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WHO: The Office of the Federal Register.

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AD99

Federal Employees Health Benefits Program; Coverage of Annuitants Upon Plan Termination

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting previously issued interim rules as final regulations to provide for continuing health insurance coverage under the Federal Employees Health Benefits (FEHB) Program for certain annuitants when the plan in which they are enrolled terminates. This action is necessary because of the large number of annuitants who did not make plan changes necessitated by the termination of the Indemnity Benefit Plan.

EFFECTIVE DATE: March 14, 1991.

FOR FURTHER INFORMATION CONTACT: Margaret Sears, (202) 606-0780, extension 207.

SUPPLEMENTARY INFORMATION: On February 2, 1990, OPM issued interim regulations in the **Federal Register** (55 FR 3563) that amended part 890 to provide for continuing health insurance coverage under the FEHB Program for annuitants who do not change to another plan when their FEHB plan terminates. The interim regulations also provided that annuitants whose annuities were insufficient to pay for their high option enrollment in a plan with two options and who did not change to a lower cost option or plan are deemed to have elected low option coverage in the same plan.

We received one comment from a Federal agency. The commenter suggested that we extend the regulation to cover employees as well as annuitants because employees were in a similar emergency situation.

We do not agree that the situation in which employees found themselves upon the termination of the Indemnity Benefit Plan was similar to that of annuitants to any significant degree.

Employing offices have the authority to accept belated enrollments when the enrollee is not at fault. In cases where the employing office determines that the enrollee does not meet the requirement for a belated enrollment, the enrollee can reenroll in the Program when an event occurs that allows reenrollment (such as open season). Annuitants, on the other hand, cannot reenroll in the future. Therefore, the circumstances of employees are not sufficiently similar to those of annuitants to warrant extending these regulations to employees.

The commenter also suggested that the regulations be expanded to cover future plan terminations. Since the interim regulations, as published, do apply to all future terminations, there is no need to change them for this purpose.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal annuitants and survivor annuitants.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is adopting its interim regulations under 5 CFR part 890 published on February 2, 1990, (55 FR 3563) as final rules without change.

[FR Doc. 91-3296 Filed 2-11-91; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-010]

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that removed the Mediterranean fruit fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from the quarantined areas.

EFFECTIVE DATE: March 14, 1991.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective November 9, 1990, and published in the **Federal Register** on November 15, 1990 (55 FR 47738-47739, Docket Number 90-211) we removed the Mediterranean fruit fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the Mediterranean fruit fly from spreading into noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from Los Angeles County, California, and that the regulations are no longer necessary. Comments on the interim rule were required to be received on or before January 14, 1991. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order

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

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Los Angeles County that was quarantined, there are approximately 2,203 entites that may be affected, including 125 nurseries, 1,188 fruit/produce vendors, 5 community gardens, 5 swap meets, 62 commercial growers, 6 farmers markets, 318 yard maintenance services, 462 mobile vendors, and 22 miscellaneous entities (i.e., packing, processing, and dehydrator sites and small backyard sellers).

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement. The distribution of these articles was not affected by the regulatory provisions removed by the interim rule.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, of the change on these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

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

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under Number 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 301.78 that was published at 55 FR 47738–47739 on November 15, 1990.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 7th day of February 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-3313 Filed 2-11-91; 8:45 am]

BILLING CODE 3410-34-M

RESOLUTION TRUST CORPORATION

12 CFR Part 1613

RIN 3205-AA05

Priority of Distribution of Claims Against Resolution Trust Corporation as Receiver

AGENCY: Resolution Trust Corporation.

ACTION: Final rule.

SUMMARY: The Resolution Trust Corporation ("RTC") is adopting a regulation establishing the priority of distribution for certain claims by the RTC in its corporate capacity against the RTC as receiver for failed savings associations. The regulations which the RTC as receiver has followed to date were adopted to govern receiverships conducted by the former Federal Savings and Loan Insurance Corporation, and do not take into account RTC's role as a corporation regarding the operation of RTC conservatorships or receiverships. The new regulation recognizes that the RTC as a corporation is entitled to the highest priority of unsecured claim for advances made to the RTC as conservator or receiver, as those advances benefit all creditors of the associations in conservatorship or receivership.

EFFECTIVE DATE: This action is effective on March 14, 1991.

FOR FURTHER INFORMATION CONTACT: Carl J. Gold, Senior Counsel, Legal Division, (202) 416-7327.

SUPPLEMENTARY INFORMATION: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") established the RTC and provided mechanisms by which it would be appointed conservator or receiver of failed savings associations. The statute provided that, as conservator or receiver, the RTC would have the same rights and responsibilities as the Federal Deposit Insurance Corporation ("FDIC") when the FDIC acts as conservator or receiver of failed financial institutions (12 U.S.C. 1441a(b)(4)). The RTC is authorized by statute to follow the FDIC's regulations to the extent the RTC has not promulgated its own regulations (12 U.S.C. 1441a(a)(7)). The RTC also has independent authority to promulgate regulations as required (12 U.S.C. 1441a(b)(12)(A)). In addition to its independent rulemaking authority, the RTC has the same authority as the FDIC under 12 U.S.C. 1821(d)(1) to prescribe such regulations as may be appropriate regarding the conduct of conservatorships and receiverships, and under 12 U.S.C. 1821(d)(4) to prescribe regulations regarding the allowance or disallowance of claims by the receiver. In addition, the FDIC as receiver is granted discretion by the statute as to the payment of dividends on proved claims (12 U.S.C. 1821(d)(10)). The RTC concludes that it has the same discretion, and that such discretion includes the establishment of levels of priorities of distribution. The RTC notes that it generally follows the same regulations regarding its conservatorships and receiverships as does the FDIC. However, in view of the fact that the regulation being adopted herein addresses a situation not currently facing the FDIC, i.e., the treatment upon receivership of funds advanced to a conservatorship, the RTC is adopting a regulation to cover a situation that is currently unique to the RTC.

