockfish, *S. ciliatus*
flag rockfish, *S. rubrivinctus*
gopher rockfish, *S. carnatus*
grass rockfish, *S. rastrelliger*
greenblotched rockfish, *S. rosenblatti*
greenspotted rockfish, *S. chlorostictus*
greenstriped rockfish, *S. elongatus*
harlequin rockfish, *S. variegatus*
honeycomb rockfish, *S. umbrosus*
kelp rockfish, *S. atrovirens*
longspine thornyhead, *Sebastolobus altivelis*
Mexican rockfish, *Sebastes macdonaldi*
olive rockfish, *S. serranoides*
Pacific Ocean perch, *S. alutus*
pink rockfish, *S. eos*
quillback rockfish, *S. maliger*
redbanded rockfish, *S. babcocki*
redstripe rockfish, *S. proriger*
rosethorn rockfish, *S. helvomaculatus*
rosy rockfish, *S. rosaceus*
rougheye rockfish, *S. aleutianus*
sharpchin rockfish, *S. zacentrus*
shortbelly rockfish, *S. jordani*
shortraker rockfish, *S. borealis*
shortspine thornyhead, *Sebastolobus alascanus*
silvergray rockfish, *Sebastes brevispinis*
speckled rockfish, *S. ovalis*
splitnose rockfish, *S. diploproa*
squarespot rockfish, *S. hopkinsi*
starry rockfish, *S. constellatus*
stripetail rockfish, *S. saxicola*
tiger rockfish, *S. nigrocinctus*
treefish, *S. serriceps*
vermilion rockfish, *S. miniatus*
widow rockfish, *S. entomelas*
yelloweye rockfish, *S. ruberrimus*
yellowmouth rockfish, *S. reedi*
yellowtail rockfish, *S. flavidus*

All genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California are included, even if not listed above. The Scorpaenidae genera are Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus.

Flatfish

arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*
butter sole, *Isopsetta isolepis*
curlfin sole, *Pleuronichthys decurrens*
Dover sole, Microstomus pacificus
English sole, *Parophrys vetulus*
flathead sole, *Hipoglossoides elassodon*
Pacific sanddab, *Citharichthys sordidus*
petrale sole, *Eopsetta jordani*
rex sole, *Glyptocephalus zachirus*
rock sole, *Lepidopsetta bilineata*
sand sole, *Psettichthys melanostictus*
starry flounder, *Platichthys stellatus*

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

Incidental catch or *incidental species* means groundfish species caught while fishing for the primary purpose of catching a different species.

Joint Venture Processing (JVP) is the estimated portion of DAH that exceeds the capacity and intent of U.S. processors to utilize, or for which domestic markets are not available, that is expected to be harvested by U.S. fishermen and delivered to foreign processors in the EEZ.

Land or *landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.

Maximum sustainable yield (MSY) means an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions. It may be presented as a range of values. One MSY may be specified for a group of species in a mixed-species fishery. Since MSY is a long-term average, it need not be specified annually, but may be reassessed periodically based on the best scientific information available.

Optimum yield (OY), for the purposes of this FMP, means all the fish that can be taken under regulations and/or notices authorized by the Pacific Coast Groundfish Plan and promulgated by the Secretary.

Overfishing means a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY on a continuing basis.

Pacific Coast Groundfish Plan means the fishery management plan (FMP) for the Washington, Oregon, and California groundfish fishery developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce on January 4, 1982, and as it may be subsequently amended.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only, and not for sale or barter.

Regional Director means the Northwest Regional Director, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115. For fisheries occurring primarily or exclusively in the fishery management area seaward of California, *Regional Director* means the Northwest Regional Director, National Marine Fisheries Service, acting upon the recommendation of the Southwest Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the year to allow for uncertainties in preseason estimates of DAP and JVP.

Round weight means the weight of the whole fish before processing. All weights are in round weight or round weight equivalents unless specified otherwise.

Stock Assessment and Fishery Evaluation (SAFE) document means the document prepared by the Council that provides a summary of the most recent biological condition of species in the fishery management unit, and the social and economic condition of the recreational and commercial fishing industries and the fish processing industry. It summarizes, on a periodic basis, the best available information concerning the past, present, and possible future condition of the stocks and fisheries managed by the Pacific Coast Groundfish Plan.

Target fishing means fishing for the primary purpose of catching a particular

species or species group (the target species).

Total Allowable Level of Foreign Fishing (TALFF) means the amount of fish surplus to domestic needs and available for foreign harvest. It is a quota determined by deducting the DAH and reserve, if any, from a species harvest guideline or quota.

Trip limit means the total allowable amount of a groundfish species or species complex by weight, or by percentage of weight of fish on board, that may be taken and retained, possessed, or landed from a single fishing trip.

§ 663.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) and (c) of this section.

(b) *Federal laws*—(1) *Pacific halibut.* Fishing for Pacific halibut is governed by the regulations promulgated by the International Pacific Halibut Commission and approved by the United States (see part 301 of this title).

(2) *Salmon.* Fishing for salmonids in the Council's fishery management area is governed by Federal regulations at Part 661 of this title. Fishing for pink and sockeye salmon between 48°00′ N. latitude and the Provisional International Boundary between the United States and Canada is also governed by regulations issued under the authority of the Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631–3644; (see part 371 of this title).

(3) *Anchovy.* Fishing for northern anchovy in the Council's Pacific Anchovy Fishery Area (south of 38°00′ N. latitude) is governed by Federal regulations at Part 662 of this title.

(c) *State laws.* This part recognizes that any State law pertaining to vessels registered under the laws of that State while in the fishery management area, and which is consistent with the Pacific Coast Groundfish Plan, including any State landing law, shall continue in effect with respect to fishing activities regulated under this part.

§ 663.4 Recordkeeping and Reporting.

(a) This part recognizes that catch and effort data necessary for implementing the Pacific Coast Groundfish Plan are collected by the States of Washington, Oregon, and California under existing State data collection requirements. Telephone surveys of domestic industry (see subparts G, H, and I of the Appendix to this part) will be conducted biannually by the NMFS to determine amounts of fish that will be made available to foreign fishing and joint venture processing (OMB Approval No. 0648–0243). No additional Federal reports are required of fishermen or processors as long as the data collection and reporting systems operated by State agencies continue to provide the Secretary with statistical information adequate for management.

(b) Any person who is required to do so by the applicable State law must make and/or file any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable State law.

§ 663.5 Management Subareas.

(a) The fishery management area is divided into subareas for the regulation of groundfish fishing, with the following designations and boundaries, which may be changed under the procedures in the appendix to this part:

(1) *Vancouver.* (i) Northeastern boundary—that part of a line connecting the light on Tatoosh Island, Washington, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35′75″ N. latitude, 124°43′00″ W. longitude) south of the International Boundary between the United States and Canada (at 48°29′37.19″ N. latitude, 124°43′33.19″ W. longitude), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(ii) Northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the U.S. EEZ as shown on NOAA/NOS Charts #18480 and #18007:

	N. latitude	*W. longitude*
1.	48°29′37.19″	124°43′33.19″
2.	48°30′11″	124°47′13″
3.	48°30′22″	124°50′21″
4.	48°30′14″	124°54′52″
5.	48°29′57″	124°59′14″
6.	48°29′44″	125°00′06″
7.	48°28′09″	125°05′47″
8.	48°27′10″	125°08′25″
9.	48°26′47″	125°09′12″
10.	48°20′16″	125°22′48″
11.	48°18′22″	125°29′58″
12.	48°11′05″	125°53′48″
13.	47°49′15″	126°40′57″
14.	47°36′47″	127°11′58″
15.	47°22′00″	127°41′23″
16.	46°42′05″	128°51′56″
17.	46°31′47″	129°07′39″

(iii) Southern limit: 47°30′ N. latitude.

(2) *Columbia.*

(i) Northern limit: 47°30′ N. latitude;

(ii) Southern limit: 43°00′ N. latitude.

(3) *Eureka.*

(i) Northern limit: 43°00′ N. latitude;

(ii) Southern limit: 40°30′ N. latitude.

(4) *Monterey.*

(i) Northern limit: 40°30′ N. latitude;

(ii) Southern limit: 36°00′ N. latitude.

(5) *Conception.*

(i) Northern limit: 36°00′ N. latitude;

(ii) Southern limit: The United States-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

	N. latitude	*W. longitude*
1.	32°35′22″	117°27′49″
2.	32°37′37″	117°49′31″
3.	31°07′58″	118°36′18″
4.	30°32′31″	121°51′58″

(b) Any person fishing subject to this part is bound by the above-described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the United States.

(c) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3-mile limit").

(d) The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico.

§ 663.6 Vessel Identification.

(a) *Display.* The operator of a vessel which is over 25 feet in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block arabic numerals at least 18 inches high for vessels over 56 feet long and at least 10 inches high for vessels between 25 and 65 feet in length. The length of a vessel for purposes of this section is the length set forth in U.S. Coast Guard records or in State records if no U.S. Coast Guard record exists.

(b) *Maintenance of numbers.* The operator of a vessel engaged in commercial fishing for groundfish shall keep the identifying markings required by paragraph (a) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(c) *Commercial passenger vessels.* This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

§ 663.7 Prohibitions.

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

(a) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.

(b) Retain any prohibited species (defined § 663.23(d)) caught by means of fishing gear authorized under this part unless authorized by 50 CFR parts 301, 371 or 661, or other applicable law; prohibited species must be returned to the sea as soon as practicable with a minimum or injury when caught and brought aboard.

(c) Falsify or fail to affix and maintain vessel and gear markings as required by § 663.6 and § 663.22(c).

(d) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 663.10.

(e) Fish for groundfish using gear not authorized under § 663.22, or under an EFP under § 663.10.

(f) Take and retain, possess, or land more groundfish than specified under § 663.23, § 663.24, or under an EFP issued under § 663.10.

(g) Violate any other provision of this part, the Magnuson Act, any notice issued under subpart B of this part, or any other regulation or permit promulgated under the Magnuson Act.

(h) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, possession, landing, purchase, sale, or transfer of any fish.

(i) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search conducted in the process of enforcing the Magnuson Act.

(j) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(k) Falsify or fail to make and/or file, any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State law, as specified in § 663.4, provided that person is required to do so by the applicable State law.

(l) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, if the weight of the total delivery exceeds 3,000 pounds (round weight or round weight equivalent).

(m) Possess, deploy, haul, or carry onboard a fishing vessel subject to these regulations (50 CFR part 663) a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions at § 663.22, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

§ 663.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 663.9 Penalties.

See § 620.9 of this chapter.

§ 663.10 Experimental fisheries.

(a) *General.* The Regional Director may authorize, for limited experimental purposes, the target or incidental harvest of groundfish managed by the Pacific Coast Groundfish Plan that would otherwise be prohibited. No experimental fishing may be conducted unless authorized by an experimental fishing permit (EFP) issued by the Regional Director to the participating vessel in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Application.* An applicant for an EFP shall submit to the Regional Director at least 60 days before the desired effective date of the EFP a written application including, but not limited to, the following information:

(1) The date of the application;

(2) The applicant's name, mailing address, and telephone number;

(3) A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP;

(4) Valid justification explaining why issuance of the EFP is warranted;

(5) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals;

(6) For each vessel to be covered by the EFP:

(i) Vessel name;

(ii) Name, address, and telephone number of owner and master;

(iii) U.S. Coast Guard documentation, State license, or registration number;

(iv) Home port;

(v) Length of vessel;

(vi) Net tonnage; and

(vii) Gross tonnage.

(7) A description of the species (target and incidental) to be harvested under the EFP and the amount(s) of such harvest necessary to conduct the experiment;

(8) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used; and

(9) The signature of the applicant.

(10) The Regional Director may request from an applicant additional information necessary to make the determinations requred under this section (OMB Approval No. 0648-0203). An incomplete application will not be considered until corrected in writing. An applicant for an EFP need not be the owner or operator of the vessel(s) for which the EFP is requested.