By notice published in the **Federal Register** on November 14, 1990 (55 FR 47481), the RTC proposed to adopt a regulation to clarify the priority to be accorded to the RTC when, in its corporate capacity, it advances funds to a savings association under RTC conservatorship, the association is

placed into receivership, and portions of the RTC advance to the conservatorship are deemed to be unsecured. The regulation would also clarify the treatment of RTC advances to associations under RTC receivership. The FHLBB had promulgated a detailed regulation governing the priorities of distribution in a receivership conducted by the Federal Savings and Loan Insurance Corporation. That FHLBB regulation was transferred to the FDIC by section 401(h) of FIRREA, and was codified at 12 CFR 389.11. It has been renumbered 12 CFR 360.2. Only one comment was filed. The commenter, a trade association, supported the proposed regulation.

As stated in the proposal, the RTC finds it is necessary and legally supportable to adopt a regulation which establishes that, when it provides advances to RTC conservatorships, and the association is placed into receivership, any unsecured portions of the RTC's claim to recover the advances will be assigned the first priority of distribution for allowable unsecured claims. The same would be true where the RTC has advanced funds to the RTC as receiver in order to facilitate liquidation of the receivership estate. In receiverships, such funds may be advanced from time to time to enable the receiver to conduct its duties of liquidating, and would under the regulation be repaid to the RTC as funds are recovered from the liquidation of receivership assets. The RTC finds that, since the advances are made for the benefit of all creditors, and actually increase the potential recovery of all creditors by enabling the receiver to perform its duty to collect funds due to the depository institution, it is not unfair to other unsecured creditors to accord this priority to the RTC.

Similarly, in regard to conservatorships, from time to time funds of the RTC have been, and will be, advanced to a conservator for various purposes, whether to lower the cost of the institution's funds, or to maintain liquidity. By the same rationale as expressed above, the RTC deems it not to be unfair to general unsecured creditors to accord the RTC this priority in recovering any portion of such funds which may be unsecured.

The RTC concludes that, even under the priority regulation as adopted by the FHLBB, its advances are entitled to this level of priority. Since the existing regulations were promulgated at a time that conservatorship was a rarely used tool, there was no reason for the FHLBB to have expressly provided a priority for recovery of advances to a conservator for a failed savings association. The RTC, however, has been appointed conservator for hundreds of depository institutions since the enactment of FIRREA. The RTC concludes that Congress must have intended that the regulations transferred from the FHLBB to the FDIC and the RTC by FIRREA would be interpreted in a manner consistent with the practices utilized by the FDIC and the RTC in taking over failed depository institutions. RTC's advances to conservators and receivers benefit the entire body of creditors because they enable the conservators and receivers to operate efficiently and to pay bills as they become due. The RTC concludes that establishing the priority of the Corporation for advances is reasonable and consistent with applicable law.

Regulatory Flexibility Act

As was stated in the earlier notice, the RTC has certified that this regulatory action will not have a significant impact on a substantial number of small businesses.

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this final rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 1613

Conservator, Creditor, Receiver, Savings associations.

Accordingly, for the reasons set out in the preamble, the RTC hereby adds part 1613 to title 12, chapter XVI of the Code of Federal Regulations, to read as follows:

PART 1613—RESOLUTION TRUST CORPORATION AS CONSERVATOR OR RECEIVER

Authority: 12 U.S.C. 1821(d); 12 U.S.C. 1441a (a)(7), (b)(4), (b)(12)(A).

§ 1613.1 Priority of Resolution Trust Corporation as creditor for advances made to RTC as conservator or receiver.

In applying § 360.2 of title 12 of the Code of Federal Regulations, to the extent that any advance of funds made by the Resolution Trust Corporation to a conservator or receiver is found by the receiver, upon liquidation, to be unsecured, the Resolution Trust Corporation, as a creditor of the receivership, shall be assigned the first level of priority of distribution.

By order of the Board of Directors.

Dated at Washington, DC, this 5th day of February, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91-3200 Filed 2-11-91; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 910107-1007]

Decontrol of Certain Dynamic Random Access Memories (DRAMs)

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This interim rule removes the validated export licensing requirements for exports to Country Groups Q, T, V, W, and Y of certain dynamic random access memories (DRAMs) controlled under Export Control Commodity Number (ECCN) 1564A in the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR). This action follows a positive determination of foreign availability under section 5(f) of the Export Administration Act of 1979, as amended (EAA). The net effect of this rule will be to reduce the number of license applications that will have to be filed for this type of integrated circuit.

DATES: Effective: This rule is effective December 10, 1990.

Comments: Comments must be received by March 14, 1991.

Applicability: This rule applies as of December 10, 1990, for countries in Country Groups T and V (except the People's Republic of China and Afghanistan). The rule applies as of December 28, 1990, for the People's Republic of China, Afghanistan, and countries in Country Groups Q, W, and Y.

ADDRESSES: Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Robert Anstead, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-1641.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the authority provided by the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

The Bureau of Export Administration (BXA) maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. With limited exceptions, BXA may not maintain national security export controls on items for which a positive determination has been made under section 5(f) of the Export Administration Act of 1979, as amended (EAA), and section 791 of the Export Administration Regulations (EAR).

On August 10, 1990 (55 FR 32654), the Commerce Department published a **Federal Register** notice stating that the Acting Under Secretary for Export Administration had made a positive determination of foreign availability under section 5(f) of the EAA for certain dynamic random access memories (DRAMs) controlled under paragraph (a)(5)(iv) of ECCN 1564A in the CCL. This interim rule implements the positive determination of foreign availability by removing national security based validated licensing requirements for exports to all destinations of DRAMs that are controlled under paragraph (a)(5)(iv)(B) of ECCN 1564A and that have all of the following characteristics:

(1) A maximum access time greater than or equal to 60 nanoseconds;

(2) Rated for operation at an ambient temperature not less than 253 K (−20°C) or not greater than 348 K (+75°C); and

(3) Not designed or rated as radiation hardened.

Effective December 28, 1990, the Coordinating Committee for Multilateral Export Controls (COCOM) removed export controls on DRAMs having all of the characteristics described above.

A validated license continues to be required for national security reasons for exports to all destinations, except Canada, of DRAMs controlled by paragraph (a)(5)(iv)(B) of ECCN 1564A that do not have all of the technical characteristics described above.

Foreign policy based validated licensing requirements on DRAMs controlled by paragraph (a)(5)(iv)(B) of ECCN 1564A, including those DRAMs covered by the finding of foreign availability, remain in effect. Therefore, a validated licensing requirement continues to apply to exports of these DRAMs to Country Groups S and Z. All other foreign policy based validated licensing requirements also remain in effect (e.g., military or police entities in the Republic of South Africa as required by § 785.4(a)(2) of the EAR).

Rulemaking Requirements

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

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0005.

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

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

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

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close March 14, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–5653.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

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

PART 799—[AMENDED]

1. The authority citation for 15 CFR part 799 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

Supplement No. 1 to § 799.1 [Amended]

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended in the List of Equipment by revising

paragraph (a)(5)(iv)(B) to read as follows:

1564A Integrated circuits, including packages therefor, "assemblies", "modules", and "substrates".

* * * * *

List of Equipment Controlled by ECCN 1564A

* * * * *

(a) * * *
(5) * * *
(iv) * * *

(B) 256 Kbits per package if they have a maximum access time of less than 80 ns (for devices with an operating temperature range that is not below 253 K (−20° C) or above 348 K (+75° C), a maximum access time of less than 60 ns);

* * * * *

Dated: February 4, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91-3286 Filed 2-11-91; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 619

Program for Qualifying DOD Freight Motor Carriers

AGENCY: Department of the Army, DOD.

ACTION: Amendment to final rule.

SUMMARY: This amends final rule, 32 CFR part 619, by adding "or listed in the Fiscal Service Treasury Department Circular 570, listing of surety companies" to § 619.4 (a) and (b). This addition is necessary so that there is no doubt as to who is a surety company.

EFFECTIVE DATE: February 12, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Rose Sharpe or Mr. Rick Wirtz, Headquarters, Military Traffic Management Command, ATTN: MTIN, 5611 Columbia Pike, Falls Church, VA 22041-5050, (703) 756-1356.

SUPPLEMENTARY INFORMATION: Information contained in this rule was previously published in the Federal Register, 53 FR 17970, 54 FR 27667, and 55 FR 7361. HQMTMC has received Office of Management and Budget (OMB) approval to proceed with the new DOD Freight Motor Carrier Qualification Program. Carriers without rates on file as of the effective date of this rule will have to qualify prior to MTMC's acceptance of their service offers. Carriers with rates on file as of the effective date of this rule will be required to submit qualification data when requested by MTMC. All carriers will be required to meet the qualification standards within 2 years of the implementation of this program.

Executive Order 12291

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

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule has been approved by the Office of Management and Budget as required under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507)

List of Subjects in 32 CFR Part 619

Shipping, motor vehicle, safety, trucks, common carriers, freight.

Accordingly, 32 CFR part 619 is amended as follows:

PART 619—PROGRAM FOR QUALIFYING DOD FREIGHT MOTOR CARRIERS

1. The authority for part 619 continues to read as follows:

Authority: 49 U.S.C. 1801-1813, 2503, 2505, and 2509.

2. Section 619.4 is revised to read as follows:

§ 619.4 Insurance—public liability and cargo.

(a) *Public Liability.* Motor carriers will submit proof of their public liability insurance to MTMC on a certificate of insurance form issued by the insurance company. Expiration dates will not be reflected on the certificate, the policy must be continuous until cancelled. However, the deductible portion will be shown on the certificate. The insurance underwriter must have a policyholder's rating of "C" or better in Best's Insurance Guide, or be listed in the Fiscal Service Treasury Department Circular 570, listing of surety companies. The certificate holder block of the form will indicate that HQMTMC, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, ATTN: MT-INFF, will be notified, in writing, 30 days in advance of any change or cancellation. Self-Insurance will not be accepted. The public liability requirements are specified by 49 CFR 387.9 and are summarized as follows based on the commodities transported:

(1) Property (nonhazardous)..... $750,000
(2) Oil; hazardous waste, materials and substances not in bulk..... $1,000,000

(b) *Cargo.* Motor carriers will be required to have their insurance company provide proof of cargo insurance to MTMC on a certificate of insurance form. Expiration dates will not be reflected on the certificate; the policy must be continuous until cancelled. However, the deductible portion will be shown on the certificate. The insurance underwriter must have a policyholder's rating of "C" or better in Best's Insurance Guide, or be listed in the Fiscal Service Treasury Department Circular 570, listing of surety companies. The certificate holder block of the form will indicate that HQMTMC, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, ATTN: MT-INFF, will be notified, in writing, 30 days in advance of any change or cancellation. DOD's minimum cargo insurance requirements are $150,000 for loss and damage of Government freight and/or $20,000 per vehicle transported (e.g., automobile transporters or vehicles in haulaway service) in the form of certificate(s) of insurance. Self-insurance will not be accepted.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-3114 Filed 2-11-91; 8:45 am]

BILLING CODE 3710-08-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

RIN 3095-AA33

NARA Fee Schedule; Correction

AGENCY: National Archives and Records Administration.

ACTION: Final rule; correction.

SUMMARY: NARA is correcting errors in the fees for black and white copy negatives listed in the final rule published in the Federal Register on January 31, 1991 (56 FR 3776). These fees appear in 36 CFR 1258.12(b)(1).