(c) *Issuance.* (1) The Regional Director will review each application and will make a preliminary determination whether the application contains all of the required information and constitutes a valid experimental program appropriate for further consideration. If the Regional Director finds any application does not warrant further consideration, both the applicant and the Council will be notified in writing of the reasons for the decision. If the Regional Director determines any application warrants further consideration, a notice of receipt of the application will be published in the **Federal Register** with a brief description of the proposal, and interested persons will be given an opportunity to comment. The notice may establish a cut-off date for receipt of additional applications to participate in the same or a similar experiment. The Regional Director also will forward copies of the application to the Council, the U.S. Coast Guard, and the fishery management agencies of Oregon, Washington, California, and Idaho, accompanied by the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target and incidental species;

(ii) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity; and

(iii) Biological information relevant to the proposal.

(2) If the application is complete and warrants further consideration, the Regional Director will consult with the Council and the directors of the state fishery management agencies concerning the permit application. The Council shall notify the applicant in advance of the meeting, if any, at which the application will be considered, and invite the applicant to appear in support of the application if the applicant desires.

(3) As soon as practicable after receiving responses from the agencies identified above, or after the consultation, if any, in paragraph 663.10(c)(2) above, the Regional Director shall notify the applicant in writing of

the decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application; or

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way; or

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose; or

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the Pacific Coast Groundfish Plan; or

(v) The applicant has failed to demonstrate a valid justification for the permit; or

(vi) The activity proposed under the EFP could create a significant enforcement problem.

(4) The decision of the Regional Director to grant or deny an EFP is the final action of the agency. If the permit is granted, the Regional Director will publish a notice in the **Federal Register** describing the experimental fishing to be conducted under the EFP. The Regional Director may attach terms and conditions to the EFP consistent with the purpose of the experiment, including but not limited to:

(i) The maximum amount of each species that can be harvested and landed during the term of the EFP, including trip limitations, where appropriate;

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP;

(iii) The time(s) and place(s) where experimental fishing may be conducted;

(iv) The type, size, and amount of gear that may be used by each vessel operated under the EFP;

(v) The condition that observers be carried aboard vessels operated under an EFP;

(vi) Reasonable data reporting requirements (OMB Approval No. 0648–0203);

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of the Pacific Coast Groundfish Plan; and

(viii) Provisions for public release of data obtained under the EFP.

(d) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than one year unless revoked, suspended, or modified. EFPs may be renewed following the application procedures in this section.

(e) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(f) *Transfer.* EFPs issued under this part are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(g) *Inspection.* Any EFP issued under this part must be carried aboard the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(h) *Sanctions.* Failure of a permittee to comply with the terms and conditions of an EFP shall be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by 15 CFR part 904, subpart D.

Subpart B—Management Measures

§ 663.21 General.

(a) The Secretary will establish and adjust management specifications and measures annually and during the fishing year according to the procedures described in the appendix to this part. Management actions will be announced by publication in the **Federal Register** under the procedures described in the appendix.

(b) **Federal Register** notices establishing and adjusting management specifications and measures will remain in effect until the expiration date stated in the notice, or until rescinded, modified, or superseded.

(c) Nothing contained in this part limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act, 16 U.S.C. 1855(e).

§ 663.22 Gear Restrictions.

(a) *General.* The following types of fishing gear are authorized, with the restrictions set forth in this section: trawl (bottom, pelagic, and roller), hook-and-line, longline, pot or trap, set net, trammel net, and spear.

(b) *Trawl gear*—(1) *Use.* Trawl nets may be used on and off the seabed. Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(2) *Mesh size.* Trawl nets may be used if they meet the minimum sizes set forth below. The minimum sizes apply to the last fifty meshes running the length of the net to the terminal (closed) end of the codend. Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, 3.0 or 4.5 inches (depending on the gear being measured) less one thickness of the metal at the widest part, can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh in the codend.

MINIMUM TRAWL MESH SIZE

(In Inches)

Trawl type	Subarea				
	Vancouver	Columbia	Eureka	Monterey	Conception
Bottom	4.5	4.5	4.5	4.5	4.5
Roller or bobbin	3.0	3.0	3.0	4.5	4.5
Pelagic	3.0	3.0	3.0	3.0	3.0

(3) *Chafing gear.* (i) Chafing gear must not be connected directly to the terminal (closed) end of the codend.

(ii) In all bottom trawls, chafing gear must have a minimum mesh size of 15 inches, unless only the bottom one-half (underside) of the codend is covered by chafing gear.

(iii) In roller and bobbin trawls in the Vancouver, Columbia, and Eureka subareas, and all pelagic trawls, chafing gear covering the upper one-half (top side) of the codend must have a minimum mesh size of 6 inches.

(4) *Double-walled codends.* (i) Double-walled codends must not be used in any pelagic trawl, or in any other trawl with mesh size less than 4.5 inches.

(ii) The double-walled layers of the codend must be the same mesh size and coincide knot-to-knot, and must not be longer than 25 trawl meshes or 12 feet, whichever is greater.

(5) *Bottom trawls.* A net used in a bottom trawl must have at least two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend, if the fishing vessel is simultaneously carrying aboard a net of less than 4.5 inch mesh size.

(6) *Pelagic trawls.* Pelagic trawl nets must have unprotected footropes at the trawl mouth (without rollers or bobbins). Sweeplines, including the bottom leg of the bridle, must be bare.

(7) *Roller trawl or bobbin trawl.* In the Eureka, Columbia, and Vancouver subareas, if trawl mesh size less than 4.5 inches is used:

(i) Rollers or bobbins must be at least 14 inches in diameter and free to rotate, with at least two rollers or bobbins equally spaced on each side of the footrope within 10 feet of the center of the footrope of the net; and

(ii) Continuous chain, rope, or cable (commonly known as a "tickler chain") that contacts the sea floor ahead of the rollers may not be used with a roller or bobbin trawl.

(c) *Fixed gear.* Fixed gear (longline, pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

(1) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy clearly identifying the owner; and

(2) Attended at least once every seven days.

(d) *Set nets.* Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00′ N. latitude.

(e) *Traps or pots.* Traps must have biodegradable escape panels constructed with #21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches in diameter results when the twine deteriorates.

(f) *Recreational fishing.* The only types of fishing gear authorized for recreational fishing are hook-and-line and spear.

(g) *Spears.* Spears may be propelled by hand or by mechanical means.

§ 663.23 Catch Restrictions.

Groundfish species harvested in the territorial sea (0–3 nautical miles) will be counted toward the catch limitations in this section.

(a) *Recreational fishing.* [Reserved]

(b) *Commercial fishing*—(1) *Rockfish.* The trip limit for a vessel engaged in fishing with a pelagic trawl with mesh size less than 4.5 inches in the Conception or Monterey subareas is 500 pounds or 5 percent by weight of all fish on board, whichever is greater, of the species group composed of bocaccio, chilipepper, splitnose, and yellowtail rockfishes per fishing trip.

(2) [Reserved]

(c) *Routine management measures.* In addition to the catch restrictions in this section 663.23, other catch restrictions may be imposed and announced by a single notice in the **Federal Register** if they first have been designated as "routine" according to the applicable procedures in Section III of the Appendix to this part. The following catch restrictions are designated as routine for the reasons given in paragraph (c)(1)(ii) of this section:

(1) *Commercial*—(i) *Species and gear.* (A) Widow rockfish—all gear—trip landing and frequency limits;

(B) *Sebastes* complex—all gear—trip landing and frequency limits;

(C) Yellowtail rockfish—all gear—trip landing and frequency limits;

(D) Pacific ocean perch—all gear—trip landing and frequency limits;

(E) Sablefish—all gear—trip landing, frequency, and size limits.

(ii) *Reasons for "routine" management measures.* All routine management measures on commercial fisheries are intended to keep landings within the harvest levels announced by the Secretary. In addition, the following reasons apply:

(A) Trip landing and frequency limits—to extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to allow small fisheries to operate outside the normal season.

(B) Size limits—to protect juvenile fish; to extend the fishing season.

(2) *Recreational*—(i) *Species and gear.* (A) Lingcod—all gear—bag and size limits;

(B) Rockfish—all gear—bag limits.

(ii) *Reasons for "routine" management measures.* All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by the Secretary. In addition, the following reasons apply:

(A) Bag limits—to spread the available catch over a large number of anglers; to avoid waste; for consistency with state regulations.

(B) Size limits—to protect juvenile fish; to enhance the quality of the recreational fishing experience; for consistency with state regulations.

(d) *Prohibited species.* Groundfish species or species groups under the Pacific Coast Groundfish Plan for which quotas have been achieved and the fishery closed are prohibited species. In addition, the following are prohibited species:

(1) Any species of salmonid.

(2) Pacific halibut.

(3) Dungeness crab caught seaward of Washington or Oregon.

§ 663.24 Restrictions on other fisheries.

(a) *Pink shrimp.* The trip limit for a vessel engaged in fishing for pink shrimp is 1,500 pounds (multiplied by the number of days of the fishing trip) of groundfish species other than Pacific whiting, shortbelly rockfish, or arrowtooth flounder (which are not limited under this paragraph).

(b) *Spot and ridgeback prawns.* The trip limit for a vessel engaged in fishing for spot or ridgeback prawns is 1,000 pounds of groundfish species per fishing trip.

§ 663.25 Scientific research.

Nothing in this part is intended to inhibit or prevent any scientific research that is conducted in the fishery management area by a scientific research vessel. The Secretary should acknowledge notification of scientific research involving groundfish and conducted by a scientific research vessel by issuing to the operator or master of that vessel a letter of acknowledgement, containing information on the purpose and scope (locations and schedules) of the activities. The Secretary will transmit copies of such letters to the Council, and to state and Federal administrative and enforcement agencies, to ensure that all concerned parties are aware of the research activities.

Appendix to Part 663—Groundfish Management Procedures

Index

I. Introduction

Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan ("Amendment 4") amends the Pacific Council's 1982 Pacific Coast Groundfish Fishery Management Plan (the "original FMP") to provide flexibility to modify annual and inseason management specifications and measures for social and economic as well as biological reasons. Under Amendment 4, management specifications and measures may be adjusted annually or during the fishing year according to the framework procedures described below. Management decisions made under the framework procedures are intended to be implemented without the need for a plan amendment. More detail concerning the procedures and their rationale appears in chapters 5 and 6 of Amendment 4.

Copies of Amendment 4 and the documents supporting this rule may be obtained from: Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115–0070; E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service 300 S. Ferry Street, Terminal Island, California 90731–7415; or Larry Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, Oregon 97201–5344.

II. Specification and Apportionment of Harvest Levels

Each fishing year the Council will assess the biological, social, and economic condition of the Pacific coast groundfish fishery and will make its assessment available to the public in the form of the Stock Assessment and Fishery Evaluation (SAFE) document described in section II.A. Based upon the most recent stock assessments, the Council will develop estimates of the acceptable biological catch (ABC) for each major species or species group and identify those species or species groups that it proposes be managed by the establishment of numerical harvest levels. The specification of numerical harvest levels includes the estimation of ABC, the establishment of harvest guidelines or quotas for specific species or species groups, and the apportionment of numerical specifications to domestic annual processing (DAP), joint venture processing (JVP), domestic annual harvest (DAH), total allowable level of foreign fishing (TALFF), and the reserve. The specification of numerical harvest levels is the process of designating and adjusting overall numerical limits for a species or species group either throughout the entire fishery management area or throughout specified subareas. The process normally occurs annually between September and November, but can occur under specified circumstances at other times of the fishing year. Numerical limits that allocate the resource or that apply to one segment of the fishery and not another are imposed through the socio-economic framework process described in section III rather than the specification process.

The annual specification process, in general terms, proceeds chronologically as follows:

1. Determine the ABC for each major species or species group.

2. Identify any species or species groups that may require special attention or individual management with numerical harvest limits to address or prevent resource conservation issues or issues of social, economic, or ecological concern identified by the Council. Examples of these issues include, but are not limited to, rebuilding stocks, achieving equitable resource allocation, increasing overall social and economic benefits, and providing for foreign and joint venture fishing for species not fully utilized by U.S. fish processors.

3. Based on the ABCs, recommend the establishment of either a numerical harvest guideline or quota for each species or species group requiring individual management.

4. Recommend the apportionment of numerical specifications between DAP, JVP, DAH, TALFF, and the reserve.

Section II describes the steps in this process.