EFFECTIVE DATE: March 1, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Ann Palmos or Nancy Allard at 202-523-3214 (FTS 523-3214).

PART 1258—FEES

On page 3777 in the first column, paragraph (b)(1) of § 1258.12 is correctly revised to read as follows:

§ 1258.12 Fee schedule.

* * * * *

(b) * * *

(1) Copy negatives (black and white):

4 in. by 5 in.: $4.75

8 in. by 10 in.; $10.50

* * * * *

Dated: February 6, 1991.

John A. Constance,

Federal Register Liaison Officer.

[FR Doc. 91-3326 Filed 2-11-91; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3859-9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking takes final action to approve a revision to the Missouri State Implementation Plan (SIP). This revision requires gasoline delivery vessels in the Kansas City and St. Lous ozone nonattainment areas be tested for leaks on an annual basis. This action will ensure progress toward improved air quality in the Kansas City and St. Louis, Missouri, areas.

EFFECTIVE DATE: This action will become effective on April 15, 1991, unless notice is received by March 14, 1991, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at:

Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101

Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101

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

FOR FURTHER INFORMATION CONTACT: Carol LeValley at (913) 551-7610 (FTS 276-7610).

SUPPLEMENTARY INFORMATION: On May 14, 1990, amendments to rule 10 CSR 10-2.260 and 10 CSR 10-5.220 both titled "Control of Petroleum Liquid Storage, Loading and Transfer" were published in the Missouri Register. The amendments were adopted after proper notice and public hearing and became effective on May 24, 1990. The state submitted these rule actions in compliance with Section 172(b)(2) and section 110 of the Clean Air Act.

These amendments require gasoline delivery vessels operating in the Kansas City and St. Louis ozone nonattainment areas to be leak tested on an annual basis. The testing must occur between April 1 and July 1 of each year and, upon successful completion of the test, a certification sticker is affixed to the vehicle. If a delivery vessel has passed an equivalent test in another state, the requirements will have been satisfied in the state of Missouri. The test requirements for pressurization and evacuation are consistent with the applicable Control Techniques Guideline document, "Leaks from Gasoline Tank Trucks and Vapor Collection System" (EPA-450/2-78-051). Testing methods meet requirements specified in 40 CFR part 60, appendix A, EPA Reference Method 27, "Determination of Vapor Tightness of Gasoline Delivery Tank using Pressure-Vacuum Test."

The state also deleted an exemption in rule 10 CSR 10-2.260 which exempts gasoline transfer at service stations from the submerged fill and vapor recovery requirements if the vessel was loaded outside the nonattainment area. Now the transfer of gasoline will be based on the capacity of the storage tank rather than where the gasoline loading facility is located.

EPA Action

EPA takes final action to approve the state's July 19, 1990, submittal as a revision to the Missouri SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 15, 1991 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

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

Under section 307(b)(1) of the Act, as amended, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by April 15, 1991. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

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

Dated: October 26, 1990.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52 is amended as follows:

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

Authority: 42 U.S.C. 7401-7642.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(73) to read as follows:

§ 52.1320 Identification of Plan

* * * * *

(c) * * *

(73) A rule revision to establish gasoline tank truck certification requirements in ozone nonattainment areas was submitted by the Department of Natural Resources on July 17, 1990.

(i) *Incorporation by reference.* (A) Revision to rule 10 CSR 10–2.260 and 10 CSR 10–5.220 both titled "Control of Petroleum Liquid Storage, Loading, and Transfer" effective May 24, 1990.

[FR Doc. 91–3319 Filed 2–11–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 52 and 81

[FRL–3855–9]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; State Plan for Particulate Matter (PM_{10}) Group II and III Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Today's notice approves the Oklahoma State Implementation Plan (SIP) revisions for PM_{10}. The State adopted these plan revisions in response to EPA's July 1, 1987, rulemaking that established a national ambient air quality standard (NAAQS) for particulate matter as PM_{10}. Under the terms of the rule (52 FR 24672), Oklahoma revised its existing regulations for prevention of significant deterioration (PSD) and new source review (NSR) to reflect the new NAAQS. The state also added appropriate definitions and amended its emergency episode plan. In addition the State has developed a committal SIP for the one Group II area, Lawton, Oklahoma.

EFFECTIVE DATE: This action will become effective on April 15, 1991 unless notice is received by March 14, 1991 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section of the EPA Region 6, Air Programs Branch (address below). Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch, 1445 Ross Avenue (6T–AP), Dallas, TX 75202–2733

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

Oklahoma State Department of Health, Air Quality Service, 1000 Northeast Tenth Street, P.O. Box 53551, Oklahoma City, Oklahoma 73152

Anyone wishing to visit these offices should contact the person named below to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, (214) 655–7214, or (FTS) 255–7214.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1987, EPA adopted a new NAAQS for particulate matter. Previously, EPA used "total suspended particulates" (TSP) as the indicator for ambient particulate matter concentrations. The new standard uses a measurement of particulate matter commonly known as PM_{10}. PM_{10} is defined as finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers, emitted to the ambient air as measured by an applicable reference method. Based upon existing TSP monitoring data, each area within a State was assigned a probability of exceeding the new standard. The area least likely to have exceedances of the PM_{10} NAAQS are classified as Group III areas and only require revisions to the State particulate matter and related regulations in their SIPs. Areas identified as having a probability between 20 and 95 percent of exceeding the new standard are classified as Group II. Those areas above 95 percent probability are classified as Group I.

Those States identified as having Group II areas are required to submit SIPs for these areas within nine months of NAAQS promulgation, but these SIPs need not contain full control strategies and demonstrations of attainment and maintenance. Instead, State's may submit a "Committal SIP" that supplements the existing SIP with enforceable commitments to: (a) Gather ambient PM_{10} data, at least to an extent consistent with minimum EPA requirements and guidance; (b) Analyze and verify the ambient data and report 24-hour PM_{10} NAAQS exceedances to the Regional Office within 45 days of each exceedance; (c) When an appropriate number of verifiable 24-hour NAAQS exceedances become available or when an annual arithmetic mean above the level of the annual PM_{10} NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the Regional Office; (d) Within 30 days of the notification referred to in (c) above, or within 37 months of NAAQS promulgation, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standard, and immediately notify the Regional Office; and (e) Within six months of the nonattainment notification referred to in (c) above, adopt and submit to EPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than three years from approval of the committal SIP. Oklahoma contains one Group II area and the remainder of the State is classified as Group III.

On August 22, 1988, the Governor of Oklahoma submitted the State's PM_{10} revisions. The submittal included a committal SIP for the Group II area, and revisions to the Oklahoma Air Pollution Control Regulations (OAPCR) for (a) State air quality standards; (b) the PSD/NSR program; (c) appropriate new definitions; and (d) its emergency episode plan to comply with the requirements of the July 1, 1987, **Federal Register** notice for PM_{10}.

The OSDH has adopted these revisions through the Air Quality Council and the State Board of Health.

Oklahoma's Group II Area

In the July 1, 1987, notice, EPA identified Comanche County, Oklahoma as a Group II area. Comanche County is located in the southwestern portion of the State and contains the city of Lawton. The monitor that triggered the Group II classification for Comanche County is located in Lawton at the city fairgrounds. The July notice also gave States the option to reexamine their areas and determine appropriate boundaries that more accurately depict the problem area. The OSDH met with city and county officials and based on the monitoring data, location of the monitor, location of the emissions, and wind direction, determined that the potential exceedances of the standard would be limited to the city of Lawton itself. Therefore, the OSDH has requested the boundaries of the Goup II area be redefined to the Lawton city limits. EPA agrees with the procedures used and final decisions in defining the boundary of this Group II area.

State Commitments

As required by EPA's July 1, 1987, notice, the State has developed a committal SIP for the city of Lawton. The OSDH committed to carry out all of the Group II requirements outlined

earlier in this notice. In summary, the SIP outlined the State's monitoring plan for the city and committed the State to develop a control strategy for the area if exceedances of the new PM_{10} NAAQS are measured. EPA is approving the State's Group II committal SIP for the Lawton area.

Ambient Air Quality Standards and Increments

The State revised OAPCR 1.2 "Oklahoma Air Quality Standards and Increments" to adopt the new primary and secondary ambient air quality standards for PM_{10} as promulgated by EPA. The State did not revise the PSD increments for particulate matter found in Table 1.2(2) of OAPCR 1.2 since EPA has not finalized an increment for PM_{10}. Therefore the PSD increments will continue to be measured by the TSP indicator. The State's standards are identical to the Federal standards and therefore, EPA is approving the revisions to OAPCR 1.2.

Definitions

The OSDH revised OAPCR 1.1 (Defining Terms Used in OAPCRs) by adding definitions for "PM_{10}", "PM_{10} Emissions" and "Particulate Matter Emissions". The State's existing definitions of "particulate matter" and "total suspended particulates" were revised to closely follow the Federal definitions. These definitions are essentially identical to the Federal definitions. EPA is approving the changes to OAPCR 1.1.

New Source Review

The OSDH implements its NSR program through OAPCR 1.4, the State's permitting regulation, specifically section 1.4.5 (Major Sources—Nonattainment areas). The OSDH has revised OAPCR 1.4.5 to comply with the new Federal provisions for PM_{10}. The State revised the significance level for particulate matter from 25 tons per year (TPY) to 15 TPY of PM_{10} emissions. The State also revised the source applicability determination, section 1.4.5(c)(1)(C), to more closely follow the Federal language found at 40 CFR 51.165(b). EPA is approving the changes to OAPCR 1.4.5.

Prevention of Significant Deterioration

The OSDH also implements its PSD program through OAPCR 1.4, specifically section 1.4.4 (Major Sources—Prevention of Significant Deterioration Requirements for Attainment Areas). The State revised its definition of significant by specifying two levels of significance for particulate matter, 25 TPY of particulate matter emissions and 15 TPY of PM_{10} emissions. The State also chose to amend its review, applicability and exemptions section, 1.4.4(d), by adjusting the *de minimus* levels and adding criteria for exempting certain PM_{10} preconstruction monitoring. The State's revisions are consistent with Federal requirements of the July 1, 1987, notice. EPA is approving the revisions to OAPCR 1.4.4.

Emergency Episode Plan

Chapter six of the Oklahoma SIP contains the State's emergency episode plan. OSDH revised the alert, warning, and emergency levels for emergency episodes involving PM_{10} concentrations to match the Federal guidelines. These revisions were approved by the Air Quality Council on September 6, 1988, and submitted to Region 6 on November 4, 1988, for approval. EPA has reviewed the changes and is approving the revisions to Chapter six.

Existing Particulate Matter Regulations

Because Oklahoma applies its particulate air quality regulations statewide, the EPA is satisfied that the State's existing particulate matter control regulations will insure maintenance of the PM_{10} NAAQS. These regulations are; 1.4 (Air Resources Management: Permits Required), 2.1 (Prohibition of Open Burning), 2.4 (Pertaining to the Control of the Emission of Particulate Matter from Fuel-Burning Equipment), 2.5 (Pertaining to the Control of the Emission of Particulate Matter from Wood-Waste Burning Equipment), 3.1 (Pertaining to the Control of Smoke, Visible Emissions and Particulate), 3.2 (Pertaining to the Control of the Emission of Particulate Matter from Industrial and Other Processes and Operations), 3.3 (Control of Fugitive Dust). All of the above mentioned regulations have received EPA approval in the past. The approval date and **Federal Register** citation are given in the technical support document associated with this notice. EPA is not reapproving these regulations in this notice.