A. Stock Assessment and Fishery Evaluation (SAFE) Document

For the purpose of providing the best available scientific information to the Council for developing ABCs, determining the need for individual species or species group management, setting and adjusting numerical harvest levels, assessing social and economic conditions in the fishery, and updating the appendices of the FMP, a SAFE document is prepared annually. Not all species and species groups can be re-evaluated every year due to limited state and Federal resources. However, the SAFE document will, at a minimum, contain the following information:

1. A report on the current status of Washington, Oregon, and California groundfish resources, by major species or species group.

2. Estimates of MSY and ABC for major species or species groups.

3. Catch statistics (landings and value).

4. Recommendations of species or species groups for individual management by harvest guidelines or quotas.

5. A brief history of the harvesting sector of the fishery.

6. A brief history of regional groundfish management.

7. A summary of the most recent economic information available, including number of vessels and economic characteristics by gear type.

8. Other relevant biological, social, economic and ecological information that may be useful to the Council.

The SAFE document is normally completed late in the year, generally late October, when the most current stock assessment and fisheries performance information is available. The Council will make the SAFE document available to the public by such means as mailing lists and newsletters, and will provide copies upon request.

B. Establishment and Adjustment of Acceptable Biological Catch (ABC)

As part of the process of establishing annual specifications and apportionments described in section II.H., the Council will determine the annual ABC for each major species or species group. ABCs do not act as harvest limits, but provide the biological basis for any numerical harvest levels that the Council recommends be established. ABCs may be established for the fishery management area as a whole or for specified subareas as appropriate. ABCs may be adjusted inseason only for the reasons specified in section II.I.(a).

All ABCs will remain in effect until revised and, whether revised or not, will be announced at the beginning of each fishing year along with all other annual specifications. In some cases, there will be no new information on the condition of a species or species group. In other cases, new information might continue to support a previous assessment. Therefore, ABCs may remain unchanged over a period of years.

C. Identification of Species or Species Groups for Individual Management by Numerical Harvest Guideline or Quota

After reviewing the most current stock assessment information, considering public comment, and taking into account the goals and objectives of the FMP, the Council may determine that certain species or species groups require individual management by

numerical harvest guidelines or quotas. Conversely, the Council may determine that a quota or harvest guideline is no longer necessary. Both harvest guidelines and quotas are harvest objectives for a specific species or species group. They are most commonly necessary when resource conservation concerns require the exercise of harvest restraint or when necessary either to apportion the resource to DAP, JVP, DAH, TALFF, and reserve, or to allocate the harvest among different segments of the fishery.

Harvest guidelines are specified numerical harvest objectives that differ from quotas in that closure of a fishery (i.e., prohibition of retention, possession, or landing) is not automatically required upon attainment of a harvest guideline. A harvest guideline may be either a range or a point estimate.

Quotas are specified numerical harvest objectives the attainment of which results in automatic closure of the fishery for that species or species group. Retention, possession, or landing of a species or species group after attainment of its quota is prohibited. A quota is a single numerical value, not a range.

Both harvest guidelines and quotas may be specified for the fishery management area as a whole or for specific subareas.

Before recommending that a species or species group be designated for individual management by either a harvest guideline or quota, the Council should determine whether one or more of the conditions listed below exists in the fishery:

1. Based on the most current stock assessment and expected harvest rates in the fishery, the species or species group is in need of special protection or more cautious exploitation than that provided by current management measures.

2. The species or species group can effectively be managed as a unit.

3. Based on the most current stock assessment and expected harvest rates in the fishery, failure to impose a numerical limitation would likely result in a "point of concern" (as defined in section III) being reached before the end of the year.

4. A harvestable stock surplus to domestic needs exists and the Council intends to recommend an apportionment of the numerical specification to JVP or TALFF. Any TALFF must be a quota. DAH, DAP and JVP may be either quotas or harvest guidelines. The apportionments to JVP and TALFF may be changed inseason due to reapportionment of the reserve and excess DAH or DAP consistent with the procedures in section II.I.(c) or to changes in ABC resulting from correction of a technical error (see section II.I.(a)).

5. Through the framework processes described in section III.B.(c), the Council has recommended a direct allocation of the resource among different segments of the fishery.

D. Guidelines for Choosing Between a Harvest Guideline or Quota

Normally, the recommendation to manage a species or species group with a harvest guideline or quota will be made in conjunction with the ABC determination for the upcoming year. Harvest guidelines and quotas in effect at the end of the fishing year will carry over into the subsequent year in the absence of a recommendation for change by the Council.

Generally, a harvest guideline will be used rather than a quota when one or more of the following exists:

1. A minimal level of additional protection or caution is believed to be sufficient;

2. Incidental catches in groundfish fisheries, or other fisheries not regulated by this FMP, are unavoidable and significant;

3. Unavoidable incidental catch would occur after a quota is reached and further landings are prohibited, resulting in the discard and wastage of significant quantities of fish;

4. Data are insufficient to adequately estimate status of stocks or inseason landings; or

5. Harvest in excess of a harvest guideline is not expected to result in overfishing or to prevent adherence to a rebuilding program adopted by the Council and approved by the Secretary.

Generally a quota will be used rather than a harvest guideline when one or more of the following exists:

1. It is necessary to prevent overfishing or to adhere to a rebuilding program adopted by the Council and approved by the Secretary.

2. An overall quota is necessary to achieve resource allocations established through the frameworks described in section III.

Unless otherwise specified by Amendment 4, all regulations and notices authorized by the original FMP and in effect at the time Amendment 4 is implemented are intended to continue in effect until changed. This includes the designation of species or species groups that are managed with a harvest guideline or quota. Under the original FMP, two species or species groups (the *Sebastes* complex and yellowtail rockfish north of Coos Bay, Oregon) were managed by harvest guidelines and six species (sablefish, Pacific ocean perch in the Columbia and Vancouver subareas, widow rockfish, Pacific whiting, shortbelly rockfish, and jack mackerel north of 39° N. latitude) were managed by numerical OYs, or quotas. Consistent with the intent of Amendment 4 and the original FMP, those species and species groups will continue to be managed as they were under the original FMP until such time as any changes are recommended by the Council and approved by the Secretary.

It is expected that the Council will, from time to time, find it necessary to add new species or species groups, change quota managed species to harvest guideline management and the converse, revise areas to which harvest guidelines and quotas will apply, or remove some species from management by numerical specifications. All of these actions may be recommended provided they are consistent with the guidelines and procedures in Amendment 4.

E. Guidelines for Determining the Numerical Specification of a Harvest Guideline or Quota

The determination of the actual numerical specification of a harvest guideline or quota is analogous to the determination of OY under the Magnuson Act and under the original FMP. The foundation for the Council's recommendation is the ABC for a species or species group. The numerical specification of a harvest guideline or quota is an adjustment from the ABC, either up or down, based upon social, economic, or ecological considerations. For example, the Council may recommend a harvest guideline or quota lower than ABC to speed up a stock rebuilding process or to account for estimates of discards. Conversely, the Council may recommend a numerical specification higher than ABC to mitigate abrupt adverse economic impacts in the face of the need to reduce harvests on a declining stock. However, if the Council chooses to recommend a harvest guideline or quota higher than ABC, it will consider the following factors in making its determination:

1. Exploitable biomass and spawning biomass relative to MSY levels for the species or species group under consideration.

2. Fishing mortality rate relative to MSY levels for the species under consideration.

3. In the case of species normally taken in mixed catches, the relative contribution of the species to the total catch.

4. The impact, if any, of the proposed increase on other groundfish species or species groups.

5. The magnitude of incoming recruitment.

6. The impact of harvest higher than ABC on the potential for future harvests to achieve the goals and objectives of the FMP.

The original FMP limited increases in OY, inseason and from year to year, to a maximum of 30 percent. Amendment 4 removes this restriction because it limited the Council's ability to utilize the best available biological information. Both ABC and numerical specifications based upon ABC should reflect the most current and best biological information as well as the most current information on the social and economic condition of the fishery.

In recommending a numerical specification, the Council generally will ensure that the harvest at that level will prevent overfishing and that any stock rebuilding program adopted by the Council and approved by the Secretary is not adversely affected. However, the Council may consider circumstances where reductions in future yield or even overfishing of a single species in a multiple species complex may be justified if increased benefits from the fishery as a whole will outweigh the loss from future reduced yield from the single species and the goals and objectives of the FMP can continue to be achieved in future years.

For species with harvest guidelines, the Council will monitor catch rates throughout the year and project when, and if, a harvest guideline will be reached. Upon determining that a harvest guideline is likely to be reached prematurely if harvest rates are not curtailed, a "point of concern" occurs, triggering a mandatory review of the stock status and harvest patterns as specified in section III.B.(b). Based on the results of that review the Council will recommend that continued harvest either be allowed with no additional restrictions, be allowed with additional restrictions to further reduce

harvest, or be discontinued and the fishery closed.

F. Stock Rebuilding Programs

When a stock falls below the level that will produce MSY, and is expected to stay below this level unless fishing mortality is reduced, the Council will review and determine if there is the need for more restrictive management measures (including harvest guidelines and quotas) to protect the stock and allow it to rebuild to more productive levels. Rebuilding objectives may be established by the Council on a case by case basis, taking into account the ABC, MSY, spawner recruit relationships, growth and maturation rates, age of recruitment, anticipated or assessed year class strength and age structure of the population, economic importance, and any other relevant social, economic, biological, or ecological factors. Appropriate measures to achieve the stated objectives will be determined by the Council based on those factors. More specific details relating to an operational definition of overfishing and the appropriate criteria that might result in the Council being required to develop and implement a stock rebuilding program for stocks of Pacific coast groundfish are being developed as Amendment 5 to the FMP in response to the NOAA operational guidelines (50 CFR part 602 guidelines).

In certain limited situations a stock may be fished down to a spawning biomass below the level that will produce MSY and maintained at that level if justified in writing and approved by the Secretary.

When the Council determines a rebuilding program is necessary, it will develop a plan based upon the best available scientific information. The plan should specify the time required for rebuilding and anticipate, to the extent practicable, the harvest restrictions necessary to achieve rebuilding. The Council will hold public hearings on the plan, which, if adopted, will be forwarded to the Secretary for review, approval, and implementation. The Secretary will publish a proposed rule implementing the plan in the **Federal Register** seeking public comment, following which, if approved, the Secretary will publish a final rule implementing the plan in the **Federal Register.**

In the event that the Secretary disagrees with the Council's recommended rebuilding program, he may recommend that the Council consider alternative measures or provide a more complete rationale for the recommendation. The Council will consider the Secretary's comments and may reaffirm its choice of the proposed action and provide the requested justification, or may recommend alternative measures.

If the Council establishes a rebuilding program, it will periodically review the effectiveness of the rebuilding measures and may revise the measures or objectives, taking into account the best scientific information available, and using the procedures described in section II.F.

Amendment 4 continues in effect a 20-year rebuilding program for Pacific ocean perch (POP) established by the original FMP.

G. Establishing and Adjusting DAP, JVP, DAH and TALFF Apportionments

When the entire amount of fish available for harvest will not be processed by U.S. (domestic) processors and it can be harvested without significantly impacting another species that is fully utilized by the U.S. industry, any quantity of fish excess to DAP may be made available for JVP. If DAH (i.e., the sum of DAP and JVP) is less than the amount of fish available for harvest, any further remainder may be apportioned to the foreign directed fishery as TALFF. When it is determined that quantities of a species or species group exist that are surplus to domestic processing needs, the Council will consider recommending a numerical harvest guideline or quota for the purpose of further apportionment to DAP, JVP, DAH, TALFF, and the reserve.

Prior to the next year's fishing season (usually about the September preceding that season), NMFS will conduct a survey of domestic processors and joint venture operations to estimate processing capacity, planned utilization, and related information. The DAP, the estimate of domestic annual processing needs derived from the survey and subsequent public testimony, is subtracted first from the harvest guideline or quota. If after subtracting the DAP, any harvestable quantity of fish remains and is requested for joint venture operations, the amount requested may be specified for JVP after providing for the reserve. The sum of DAP and JVP is DAH, an estimate of the total domestic annual harvest. Any remainder may be made available for foreign fishing as TALFF. TALFF is that quantity of fish surplus to DAH and the reserve. TALFF will always be a quota. DAH, DAP, and JVP may be either a quota or harvest guideline.

A reserve will be set aside at the beginning of the year for any species with a JVP or TALFF. The reserve allows for uncertainties regarding estimates of DAP and DAH by providing a buffer for the domestic industry, should its processing or harvesting needs exceed initial estimates. At the beginning of the year the reserve will equal 20 percent of the quota or harvest guideline for a species, unless DAP is greater than 80 percent of the harvest guideline or quota. In that case, the reserve will be the difference between the harvest guideline or quota and DAP. The reserve may be released during the year to DAH (DAP and/or JVP) or TALFF, with highest priority to DAP followed by JVP, and lastly TALFF.

Generally, NMFS will present the results of the domestic and joint venture processing survey to the Council for consultation and public comment concurrent with the Council's consideration of annual specifications. The Council may adopt recommendations for annual apportionments for implementation in accordance with the annual procedures for developing and implementing annual specifications described in section II.H. Apportionments may be adjusted inseason following the procedures in section II.I.(c).

H. Procedure for Developing and Implementing Annual Specifications and Apportionments

Annually, the Council will develop recommendations for the specification of ABCs, identification of species or species groups for management by numerical harvest guidelines and quotas, specification of the numerical harvest guidelines and quotas, and apportionments to DAP, JVP, DAH, TALFF, and the reserve over the span of two Council meetings.

The Council will develop preliminary recommendations at the first of two meetings (usually in September) based upon the best stock assessment information available to the Council at the time and consideration of public comment. After the first meeting, the Council will provide a summary of its preliminary recommendations and their basis to the public through its mailing list, as well as providing copies of the information at the Council office and to the public upon request. The Council will notify the public of its intent to develop final recommendations at its second meeting (usually November) and solicit public comment both before and at its second meeting.

At its second meeting, the Council will again consider the best available stock assessment information, which should be contained in the recently completed SAFE report, and consider public testimony before adopting final recommendations to the Secretary. Following the second meeting the Council will submit its recommendations along with the rationale and supporting information to the Secretary for review and implementation.

Upon receipt of the Council's recommendations, supporting rationale and information, the Secretary will review the submission and, if approved, publish a notice in the **Federal Register** making the Council's recommendations effective January 1 of the upcoming fishing year.

In the event that the Secretary disapproves one or more of the Council's recommendations, he may implement those portions approved and notify the Council in writing of the disapproved portions along with the reasons for disapproval. The Council may either provide additional rationale or information to support its original recommendation, if required, or may submit alternative recommendations with supporting rationale. In the absence of an approved recommendation at the beginning of the fishing year, the current specifications in effect at the end of the previous fishing year will remain in effect until modified, superseded, or rescinded.

I. Inseason Procedures to Establish and Adjust Specifications and Apportionments

(a) Inseason Adjustments to ABCs

New stock assessment information may become available inseason that supports a determination that an ABC no longer accurately describes the status of a particular species or species group. However, adjustments will only be made during the annual specifications process and a revised ABC announced at the beginning of the next fishing year. The only exception is in the case

where the ABC announced at the beginning of the fishing year is found to have resulted from incorrect data or from computational errors. If the Council finds that such an error has occurred, it may recommend that the Secretary publish a notice in the **Federal Register** revising the ABC at the earliest possible date.

(b) Inseason Establishment and Adjustment of Harvest Guidelines and Quotas

Harvest guidelines may be established and adjusted inseason: (1) for resource conservation through the "points of concern" framework described in section III.B.(b); (2) in response to a technical correction to ABC described in section II.I(a); or (3) under the socio-economic framework described in section III.B.(c).

Quotas, except for apportionments to DAP, JVP, DAH, TALFF, and reserve, may be established and adjusted inseason only for resource conservation or in response to a technical correction to ABC.

(c) Inseason Apportionment and Adjustments to DAP, JVP, DAH, TALFF, and Reserve

It may become necessary inseason to adjust DAP, JVP, DAH, TALFF, and the reserve to respond to the establishment or adjustment of a harvest guideline or quota, revisions to ABC, an inseason reassessment of DAP and JVP needs, or an inseason release of the reserve. Therefore, a DAH reassessment process with a mechanism to make adjustments to apportionments within DAH (to DAP and/or JVP) or to TALFF, and to release the reserve is required to achieve full utilization of certain stocks and to ensure that the preference for domestic processing is achieved.

Amendment 4 revises the DAH reassessment process so that it may be initiated at any time during the year that NMFS or the Council determines appropriate. The process begins with NMFS reassessing the needs of the domestic processing industry and updating its previous estimate of domestic processing intent. Based upon this reassessment, all or part of the reserve may be apportioned among DAH, DAP, JVP, and TALFF with domestic needs met first (and with DAP having priority over JVP). If the domestic industry does not intend to harvest the entire reserve, the remainder may be made available to TALFF.

In addition to apportionment of the reserve, further adjustments may be made if the reassessment indicates that the domestic industry will not use the quantities designated for DAH. In this case, surplus DAP could be made available to JVP or surplus DAH to TALFF. Following reassessment of the DAH, the NMFS Regional Director will consult with the Council, if practicable, before publishing a notice in the **Federal Register** seeking public comment for a reasonable period of time (normally 15 days) on the proposed adjustments to the apportionments. After receiving public comment, the Regional Director will publish a final notice in the **Federal Register** announcing the effectiveness of the adjustments.

Sometimes the pace of the fisheries may be so rapid that failure to act quickly to make adjustments to apportionments would ultimately result in the inability of the fishery to take advantage of an adjustment. In such cases where rapid action is necessary to prevent underutilization of the resource, the Regional Director may immediately publish a notice in the **Federal Register** making the adjustments effective and seek public comment for a reasonable period of time afterwards. If insufficient time exists to consult with the Council, the Regional Director will inform the Council in writing of actions taken within two weeks of the effective date.

J. Incidental Allowances in Joint Venture and Foreign Fishieries

Unless otherwise specified, incidental allowances for bycatch in the joint venture or foreign fisheries are percentages that determine the maximum amount of incidental species that may be retained in the joint venture or caught in the foreign fishery. Incidental allowances may be established or changed at any time during the year, but are published at least annually, concurrent with the annual specifications of JVP and TALFF.

The Council may choose to use factors other than percentages in specifying incidental allowances or may change the way incidental allowances are applied (for example, to 5,000 metric ton increments of Pacific whiting received in the joint venture; or based on retention in the joint venture and catch in the foreign fishery). Incidental species or species groups may be defined as necessary to obtain the best results for management of the fishery.

The Regional Director may establish or modify incidental species allowances to reflect changes in the condition of the resource and performance of the U.S. industry. The Regional Director will consult with the Council, consider public testimony received, and consider the following factors before establishing or changing incidental allowances: (1) Observed rates in the previous joint venture or foreign directed fishery, as applicable; (2) current estimates of relative abundance and availability of species caught incidentally; (3) ability of the foreign vessels to take JVP or TALFF; (4) past and projected foreign and U.S. fishing effort; (5) status of stocks; (6) impacts on the domestic industry; and (7) other relevant information. With the exception of initiation by the Regional Director, changes will be made following the same procedures as for annual or inseason changes to the specifications in sections II.H and II.I.(c).

III. Management Measures

A. Overview

The regulatory measures available to manage the Pacific coast groundfish fisheries include but are not limited to harvest guidelines, quotas, landing limits, trip frequency limits, gear restrictions (escape panels or ports, codend mesh size, etc.), time/area closures, prohibited species, bag and size limits, permits, other forms of effort control, allocation, reporting requirements, and onboard observers.

Amendment 4 establishes three framework procedures through which the Council is able to recommend the establishment and adjustment of specific management measures for the Pacific coast groundfish fishery. The first framework establishes a procedure for classifying and adjusting "routine" management measures. The "points of concern" framework allows the Council to develop management measures that respond to resource conservation issues; the "socio-economic" framework allows the Council to develop management measures in response to social, economic, and ecological issues that affect the fishing community. Associated with each framework is a set of criteria that form the basis for Council recommendations and with which Council recommendations will be consistent.

Amendment 4 also establishes a general process for developing and implementing management measures that normally will occur over the span of at least two Council meetings, with an exception that provides for more timely Council consideration under certain specific conditions. This process is explained in more detail in section III.B.

Amendment 4 contemplates that the Secretary will publish management measures recommended by the Council in the **Federal Register** as either "notices" or "regulations." Generally, management measures of broad applicability and permanent effectiveness are intended to be published as "regulations"; those measures more narrow in their applicability and which are meant to be effective only during the current fishing year, or even of shorter duration, and which might also require frequent adjustment, are intended to be published as "notices."

Amendment 4 also contemplates that the public will be represented and involved in the groundfish management process in a variety of ways.

The Council has thirteen voting members and five nonvoting members. Voting members are the State fishery directors of California, Oregon, Washington, and Idaho, the Northwest and Southwest Regional Directors of the National Marine Fisheries Service, and eight individuals who are knowledgeable about Pacific Coast fisheries and who are appointed by the Secretary of Commerce from lists submitted by the governors of the constituent states. Nonvoting members are the Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Coast Guard District, the Executive Director of the Pacific States Marine Fisheries Commission, a representative from the U.S. Department of State, and a representative of the State of Alaska.

Several Council committees composed of non-Council members also have substantial involvement in managing the groundfish resource. The Scientific and Statistical Committee has thirteen members charged with development, collection, and evaluation of statistical, biological, economic, social, and other scientific information relevant to the Council's development and amendment of fishery management plans. Another committee, the Groundfish Management Team, has eight members representing the State fisheries departments of California, Oregon, and Washington, and the Northwest and Southwest Regions of the National Marine Fisheries Service. The Groundfish

Advisory Subpanel (as of March, 1990) had thirteen members identified as representing the following interests: two processors, a consumer, three charter boat operators, a pot fisherman, three trawlers, a California commercial fisherman, a sport fisherman, and a longliner. The Council's Enforcement Consultants committee includes representatives of State enforcement agencies in California, Oregon, and Washington, the National Marine Fisheries Service, and the U.S. Coast Guard.

The Council usually considers groundfish management issues at meetings held in January, April, July, September, and November of each year. All meetings of the Council and its committees are open to the public. Meeting notices, including a list of issues to be considered, are published in the **Federal Register**. The Council also maintains a master mailing list of approximately 2,000 names of individuals and organizations that includes vessel owners, processors, fishermen's organizations, and fisheries service industries such as fisheries consultants, joint venture companies, and port managers. Persons on the mailing list may receive Council meeting notices and agendas, the Council newsletter, and draft and final fishery management plans, amendments, and regulations.

Interested persons regularly attend Council meetings and obtain descriptions and analyses of the proposals being considered. The Council members, scientific advisors, and industry advisors discuss proposals in open meetings. Portions of each meeting are specifically set aside to receive public comment, and the public is invited and regularly avails itself of the opportunity to make both oral and written comments, and to discuss with Council members the options under consideration.

B. General Procedures for Establishing and Adjusting Management Measures

Management measures are normally imposed, adjusted, or removed at the beginning of the fishing year, but may, if the Council determines it necessary, be imposed, adjusted or removed at any time during the year. Management measures may be imposed for resource conservation, social or economic reasons consistent with the criteria, procedures, goals, and objectives set forth in Amendment 4.

Because the potential actions that may be taken under the two frameworks established by Amendment 4 cover a wide range, analyses of biological, social, and economic impacts will be considered at the time a particular change is proposed. As a result, the time required to take action under either framework will vary depending on the nature of the action, its impacts on the fishing industry, the resource, the environment, and the review of these impacts by interested parties. Satisfaction of the legal requirements of other applicable law (e.g., the Administrative Procedure Act, Regulatory Flexibility Act, Executive Order 12291) for actions taken under this framework requires analysis and public comment before measures may be implemented by the Secretary.

Amendment 4 establishes four different categories of management actions, each of which requires a slightly different process. According to the provisions in Amendment 4, management measures may be established, adjusted, or removed using any of the four procedures. The four basic categories of management actions are as follows:

1. Automatic Actions.

Automatic management actions may be initiated by the Regional Director without prior public notice, opportunity to comment, or a Council meeting. These actions are non-discretionary and the impacts previously must have been taken into account. Examples include fishery, season, or type closures when a quota has been projected to have been attained. The Secretary will publish a single "notice" in the **Federal Register** making the action effective.