TSP Nonattainment Redesignation Request

The OSDH has also requested that all TSP nonattainment areas within the State be redesignated to attainment status. EPA has informed the State that these areas cannot be redesignated to attainment for TSP without three years of quality assured monitoring data. However, EPA can redesignate these areas to "cannot be classified" since the former TSP NAAQS is being phased out with the adoption of the PM_{10} NAAQS. EPA will proceed to redesignate these areas to "cannot be classified" unless written comments are received that would alter this decision. These areas include portions of Tulsa and Mayes Counties. EPA is approving a redesignation of these areas to "cannot be classified".

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 15, 1991 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 15, 1991.

Final Action

EPA is today approving the Oklahoma Group II PM_{10} committal SIP for Lawton and the attendant OAPCRs as discussed in this notice for the Group II and III areas.

The Agency has reviewed this request for revision of the federally-approved State implementation plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

This action has been classified as a Table 3 action by the Regional

Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1991. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642

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

Dated: October 16, 1990.

Joe D. Winkle,

Acting Regional Administrator.

PART 52—[AMENDED]

40 CFR part 52, subpart LL, is amended as follows:

Subpart LL—Oklahoma

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1920 is amended by adding paragraph (c)(38) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(38) On August 22, 1989, the Governor submitted Oklahoma's Committal SIP for the Group II area of Lawton, Oklahoma. In addition, the submittal included the State's Group III SIP for the remainder of the State and amendments to the Oklahoma Air Pollution Control Regulations 1.1, 1.2, 1.4.4, and 1.4.5, and amendments to Chapter 6 "Emergency Episode Control Plan for the State of Oklahoma".

(i) *Incorporation by reference.*

(A) Amendments to Oklahoma Air Pollution Control Regulation (OAPCR) 1.1 "Defining Terms Used in Oklahoma Air Pollution Control Regulations" § 1.1(b)(97), § 1.1(b)(98), § 1.1(b)(99) and § 1.1(b)(145), as adopted October 11, 1989, by the Oklahoma State Board of Health and effective May 25, 1990. Amendments to OAPCR 1.1, § 1.1(b)(127), and § 1.1(b)(128), as adopted March 23, 1989, by the Oklahoma State Board of Health and effective June 11, 1989.

(B) Amendments to OAPCR 1.2 "Oklahoma Air Quality Standards and Increments" Table 1.2(1), as adopted January 28, 1988, by the Oklahoma State Board of Health and effective June 21, 1988.

(C) Amendments to OAPCR 1.4.4 "Major Sources—Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas" § 1.4.4(b)(22)(A), § 1.4.4(d)(4), § 1.4.4(d)(9), § 1.4.4(d)(10), § 1.4.4(d)(11), and § 1.4.4(d)(12), as adopted March 23, 1989, by the Oklahoma State Board of Health and effective June 11, 1989.

(D) Amendments to OAPCR 1.4.5. "Major Sources—Nonattainment Areas" § 1.4.5(b)(18), and § 1.4.5(c)(1)(C), as adopted March 23, 1989, by the Oklahoma State Board of Health and effective June 11, 1989.

3. Section 52.1925 is amended by revising the table to read as follows:

§ 52.1925 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant								
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone	Lead	PM-10
	Primary	Secondary	Primary	Secondary					
Central Oklahoma Intrastate (except Oklahoma and Cleveland Counties).	*a*	*a*	c	c	c	c	*a*	b	c
Oklahoma County	d[1]	*a*	c	c	c	c	d	d	c
Cleveland County	a	a	c	c	c	c	*a*	b	c
Northeastern Oklahoma Intrastate (except Mayes and Tulsa Counties).	*a*	*a*	c	c	c	c	*a*	b	c
Tulsa County	d[1]	a	c	c	c	d	d	b	c
Mayes County	d[1]	a	c	c	c	c	*a*	b	c
Southeastern Oklahoma Interstate.	c	c	c	c	c	c	c	b	c
North Central Oklahoma Intrastate.	c	c	c	c	c	c	c	b	c
Southwestern Oklahoma Intrastate.	c	c	c	c	c	c	c	b	c
Northwestern Oklahoma Intrastate.	c	c	c	c	c	c	c	b	c
Metropolitan Fort Smith Interstate.	b	*a*	c	c	c	c	c	b	c
Shreveport-Texarkana Tyler Interstate.	b	*a*	c	c	c	c	c	b	e

a. July 1975.
b. Air quality levels presently below primary standards.
c. Air quality levels presently below secondary standards.
d. December 31, 1982.
e. Three years from effective date of plan approval.

[1] Designated areas only (see 43 FR 9027, March 3, 1978).

Note 1: Dates or footnotes which are italized are prescribed by the Administrator because the plan did not provide a specific date.

Note 2: Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1925 (1978).

4. Section 52.1929 is revised to read as follows:

§ 52.1929 Significant deterioration of air quality.

(a) Regulation for preventing significant deterioration of air quality. The Oklahoma plan, as submitted, does not apply to certain sources in the State. Therefore the provisions of § 52.21 (b) through (w) are hereby incorporated by reference, made part of the Oklahoma State Implementation Plan and are applicable to the following major stationary sources or major modifications:

(i) Sources permitted by EPA prior to approval of the Oklahoma PSD program for which EPA retains enforcement authority.

(ii) Sources proposing to locate on lands over which Oklahoma does not have jurisdiction under the Clean Air Act to issue PSD permits.

(b) The plan revisions submitted by the Governor of Oklahoma on August 22, 1989, as adopted on March 23, 1989, by the Oklahoma State Board of Health and effective June 11, 1989, amendments to OAPCR 1.4.4 "Major Sources—Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas" is approved as meeting the requirements of Part C of the Clean Air Act for preventing significant deterioration of air quality.