2. "Notice" Actions Requiring at Least One Council Meeting and One Federal Register Notice.

These include all management actions other than "automatic" actions that are either non-discretionary or for which the scope of probable impacts has been previously analyzed. These actions are intended to have temporary effect and are expected to need frequent adjustment. They may be recommended at a single Council meeting (usually November), although it is preferable that the Council provide as much advance information to the public as possible concerning the issues it will be considering at its decision meeting. The primary examples are those management actions defined as "routine" according to the criteria in section III.B.(a). If the Council's recommendations are approved, the Secretary will publish a single "notice" in the **Federal Register** making the action effective.

3. Abbreviated Rulemaking Actions Normally Requiring at Least Two Council Meetings and One Federal Register "Rule."

These include all management actions: (1) Being classified as "routine," or (2) intended to have permanent effect and which are discretionary, and for which the impacts have not been previously analyzed. Examples include changes to or imposition of some gear regulations, or imposition of trip landing or frequency limits for the first time on any species or species group, or gear type. The Council will develop and analyze the proposed management actions over the span of at least two Council meetings (usually September and November) and provide the public advance notice of the availability of both the proposals and the analysis, and opportunity to comment on them prior to and at the second Council meeting. If the Regional Director approves the Council's recommendation, the Secretary is expected to waive for good cause the requirement for prior notice and comment in the **Federal Register** and publish a "final rule" in the **Federal Register**, which will remain in effect until amended. If a management measure is designated as "routine" by "final rule" under this procedure, specific adjustments of that measure can subsequently be announced in the **Federal Register** by "notice" as described in the previous paragraph. Nothing in this section III.B.3. prevents the Secretary from deciding to provide additional opportunity for prior notice and comment in the **Federal Register**, if appropriate, but contemplates that the Council process will adequately satisfy that requirement.

[**Note:** The primary purpose of the previous two categories of procedures is to accommodate the Council's September–November meeting schedule for developing annual management recommendations, to satisfy the Secretary's responsibilities under the Administrative Procedure Act, and to address the need to implement management measures by January 1 of each fishing year. It should also be noted that the two Council meeting process refers to two decision meetings, the first meeting to develop proposed management measures and their alternatives, the second meeting to make a final recommendation to the Secretary. For the Council to have adequate information to identify proposed management measures for public comment at the first meeting, the identification of issues and the development of proposals normally must begin at a prior Council meeting, usually the July Council meeting.]

4. Full Rulemaking Actions Normally Requiring at Least Two Council Meetings and Two Federal Register Notices of Rulemaking (Regulatory Amendment).

These include any proposed management measure that is highly controversial and any measure that directly allocates the resource. The Council normally will follow the two meeting procedure described for the abbreviated rulemaking category. The Secretary will publish a proposed rule in the **Federal Register** with an appropriate period for public comment, followed by publication of a final rule in the **Federal Register**.

Management measures recommended to address a resource conservation issue must be based upon the establishment of a "point of concern" and consistent with the specific procedures and criteria listed in section III.B.(b).

Management measures recommended to address social or economic issues must be consistent with the specific procedures and criteria described in section III.B.(c).

(a) Routine Management Measures

"Routine" management measures are those that the Council determines are likely to be adjusted on an annual or more frequent basis. Measures are classified as "routine" by the Council through either the full or abbreviated rulemaking process (III.B.3. or III.B.4. above). For a measure to be classified as "routine," the Council will determine that the measure is of the type normally used to address the issue at hand and may require further adjustment to achieve its purpose with accuracy.

As in the case of all proposed management measures, prior to initial implementation of "routine" measures, the Council will analyze the need for the measures, their impacts and the rationale for their use. Once a management measure has been classified as "routine" through a rulemaking procedure, it may be modified thereafter through the single meeting "notice" procedure (II.B.2. above) only if: (1) The modification is proposed for the same purpose as the original measure,

and (2) the impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as "routine." The analysis of impacts need not be repeated when the measure in subsequently modified, if they do not differ substantially from those contained in the original analysis. The Council may also recommend removing a "routine" classification.

Amendment 4 initially classifies the measures listed below by species and gear type as "routine" measures due to the long history of their usage in the fishery and the extensive knowledge of their impacts:

Commercial Trip Landing and Frequency Limits

Widow rockfish—all gear
Sebastes complex—all gear
Yellowtail rockfish—all gear
Pacific ocean perch—all gear
Sablefish (including size limits)
trawl gear
nontrawl gear

Recreational Limits

Lingcod—bag and size limits
Rockfish—bag limits

Any measure designated as "routine" for one specific species, species group, or gear type may not be treated as "routine" for a different species, species group or gear type without first having been classified as "routine" through the rulemaking process.

The Council will conduct a continuing review of landings of those species for which harvest guidelines, quotas or specific "routine" management measures have been implemented, and will make projections of the landings at various times throughout the year. If in the course of this review it becomes apparent that the rate of landings is substantially different than anticipated and that the current "routine" management measures will not achieve the annual management objectives, the Council may recommend inseason adjustments to those measures. Such adjustments may be implemented through the single meeting "notice" procedure.

(b) Resource Conservation Issues—The "Points of Concern" Framework

A Council-appointed management team (the Groundfish Management Team or GMT) will monitor the fishery throughout the year, taking into account any new information on the status of each species or species group, to determine whether a resource conservation issue exists that requires a management response. In conducting its review, the GMT will utilize the most current catch, effort and other relevant data from the fishery.

In the course of the continuing review, a "point of concern" occurs when any one or more of the following is found or expected:

1. Catch for the calendar year is projected to exceed the best current estimate of ABC for those species for which a harvest guideline or quota is not specified;

2. Catch for the calendar year is projected to exceed the current harvest guideline or quota;

3. Any change in the biological characteristics of the species/species complex is discovered, such as changes in age composition, size composition, and age at maturity;

4. Exploitable biomass or spawning biomass is below a level expected to produce MSY for the species/species complex under consideration; or

5. Recruitment is substantially below replacement level.

Once a "point of concern" is identified, the GMT will evaluate current data to determine if a resource conservation issue exists and will provide its findings in writing at the next scheduled Council meeting. If the GMT determines a resource conservation issue exists, it will provide its recommendation, rationale, and analysis for the appropriate management measures that will address the issue.

In developing its recommendation for management action, the Council will choose an action from one or more of the following categories, which include the types of management measures most commonly used to address resource conservation issues.

1. Harvest guidelines.
2. Quotas.
3. Cessation of directed fishing (foreign, domestic or both) on the identified species or species group with appropriate allowances for incidental harvest of that species or species group.
4. Size limits.
5. Landing limits.
6. Trip frequency limits.
7. Area or subarea closures.
8. Time closures.
9. Seasons.
10. Gear limitations, which include but are not limited to definitions of legal gear, mesh size specifications, codend specifications, marking requirements, and other gear specifications as necessary.
11. Observer coverage.
12. Reporting requirements.
13. Permits.
14. Other necessary measures.

Direct allocation of the resource between different segments of the fishery is, in most cases, not the preferred response to a resource conservation issue. Council recommendations directly to allocate the resource will be developed according to the criteria and process described in section III.B.(c), the socio-economic framework.

After receiving the GMT's report, the Council will take public testimony and, if appropriate, will recommend management measures to the NMFS Regional Director accompanied by supporting rationale and analysis of impacts. The Council's analysis will include a description of: (a) How the action will address the resource conservation issue consistent with the objectives of Amendment 4; (b) likely impacts on other management measures and other fisheries; and (c) economic impacts, particularly the cost to the commercial and recreational segments of the fishing industry.

The NMFS Regional Director will review the Council's recommendation and supporting information and, if concurring, will follow the appropriate implementation process described in section III.B., depending on the amount of public notice and comment provided by the Council, the intended permanence of the management action, and other applicable law. If the Council contemplates the need for frequent adjustments to the recommended measures, it may classify them as "routine" through the appropriate process described in section III.B.(a).

If the NMFS Regional Director does not concur with any part of the Council's recommendation, the Council will be notified in writing of the reasons for the rejection of that part.

Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson Act.

(c) Non-Biological Issues—The Socio-Economic Framework

From time to time non-biological issues may arise that require the Council to recommend management actions to address certain social or economic issues in the fishery. Resource allocation, seasons or landing limits based on market quality and timing, safety measures, and prevention of gear conflicts make up only a few examples of possible management issues with a social or economic basis. In general, there may be any number of situations where the Council determines that management measures are necessary to achieve the stated social and/or economic objectives of the FMP.

Either on its own initiative or by request, the Council may evaluate current information and issues to determine if social or economic factors warrant imposition of management measures to achieve the Council's established management objectives. Actions that are permitted under this framework include all of the categories of actions authorized under the "points of concern" framework with the addition of direct resource allocation.

If the Council concludes that a management action is necessary to address a social or economic issue, it will prepare a report containing the rationale in support of its conclusion. The report will include the proposed management measure, a description of other viable alternatives considered, and an analysis that addresses the following criteria: (a) How the action is expected to promote achievement of the goals and objectives of the FMP; (b) likely impacts on other management measures and other fisheries; (c) biological impacts; (d) economic impacts, particularly the cost to the fishing industry; and (e) how the action is expected to accomplish at least one of the following:

1. Enable a quota, harvest guideline, or allocation to be achieved;
2. Avoid exceeding a quota, harvest guideline, or allocation;
3. Extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy;
4. Maintain stability in the fishery by continuing management measures for species that previously were managed under the points of concern mechanism;
5. Maintain or improve product volume and flow to the consumer;
6. Increase economic yield;
7. Improve product quality;
8. Reduce anticipated discards;

9. Reduce gear conflicts, or conflicts between competing user groups;

10. Develop fisheries for underutilized species with minimal impacts on existing domestic fisheries;

11. Increase sustainable landings;

12. Increase fishing efficiency;

13. Maintain data collection and means for verification;

14. Maintain or improve the recreational fishery; or

15. Any other measurable benefit to the fishery.

The Council, following review of the report, supporting data, public comment and other relevant information, may recommend management measures to the NMFS Regional Director accompanied by relevant background data, information and public comment. The recommendation will explain the urgency in implementation of the measure(s), if any, and reasons therefore.

The NMFS Regional Director will review the Council's recommendation, supporting rationale, public comments and other relevant information, and, if approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

If conditions warrant, the Council may designate a management measure developed and recommended to address social and economic issues as a "routine" management measure, provided that the criteria and procedures in Section III.B.(a) are followed.

Quotas, including allocations, implemented through this framework will be set annually and may be modified inseason only to reflect technical corrections of ABC. (In contrast, quotas may be imposed at any time of year for resource conservation reasons under the points of concern mechanism.)

(c)(i) Allocation

In addition to the requirements in Section III.B.(c), the Council will consider the following factors when intending to recommend direct allocation of the resource.

1. Present participation in and dependence on the fishery, including alternative fisheries;

2. Historical fishing practices in, and historical dependence on, the fishery;

3. The economics of the fishery;

4. Any consensus harvest sharing agreement or negotiated settlement between the affected participants in the fishery;

5. Potential biological yield of any species or species complex affected by the allocation;

6. Consistency with the national standards of the Magnuson Act; and

7. Consistency with the goals and objectives of Amendment 4.

The modification of a direct allocation cannot be designated as "routine" unless the specific criteria for the modification have been established in the regulations.

IV. Restrictions on Other Fisheries

For each non-groundfish fishery considered, a reasonable limit on the incidental groundfish catch may be established that is based on the best available information (from experimental fishing permits, logbooks, observer data, or other scientifically acceptable sources). These limits will remain unchanged unless substantial changes are observed in the condition of the groundfish resource or in the effort or catch rate in the groundfish or non-groundfish fishery.

Incidental limits or species categories may be imposed or adjusted in accordance with the appropriate procedures described in section III. The Secretary may accept or reject but not substantially modify the Council's recommendations. The trip limits for the pink shrimp and spot and ridgeback prawn fisheries in effect when Amendment 4 is implemented will be maintained until modified based on the above criteria through the management adjustment framework.

The objectives of this framework are to:

1. Minimize discards in the non-groundfish fishery by allowing retention and sale, thereby increasing fishing income;

2. Discourage targeting on groundfish by the non-groundfish fleet; and

3. Reduce the administrative burden of reviewing and issuing EFPs for the sole purpose of enabling non-groundfish fisheries to retain groundfish.

V. Procedure for Reviewing State Regulations

Any state may propose that the Council review a particular state regulation for the purpose of determining its consistency with the FMP and the need for complementary Federal regulations. Although this procedure is directed at the review of new regulations, existing regulations affecting the harvest of groundfish managed by the FMP may also be reviewed under this process. The state making the proposal will include a summary of the regulations in question and concise arguments in support of consistency.

Upon receipt of a state's proposal, the Council may make an initial determination whether or not to proceed with the review. If the Council determines that the proposal has insufficient merit or little likelihood of being found consistent, it may terminate the process immediately and inform the petitioning state in writing of the reasons for its rejection.

If the Council determines sufficient merit exists to proceed with a determination, it will review the state's documentation or prepare an analysis considering, if relevant, the following factors:

1. How the proposal furthers or is not otherwise inconsistent with the objectives of the FMP, the Magnuson Act, and other applicable law;

2. The likely effect on or interaction with any other regulations in force for the fisheries in the area concerned;

3. The expected impacts on the species or species group taken in the fishery section being affected by the regulation;

4. The economic impacts of the regulation, including changes in catch, effort, revenue, fishing costs, participation, and income to different sectors being regulated as well as to sectors which might be indirectly affected; and

5. Any impacts in terms of achievement of quotas or harvest guidelines, maintaining year-round fisheries, maintaining stability in fisheries, prices to consumers, improved product quality, discards, joint venture operations, gear conflicts, enforcement, data collection, or other factors.

The Council will inform the public of the proposal and supporting analysis and invite public comments before and at the next scheduled Council meeting. At its next scheduled meeting, the Council will consider public testimony, public comment, advisory reports, and any further state comments or reports, and determine whether or not the proposal is consistent with the FMP and whether to recommend implementation of complementary Federal regulations or to endorse state regulations as consistent with the FMP without additional Federal regulations.

If the Council recommends the implementation of complementary Federal regulations, it will forward its recommendation to the NMFS Regional Director for review and approval.

The NMFS Regional Director will publish the proposed regulation in the **Federal Register** for public comment, after which, if approved, he will public final regulations as soon as practicable. If the Regional Director disapproves the proposed regulations, he or she will inform the Council in writing of the reasons for disapproval.

[FR Doc. 90-30640 Filed 12-31-90; 4:54 pm]

BILLING CODE 3510-22-M

federal register

Tuesday
January 8, 1991

Part III

Department of Housing and Urban Development

Office of the Secretary for Housing—Federal Housing Commissioner

Section 8 Certificate Program and Housing Voucher Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3074; FR-2925-N-01]

Section 8 Certificate Program and Housing Voucher Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice to process certain applications that were rejected under the FY 1990 notice of funding availability.

SUMMARY: This notice sets out the conditions under which HUD will process certain applications submitted in response to HUD's FY 1990 Notice of Fund Availability for incremental housing vouchers and certificates. This notice applies only to those Public Housing Agencies (PHAs), including Indian Housing Authorities, that submitted applications under the FY 1990 NOFA, but had their applications rejected because they failed to submit drug-free workplace certifications and anti-lobbying certifications and disclosures with their applications. Affected PHAs must submit these certifications by February 7, 1991 to have their applications processed.

This notice is intended to ameliorate the adverse effects on the above-described PHAs that resulted from the implementation of new statutory certification requirements, coupled with the fact that the FY 1990 NOFA did not allow an opportunity to correct technically deficient applications.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Rental Assistance Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On June 11, 1990 (55 FR 23684), the Department published a notice (FY 1990 NOFA) announcing the availability of FY 1990 funding for the Housing Voucher and Certificate Programs and inviting eligible Public Housing Agencies (PHAs) to submit applications. The FY 1990 NOFA also provided instructions to PHAs governing the submission of applications, and described procedures for rating, ranking, and approving PHA applications. The FY 1990 NOFA had an initial screening process under which applications would not be accepted for further processing if they failed to meet one or more specified conditions. One of those conditions was that the applications comply with the new statutory requirements for submission of drug-free workplace and anti-lobbying certifications and disclosures. The FY 1990 NOFA further specified that HUD would reject any application or supplemental information received after the application deadline.

These certification and disclosure requirements had been recently enacted, and a number of PHA applications under the FY 1990 NOFA were not accepted for further processing, solely because of their failure to contain the necessary certifications and disclosures.

The Department, in retrospect, recognizes that the stringent submission requirements had an unnecessarily harsh effect on those PHAs that were prepared to correct their applications by submitting these certificates and disclosures. The Department has decided to address this matter by using a portion of its FY 1991 budget authority for incremental housing vouchers and certificates to fund these applications, under the conditions set out below.

1. This notice applies *only* to an application that—(a) was submitted by a PHA within the application deadline set out in the FY 1990 NOFA (3 p.m. local time on July 26, 1990.); *and* (b) was rejected *solely* because the PHA failed to submit either or both the drug-free workplace certificate or the anti-lobbying certification and (if required) the anti-lobbying disclosures. To emphasize, the Department will not process, under this notice, any application that was rejected for other reasons even if the rejection was based, in part, on the PHA's failure to submit the required certifications or disclosures.

2. The PHA must submit any required certification and disclosure, not already accepted by HUD, in time so that it is received in the HUD Field Office by 3 p.m. on February 7, 1991. Certifications and disclosures submitted by PHAs in connection with any other HUD program do not fulfill this submission requirement. HUD's drug-free workplace requirements are set out at 24 CFR part 24, subpart F, and its regulations regarding lobbying are set out at 24 CFR part 87. The anti-lobbying requirements apply to PHA applications that, if approved, would result in the PHA obtaining more than $100,000 in budget authority. To assist PHAs, the following are attached to this notice: Text for the certification regarding Lobbying (Attachment 1); Standard Form LLL, Disclosure of Lobbying Activities (Attachment 2); and Form HUD-50070, Certification for a Drug-Free Workplace.

3. A PHA may not revise its original application. HUD will process the applications as they were received on or before the July 26, 1990 deadline established under the FY 1990 NOFA.

4. HUD will rate the applications in accordance with application rating and selection procedures set out in the FY 1990 NOFA (see 55 FR 23686 and 23687). PHA applications that receive a score equal to or greater than the score received by applications within the same allocation area that were approved during the FY 1990 competition will be considered as approvable applications. Applications with a lower score will be returned to PHAs unapproved because of the low score.

5. HUD will fund an application that is approvable under this notice by taking the total number of units in that application and multiplying that number by a factor for the allocation area that is equal to the total number of units funded within the allocation area under the FY 1990 NOFA, divided by the sum of the total number of units determined to be approvable under the FY 1990 NOFA, plus the number of units determined to be approvable under this notice. The above factor represents the proportion of approvable units that would have been funded under the FY 1990 Notice of Funding Availability, if all applications had had the necessary certifications and disclosures by the deadline under the FY 1990 NOFA. For example, in a given allocation area, if, under the FY 1990 NOFA, HUD had determined that 400 units were approvable and had funded 300 units, and if, under this notice, HUD determines that 50 additional units are approvable, then HUD would fund 67 percent (300÷(400+50)) of the total units requested in any application approved in that allocation area under this notice.

6. Funding for applications approved under this notice will be deducted from the formula allocation of budget authority for incremental housing vouchers and certificates that may be made available in FY 1991 for the allocation areas in which the respective applications are located. This notice is not the Department's general Notice of Funding Availability for FY 1991 for the Housing Voucher and Certificate Programs. The Department will publish that document later in the fiscal year.

Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary, since the Cerfiticate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

HUD has determined, in accordance with E.O. 12612, Federalism, that this notice does not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government because this rule would not substantially alter the established roles of HUD the States and local governments, including PHAs.

HUD has determined that this notice is not likely to have a significant impact on family formation, maintenance, and general well-being within the meaning of E.O. 12606, The Family, because it is a funding notice and does not alter program requirements concerning family eligibility.

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f).

Dated: December 21, 1990.

Arthur J. Hill,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

Attachment 1

Appendix A to Part—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

BILLING CODE 4210-27-M

Attachment 2

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

Certification for a Drug-Free Workplace

Public Housing Agency / Indian Housing Authority

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB No. 2577-0044 (exp. 10/31/92)

PHA/IHA Name:	If Development or CIAP, enter the Federal Fiscal Year in which the funds are expected to be reserved :
Program/Activity Receiving Federal Grant Funding: (mark one) ☐ Development ☐ CIAP ☐ Operating Subsidy ☐ Sec.23 Leased Housing	If Operating Subsidy or Section 23, enter the PHA's/IHA's Fiscal Year Ending date in which funds are expected to be obligated :

Acting on behalf of the above named PHA/IHA as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

1. I certify that the above named PHA/IHA will provide a drug-free workplace by:

   a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the PHA's/IHA's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

   b. Establishing a drug-free awareness program to inform employees about the following:
      (1) The dangers of drug abuse in the workplace;
      (2) The PHA's/IHA's policy of maintaining a drug-free workplace;
      (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
      (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

   c. Making it a requirement that each employee of the PHA/IHA be given a copy of the statement required by paragraph a.;

   d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment with the PHA/IHA, the employee will do the following:
      (1) Abide by the terms of the statement; and
      (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

   e. Notifying the HUD Field Office within ten days after receiving notice under subparagraph d. (2) from an employee or otherwise receiving actual notice of such conviction;

   f. Taking one of the following actions within 30 days of receiving notice under subparagraph d. (2) with respect to any employee who is so convicted:
      (1) Taking appropriate personnel action against such an employee, up to and including termination; or
      (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

   g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

2. **Sites for Work Performance.** The PHA/IHA shall list in the space provided below the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. (If more space is needed, attach additional page(s) the same size as this form. Identify each sheet with the PHA/IHA name and address and the program/activity receiving grant funding.)

Signed by: (Name, Title & Signature of Authorized PHA/IHA Official)

Name & Title :

Signature & Date :

Form HUD-50070 (12/91)

[FR Doc. 91-236 Filed 1-7-91; 8:45 am]

BILLING CODE 4210-27-C

federal register

Tuesday
January 8, 1991

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Omaha Tribe of Nebraska and the State of Nebraska executed on December 4, 1990.

DATES: This action is effective January 8, 1991.

ADDRESSES: Office of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, MS 4614, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC (202) 208–7445.

Dated: December 31, 1990.

William D. Bettenberg,

Acting, Assistant Secretary—Indian Affairs.

[FR Doc. 91–248 Filed 1–7–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
January 8, 1991

Part V

Department of Labor

Employment and Training Administration

Job Training Partnership: Indian and Native American Programs, Proposed Performance Standards for Program Years (PY) 1991 and 1992; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Indian and Native American Programs, Proposed Performance Standards for Program Years (PY) 1991 and 1992

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed revisions performance standards; request for comments.

SUMMARY: The Department of Labor (Department) is announcing proposed revisions to the performance standards for the Employment and Training Administration programs serving Indian and Native American (INA) adults and youth under section 401 of the Job Training Partnership Act (JTPA). Three measures are being proposed for the next two program years, (PY) 1991 and 1992 (July 1, 1991–June 30, 1993). Two current measures are retained—an entered employment rate and a positive termination rate—and a new optional measure—an employability enhancement rate—has been added. The current cost measure (cost per positive termination) is discontinued as one of the performance standards. Grantees will be permitted to choose two of the three measures for the next two years as a transition to fully implement the new employability enhancement measure.

DATES: Written comments are invited from the public. Comments must be received on or before February 7, 1991.

ADDRESSES: Comments shall be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Gloria Duus, Chief, National Programs Performance Standards Unit, room N5637.