5. A new § 52.1934 is added to read as follows:

§ 52.1934 Prevention of air pollution emergency episodes.

(a) The plan originally submitted by the Governor of Oklahoma on January 28, 1972, as Chapter six, was revised for particulate matter and submitted for parallel processing by the Episode Control Plan for the State of Oklahoma" § 2.2 and § 3.2 table II as adopted September 6, 1988, by the Oklahoma Air Quality Council are approved as meeting the requirements of section 110 of the Clean Air Act and 40 CFR part 51 subpart H.

PART 81—[AMENDED]

40 CFR part 81, is amended as follows:

Oklahoma—TSP

1. The Authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.337 is amended by revising the "Oklahoma-TSP" table to read as follows:

§ 81.337 Oklahoma.

* * * * *

OKLAHOMA—TSP

Designated area	Does not meet primary standards	Does not meet secondary	Cannot be classified	Better than national standards
AQCR 017				X
AQCR 022				X
AQCR 184				X
AQCR 185				X
AQCR 186:				
Tulsa County			X	
Portions of Muskogee County			X	
Portions of Mayes County			X	
Remainder of AQCR				X
AQCR 187				X
AQCR 188				X
AQCR 189:				
Portions of Comanche County			X	
Remainder of AQCR				X

* * * * *

[FR Doc. 91–3317 Filed 2–11–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–3904–2]

Georgia; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Georgia has applied for final authorization for revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Georgia's application and has made a decision, subject to public review and comment, that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Georgia's hazardous waste program revisions. Georgia's application for program revisions is available for public review and comment.

DATES: Final authorization for Georgia's program revisions shall be effective April 15, 1991, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Georgia's program revision application must be received by the close of business March 14, 1991.

ADDRESSES: Copies of Georgia's program revision application are available during 8 a.m.—4 p.m. at the following addresses for inspection and copying: Georgia Department of Natural Resources, Land Protection Branch, room 1154, 205 Butler Street SE., Floyd Towers East, Atlanta, Georgia 30334; (404) 656–2833; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460, Phone: (202) 382–5926; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION: .

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition,

as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. Georgia

Georgia initially received final authorization for its base RCRA program effective on August 21, 1984. Georgia received authorization for revisions to its program on September 18, 1986, (51 FR 31618), September 26, 1988, (53 FR 28383), September 24, 1990, (55 FR 30000), and November 24, 1990, (55 FR 38997). On October 10, 1990, Georgia submitted a program revision application for additional program approval. Today, Georgia is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Georgia's application and has made an immediate final decision that Georgia's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Georgia. The public may submit written comments on EPA's immediate final decision until March 14, 1991. Copies of Georgia's application for program revisions are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of Georgia's program revision shall become effective April 15, 1991, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Georgia is today seeking authority to administer the following Federal requirements promulgated on July 1, 1988—June 30, 1989 for Non-HSWA Cluster V.

Federal Requirement	FR Reference	Federal Promulgation Date	State Authority
Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption	53 FR 27290	7/19/88	391-3-11-.02(1) 391-3-11-.07(1).
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems.	53 FR 34079	9/2/88	391-3-11-.02(1) 391-3-11-.10(1) 391-3-11-.10(2) 391-3-11-.11(12).
Identification and Listing of Hazardous Waste; and Designation Reportable Quantities, and Notification.	53 FR 35412	9/13/88	391-3-11-.07(1).
Permit Modifications for Hazardous Waste Management Facilities	53 FR 37912	9/28/88	391-3-11-.11(4)(c) 391-3-11-.10(1) 391-3-11-.10(2) 391-3-11-.11(12) 391-3-11-.11(5)(f) 391-3-11-.11(5)(b) 391-3-11-.11(8)(a) 391-3-11-.11(7)(c) 391-3-11-.11(7)(d) 391-3-11-.11(10).
Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities.	53 FR 39720	10/11/88	391-3-11-.10(2).
Permit Modifications for Hazardous Waste Management Facilities	53 FR 41649	10/24/88	391-3-11-.07(1).
Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Waste.	53 FR 43678	10/31/88	391-3-11-.07(1).
Standards for Generators of Hazardous Waste; Manifest Renewal	53 FR 45089	11/8/88	391-3-11-.08(1).
Hazardous Waste Miscellaneous Units	54 FR 615	1/9/89	391-3-11-.11(3)(g).
Amendments to Requirements for Hazardous Waste Incinerator Permits	54 FR 4286	1/30/89	391-3-11-.11(10).
Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure.	54 FR 9596	3/7/89	391-3-11-.11(4)(f) 391-3-11-.11(3)(g) 391-3-11-.11(1)(a) 391-3-11-.11(3)(b) 391-3-11-.11(6)(b) 391-3-11-.11(7)(d) 391-3-11-.11(3)(e).
Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Waste.	53 FR 43881	10/31/88	391-3-11-.07(1).

Georgia is not authorized to operate the Federal program on Indian Lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Georgia's application for program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Georgia is granted final authorization to operate its hazardous waste program as revised.

Georgia now has responsibility for permitting treatment, storage, and

disposal facilities within its borders and carrying out other aspects of the RCRA-program, subject to the limitations of its program revision application and previously approved authorities. Georgia also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 604(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Georgia's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sec.'s 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 697(b)).

Dated: January 16, 1991.

Patrick M. Tobin,

Deputy Regional Administrator.

[FR Doc. 91-3318 Filed 2-11-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[General Docket No. 89-626; FCC 91-13]

Cordless Telephone Operation on Offset Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends part 15 of the Commission's Rules adopting the offset channel rule as proposed. By this action the Commission amends Part 15 of its rules to allow manufacturers of cordless telephones to implement frequencies that are offset from the center frequency. This will give manufacturers flexibility in designing cordless telephones such that interference to voice communications can be reduced.

EFFECTIVE DATE: September 11, 1991.