FOR FURTHER INFORMATION CONTACT: Gloria Duus, Telephone: 202–535–0685 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Purpose of Performance Standards

The Secretary of Labor (Secretary) issues performance standards pursuant to section 106 of the Job Training Partnership Act (JTPA) to determine whether the basic objectives of JTPA, increased earnings and employment and reduced welfare dependency, are being met. Section 401(h)(1) of JTPA further requires the Secretary of Labor, when setting performance standards for INA programs, to take into account the "special circumstances" under which INA programs operate.

Performance standards serve as a management tool for grantees in planning programs for the upcoming year as well as an assessment guide in measuring results of yearly program achievements. The Department assigns performance goals to each grantee in advance of the program year and adjusts each grantee's performance standards at year's end, based on the mix of clients actually served during that year, to determine whether the program was performing at an acceptable level.

B. Background

Three measures set by the Secretary to assess section 401 program performance have remained unchanged since JTPA's inception. These are the entered employment rate, the positive termination rate and the cost per positive termination. In addition to the three required measures, grantees may choose an optional community benefits project measure. This requires grantees to demonstrate specific benefits received by their local communities as a result of these projects.

Unlike JTPA Title II–A programs, INA grantees that exceed their standards are not rewarded with additional funds. However, performance against these standards is used in monitoring grantees' progress, as one of fourteen responsibility review factors found at 20 CFR 632.11(d), in addition to other considerations, used by the Department in making grantee designations.

C. Performance Management Goals for PY 1991–1992

The effects of performance standards on program design, service delivery and participants served have drawn increased public attention within the JTPA system and, particularly, within the INA grantee community. For this reason, current performance measures were reviewed for their contribution to advancing current Departmental policy as part of a lengthy process of consultation with the INA Advisory Committee and Performance Standards Technical Workgroup. Program objectives developed jointly with the INA Advisory Committee support Departmental goals set for the JTPA Employment and Training programs and, in addition, include goals specifically relevant to the INA program.

As a result of this consultative process, performance standards revisions were proposed to support the following ETA and INA program goals:

- Targeting services to a more at-risk population.
- Improving the quality and intensity of services that lead to long-term employability and increased earnings.
- Placing greater emphasis on basic and occupational skills acquisition to qualify for employment or advanced education and training.
- Promoting comprehensive coordinated human resource programs to address the multiple needs of at-risk populations.
- Advancing the economic and social development of Indian and Native American communities in ways that promote each community's goals and lifestyles.
- Designing and implementing a system that is objective, equitable and understandable to the Indian and Native American JTPA grantee and one which provides a standard of accountability for program performance.

D. Rationale for Performance Standards Revisions

Current performance standards for the INA program promote increased placements and program efficiency. As program goals have expanded emphasis on basic and occupational skills development for harder-to-serve populations, it has become necessary to update the measures upon which program performance is assessed to more fully address these new program directions—to encourage both employment and skill development.

The currently defined positive termination rate does not adequately encourage programs to improve the employability skills of their participants. Because this measure includes job placements as one of the positive outcomes, it does not necessarily encourage employability development. Job placements allow a grantee to meet both its entered employment rate and positive termination rate without addressing the skill needs of its participants. In addition, because outcomes in this measure are so broad, it is unclear what services have been provided to those counted as terminating positively from the program. Use of this measure as currently defined, provides a greater incentive to offer high volume, low cost services rather than to enhance the basic education and occupational skills of the less job ready.

Results of JTPA Title II–A program experience show costs standards to have an unintended effect of constraining service providers from making intensive training investments in at-risk individuals. Continued use of cost standards, in the absence of information on the types of clients

served and the availability of other community resources creates an inherent contradiction between the measure and current policy aimed at targeting services to the most at-risk population.

E. Optional Measure of Employability Enhancements

An optional employability enhancement rate has been added to ensure that program participants receive necessary preparation for advance training, education, and more stable employment. The Department believes that the performance standards for the INA program should reflect this emphasis on basic education and occupational skills development for its participants to ensure their long-term employability. To this end, the performance standards must encourage INA programs to directly provide competency-based instruction in basic and occupational skills training or link up with other resources such as secondary education, vocational education, Bureau of Indain Affairs and other Federal programs serving Indians and Native Americans, as well as other JTPA service providers within the area.

To promote this effort, the Department is proposing a new measure that better accounts for basic education and occupational skill upgrading among INA program participants. A wide range of program outcomes will be included in two measures—the positive termination rate and the employability enhancement rate—to promote such activities as high school, GED or associate degree completion, entry into advanced skill training, dropout prevention and recovery, completion of subsidized work experience, community service or tryout employment, and attainment of needed employability skills, incluidng vocational certificates or completion of adult basic education or ESL programs.

F. Elimination of the Cost Standard

Cost measures are perceived by grantees as a strong disincentive to providing more intensive training to meet participants needs. Because differences in available resources within the grantee areas that result in lowered program costs are not taken into account, it is also an imprecise measure of cost efficiency.

Consequently, the cost standard has been eliminated, but an upper limit—an average grantee cost of $4,000 per participant has been set for purposes of planning review and program monitoring. Grantees exceeding this limit will need to provide a rationale for why its services require higher per participant expenditures. This cap was established after a thorough review of the most recent annual expenditures for the program and set at a lenient 99th percentile level of average participant costs in PY 88 (not cost per positive termination).

G. Grantee's Optional Selection of Measures

As a transition period during the next two-year cycle, grantees will be given the option to select two of the three measures before the new employability enhancement measure is fully implemented. Giving grantees a choice of measures is proposed in response to concern that an immediate shift to two measures—employment and enhancements—might be too disruptive to grantees operating employment-directed programs. Regardless of the mix of measures chosen, the expanded list of program enhancements that are included in two of the three measures should result in increased basic and occupational skill training provided by grantees. (See Attachment B).

H. Addition of a Hold Harmless Provision

To assist in program planning, grantees are now issued initial standards at the outset of the year based on the characteristics of terminees it served during the most recent *past* program year. Final performance standards are adjusted according to any changes that occurred in the client mix during the course of the year. Thus, a grantee's final standards are assigned only after the program year has been completed.

To ease the transition into the use of a new performance measure and to promote more skill development activities envisioned in future INA programs, the INA Advisory Committee recommended that a "hold harmless" provision be established. This results in grantee's being assessed against the least stringent standard—not necessarily the final standard—for program oversight and monitoring. It is the Department's position that assessing grantee performance based on actual service levels, rather than planned enrollments or previous client mix, results in a more equitable standard-setting approach because each grantee's standards are matched to expectations of its performance based on its terminees' characteristics. A grantee's performance is assessed against more lenient standards at year's end for those grantees that served a higher proportion of at-risk participants, and again harder-to-attain standards for those serving the more job ready populations. For this reason the Department does not support a change in its current policy of assessing grantees against performance standards recalculated at year's end. Acknowledging that program design changes may be needed to perform well against the employability enhancement measure, the Department has given grantees a two year transition period before the new measure is required. The Department welcomes public comment on this particular issue.

I. Rationale for Continued and Expanded Use of Community Benefits Projects

Grantees may continue to use up to ten percent of their total available funds for Community Benefit (CB) projects. A panel of peers familiar with community benefit projects in Indian communities will review applications and make recommendations for their approval to the Department. In response to grantees' concerns about limited job opportunities and insufficient resources to provide adequate support services, priority consideration will be given to those projects that design and implement (1) an efficient system of transportation, child care or health care services necessary to help participants obtain or retain a job; or (2) economic development projects leading to job creation and/or increased employment opportunities. Projects must have a clear relationship to employment and training, must directly or indirectly involve participants, and adhere to regulatory cost limitations and allowable activities.

A grantee may propose and implement as many projects as it considers feasible as long as the ten percent funding limit is not exceeded. In addition, successful projects may be reported with grant officer approval. Projects may extend up to two years in duration, if they coincide with the beginning of the two-year designation cycle. Projects proposed for the second year of the designation cycle, must be limited to one year to coincide with the expiration date of the designation cycle. As stated above, such one year projects may be extended or repeated in the subsequent designation cycle with grant officer approval.

Each project must establish a quantifiable goal, which describes an overall benefit to the community to be achieved at the end of the project. This becomes the performance standard against which the CB project will be evaluated at its conclusion. In addition, grantees will have the option of including CB project participants and outcomes in meeting their required performance standards. One-year projects must contain quarterly bench

marks toward achieving the optional CB project goal. Two-year projects must also contain quarterly bench marks, but they may be applied to the CB project goal to be attained at the end of the second year.

J. Future Performance Standards

The positive termination rate is an inadequate measure of employability development, so it is anticipated that this measure would be dropped as a standard in PY 1993. After grantees would have had the time to make necessary program design changes and after the Department has been able to collect more complete data on enhancements, the Department will assess grantees with two measures—the entered employment rate and the employability enhancement rate. Also, the Department, in collaboration with grantees and educational agencies serving Indian communities will explore the feasibility of developing alternative (in-program) measures of basic education and vocational skill gains for future use in the INA performance management system.

K. Public Comment and Participation

The Department is committed to a participatory process in the development of performance standards. The proposed revisions resulted from a lengthy process of consultation with the INA Advisory Committee and a technical workgroup (both comprised of grantees, tribal representatives, and members of public interest groups) to address performance standards issues. Three technical workgroup meetings and three INA Advisory Group meetings were held between April and October 1990 culminating in the INA Advisory Committee approving the proposed performance standards recommendations to the Department on October 4–5, 1990. This request for comment is another important part of this process.

The Secretary especially requests comments on the following issues:

☐ Add New Employability Enhancement Rate (EEN)

Is the use of a separate measure of employability enhancement more of an inducement for grantees to enhance the skills of their participants than the current Positive Termination Rate (PTR) measure?

☐ Provision to Hold Grantees Harmless Against More Stringent Final Standards

Will evaluating each grantee by the least stringent performance standard promote the kind of innovative planning and programming which some grantees perceive they are inhibited from doing under the current system of assessing performance? Could such a provision tend to encourage grantees to change their client mix from a plan to serve the least job ready to a program that serves an easier-to-serve client pool?

Is there any reason not to implement any of the above changes immediately in PY 1991?

PY 1991 Planning Instructions

The Department presently plans to issue PY 1991 planning instructions on March 1, 1991. Pending receipt and review of comments in response to this notice, the Department will determine whether to proceed with the changes being considered. Such changes, if adopted, may require revisions to these planning instructions.

Signed at Washington, DC, this 2nd day of January 1991.

Roberts T. Jones,

Assistant Secretary of Labor.

Attachment A.—Definitions for Performance Standards and Corresponding IASR Line Items

1. Entered Employment Rate

Total number of individuals who entered *unsubsidized* employment at termination as a percentage of the total number of terminees.

$$\frac{B.1}{B}$$

2. Positive Termination Rate

Total number of individuals who either entered unsubsidized employment *or* attained one of the employability enhancements as a percentage of the total number of terminees.

$$\frac{B.1 + B.2}{B}$$

3. Employability Enhancement Rate

Total number of individuals who attained one of the employability enhancements whether or not they also obtained a job as a percentage of the total number of terminees.

Employability enhancements include:

1. Entered Non-Section 401 Training
2. Returned to Full-time School
3. Completed Major Level of Education
4. Completion of Worksite Training objective
5. Attained Basic/Occupational Skills Proficiency

$$\frac{B.1.b.1. + B.2.}{B}$$

Note: These line items correspond to the proposed revised INA Annual Status Report to be published in the Federal Register.

Attachment B—Enhancement Terminations

An outcome other than entered unsubsidized employment, which is recognized as enhancing long-term employability and contributing to the potential for a long-term increase in earnings and employment. Successful outcomes which meet this requirement include: (1) Entered Non-section 401 Training; (2) Returned to Full-Time School; (3) Completed Major Level of Education; (4) Completion of Worksite Training Objective; and (5) Attained Basic/Occupational Skills Proficiency.

1. Entered Non-Section 401 Training

The total number of adults/youth who, upon or prior to termination from section 401 programs, had entered a basic and/or occupational skills training program, or post-secondary education program not funded under title IV of the JTPA, which builds upon and *does not duplicate* training received under title IV–A.

Basic Skills Training—Training that includes remedial reading, writing, communication, mathematics and/or English for non-English speakers.

Occupational Skills Training—Training that includes: (1) Vocational education which is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs.

2. Returned to Full-Time School

Total number of adults/youth who return to full-time secondary school (e.g., junior high school, middle school and high school), including alternative school, if at the time of intake the participant was not attending school (exclusive of summer) and had not obtained a high school diploma or equivalent. This category also applies to at-risk youth who were retained in school as a result of continuing active participation in the section 401 program.

At-risk youth—Youth whom the grantee regards as within a group that may drop out of school prior to receipt of a high school diploma. Such an outcome must be consistent with the goals and service strategy set for the participant in his or her Employability Development Plan (EDP).

Alternative School—A specialized, structured curriculum, offered inside or

outside of the public school system, which may provide work-study and/or GED preparation.

3. Completed Major Level of Education

Total number of adults/youth who prior to termination, had completed during enrollment, a level of educational achievement which had not been reached at entry. Levels of educational achievement are secondary and post-secondary. Completion standards shall include a high school diploma, GED certificate or equivalent at the secondary level, and shall require a diploma or other written certification of completion at the post-secondary level.

4. Completion of Worksite Training Objective

The total number of adults/youth who prior to termination, had completed during enrollment, a level of *worksite* training and/or work readiness which had not been reached at entry. This includes the completion of a work experience, tryout employment or community service employment assignment, completion of an occupational skills program, or completion of an apprenticeship or job upgrading program.

5. Attained Basic/Occupational Skills Proficiency

The total number of adults/youth who prior to termination, had demonstrated proficiency, as defined in the EDP, in basic skills or occupational skills, in which the participants was deficient at the time or enrollment in the section 401 program. An attained employability skills outcome includes course completion of an adult basic education program, including pre-apprenticeship programs, English as a second language, or remedial and/or supplemental basic skills course. The training involved in this outcome may be paid for from JTPA section 401 funds or other sources.

[FR Doc. 91-316 Filed 1-7-91; 8:45 am]

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Tuesday, January 8, 1991

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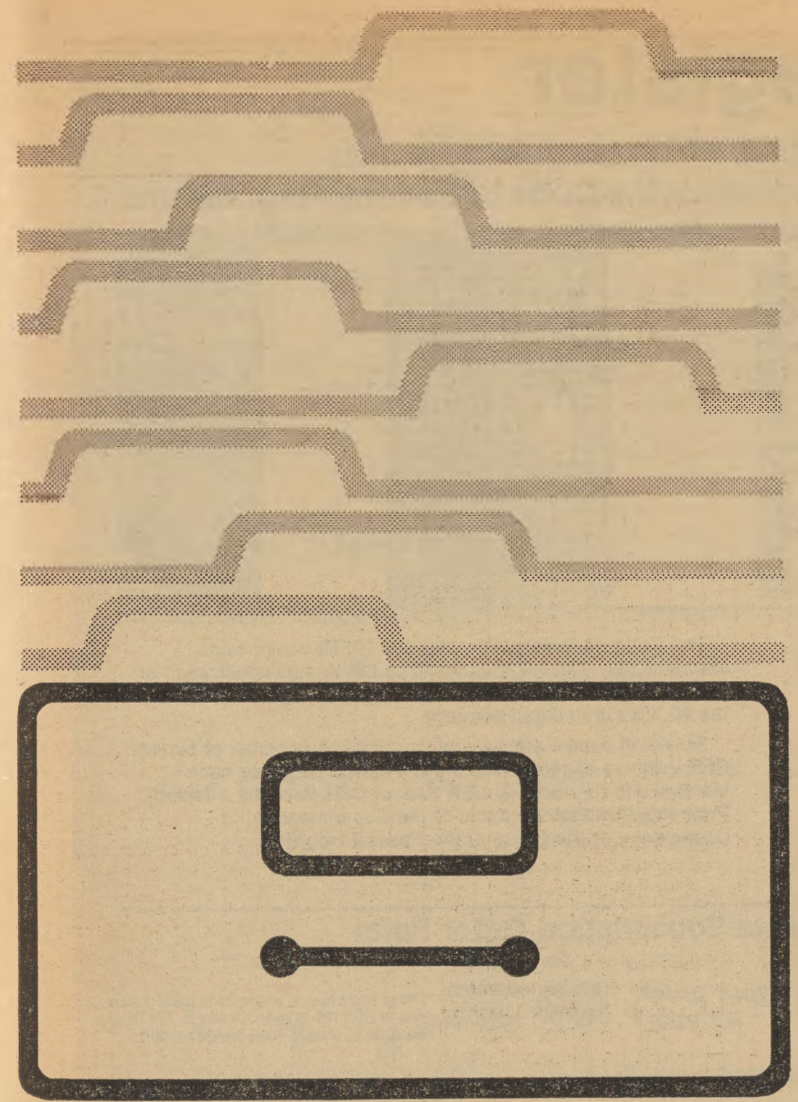

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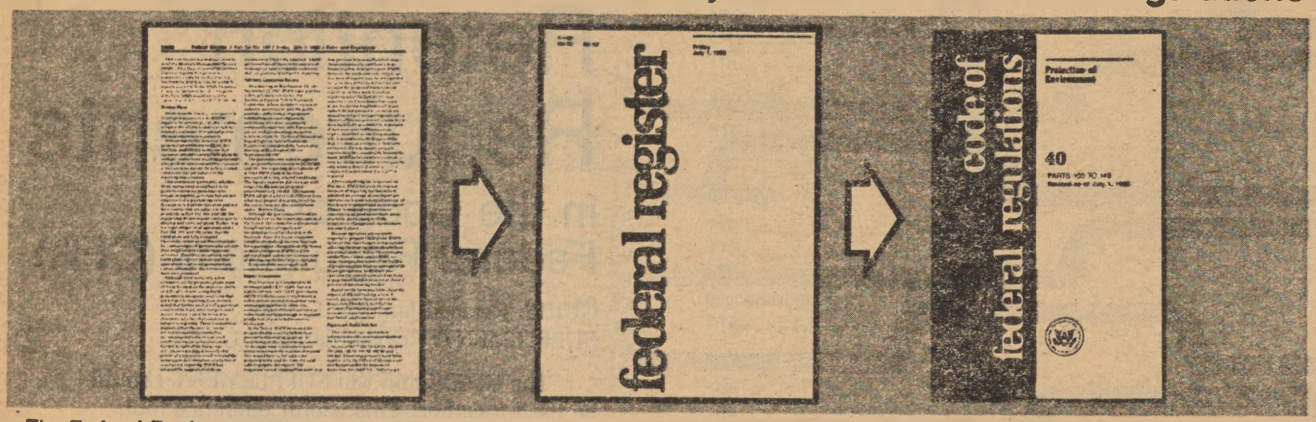

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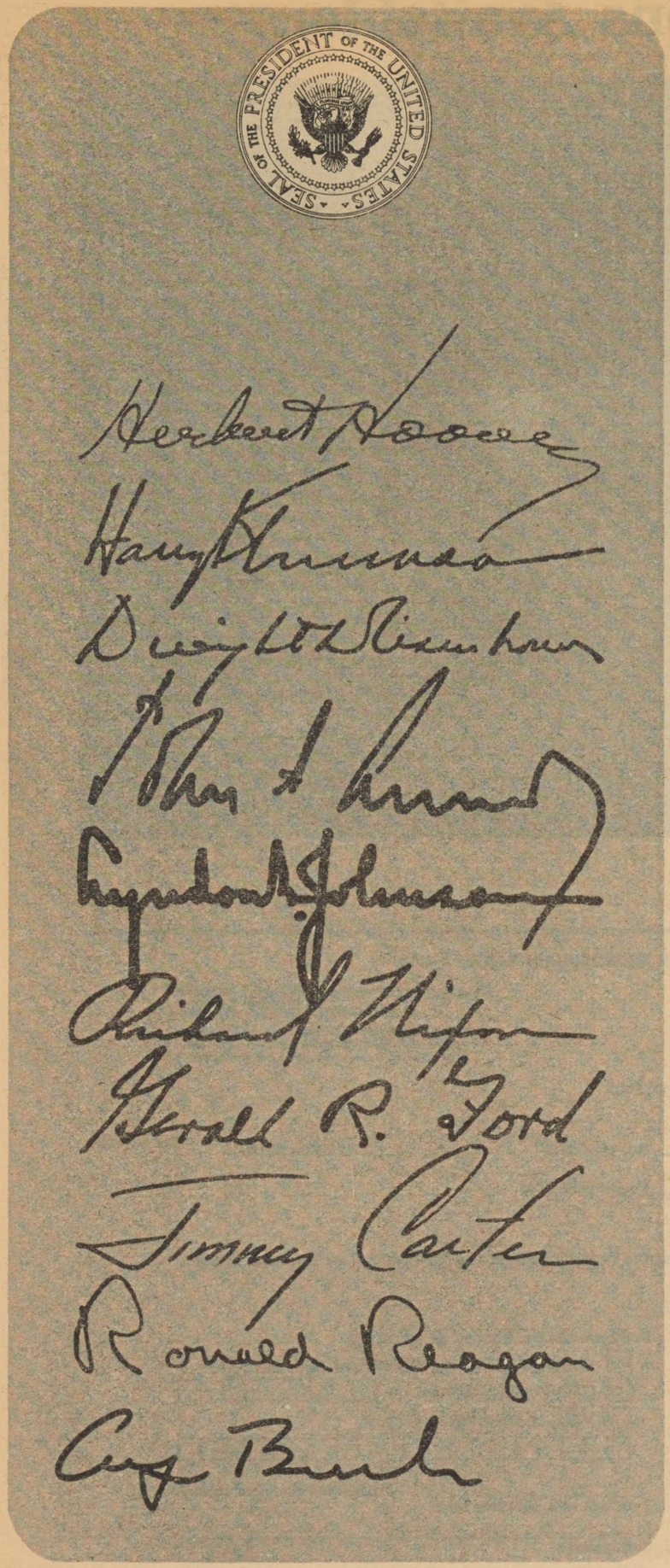

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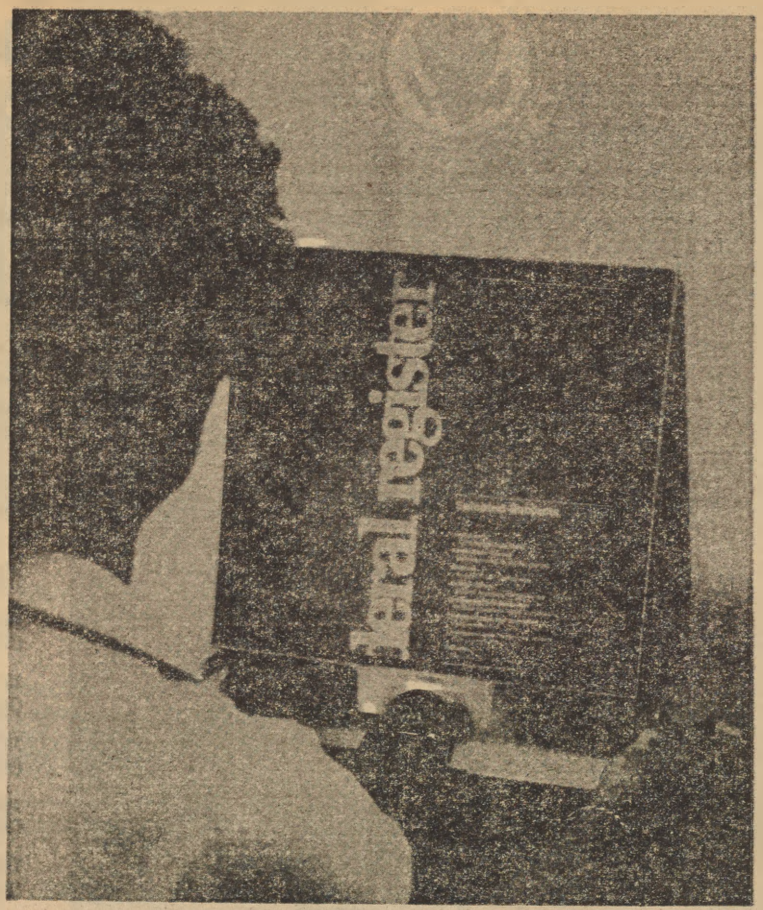

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