FOR FURTHER INFORMATION CONTACT: Raymond LaForge, telephone (202) 653-8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in General Docket No. 89-626, FCC 91-13, Adopted, January 8, 1991, Released January 25, 1991.

Summary

1. In November, 1987, the Commission as part of its decision on cordless telephones to operate indefinitely on the 46/49 MHz bands permitted manufacturers of cordless telephones to position channels at other than the center of the ten frequencies set forth in part 15 of the rules, provided emissions remained within the specified bandwidth. The Electronic Industries Association (EIA) petitioned the Commission for partial reconsideration of that decision as it regards cordless telephone operation on offset channels and requested that a separate rule making proceeding be conducted on the offset channel issue. In 1989, the Commission issued a Notice of Proposed Rule Making (NPRM) in GEN Docket No. 89-626 55 FR 2852, January 29, 1990, proposing to allow cordless telephone operation on offset channels.

2. Most parties filing comments in response to the NPRM stated that additional channels are needed for cordless telephones, but argued that the channel offset proposal would result in an unacceptably high level of interference. Specifically, they were concerned about adjacent channel interference and the possibility that false "guard tone" signals might be transmitted. They argued that this would cause problems for central office operations, including the false dialing of 911 emergency numbers.

3. The Commission found that the offset channel option would give manufacturers greater flexibility in designing cordless telephones and would increase spectrum efficiency. Further, the Commission disagreed with the commenting parties who expressed concern for interference and concluded that there would not be a substantial increase in interference to cordless telephone service from cordless telephones operating on offset channels. It stated that offset channels will not increase co-channel and adjacent channel interference to voice communications, noting that interference between these devices is most prevalent when both devices are centered on the same frequency. The Commission also observed that offset channels will result in fewer cordless telephones being centered precisely on the same frequency and, therefore, should reduce interference to voice communications.

4. With regard to the false "guard tone" problem, the Commission noted that only half the cordless telephones on the market use a "guard tone" design. It further observed that many of the "guard tone" cordless telephones employ two guard tones in an effort to avoid interference. Therefore, the Commission stated that it does not expect these telephones to suffer significant interference from cordless telephones operating on offset channels. As for the remainder of the "guard tone" cordless telephones, the Commission concluded that interference from an offset channel operation can be expected to be no more of an interference problem than that currently experienced from cordless telephones operating on the center frequency because the permitted frequency tolerance for cordless telephones can easily vary up to 5 kHz. The Commission also has taken steps to preclude instances of false dialing, through its action in GEN Docket No. 89-605. In that proceeding, the Commission required all cordless telephones manufactured in, or imported into, the United States on or after 6 months from the effective date of the new rules to incorporate digital security encoding. The Commission stated that it believes that the digital security coding requirement, along with the fact that it will take several years before manufacturers can design and market new cordless telephones that use offset channels, will minimize any potential interference from the new offset telephones.

5. The Commission found that a proposal by ASCII Corporation to allow telephone frequency hopping would not be effective for cordless telephone communications in the 46/49 MHz band. It found the likelihood of interference occurring from such operations could be significant, and therefore declined to adopt this proposal.

6. Commenting parties also recommended that Section 15.233(a) be

amended to clarify whether a cordless telephone may scan the assigned channels for the purpose of finding a channel with the least interference. The Commission stated a rule change is not necessary, as this practice is already permitted.

Ordering Clause

7. Accordingly, under the authority contained in Sections 4(i), 301, 302, and 303 of the Communications Act of 1934, as amended, *it is ordered* that Part 15 of the Commission's Rules and Regulations *are amended* as set forth below. *It is further ordered* that this proceeding *is terminated.* The rules adopted in this proceeding will be effective [six months from the effective date of the Report and Order in GEN Docket No. 89-605].

List of Subjects in 47 CFR Part 15

Radio frequency devices, Radio.

Donna R. Searcy,

Secretary.

Final Rule

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

PART 15—[AMENDED]

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

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

2. In § 15.233, paragraphs (b) and (d) are revised, paragraph (e) is republished to read as follows:

§ 15.233 Operation Within the Bands 46.60–46.98 MHz and 49.66–50.0 MHz.

* * * * *

(b) An intentional radiator used as part of a cordless telephone system shall operate on one or more of the following frequency pairs:

Channel	Base transmitter (MHz)	Handset transmitter (MHz)
1	46.610	49.670
2	46.630	49.845
3	46.670	49.860
4	46.710	49.770
5	46.730	49.875
6	46.770	49.830
7	46.830	49.890
8	46.870	49.930
9	46.930	49.990
10	46.970	49.970

* * * * *

(d) The fundamental emission shall be confined within a 20 kHz band centered on the actual carrier frequency listed in paragraph (b), as adjusted by the frequency tolerance of the transmitter at the time testing is performed. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. Emissions on any frequency more than 10 kHz removed from this 20 kHz band shall consist solely unwanted emissions and shall not exceed the general radiated emission limits in § 15.209. Tests to determine compliance with this requirement shall be performed using an appropriate input signal as prescribed in § 2.989 of this Chapter.

(e) all emissions exceeding 20 microvolts/meter at 3 meters are to be reported in the application for certification.

* * * * *

[FR Doc. 91-3058 Filed 2-11-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 910118-1018]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the groundfish fishery in the Bering Sea. This emergency results from the absence of a specific catch limit for the commercial harvest of pollock in the vicinity of Bogoslof Island. The projected pollock harvest rate early in 1991 could lead to overfishing of the Aleutian Basin stock that spawns in the Bogoslof area. This action temporarily establishes a Bogoslof District and prescribes a catch limit in this district of 200,000 mt of pollock until April 15, 1991.

An amendment to the Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish (FMP) will be prepared in 1991, that, if implemented, will effect similar permanent catch limits of pollock in the Bogoslof area. This action is necessary to immediately prevent potential overfishing of the Bogoslof area pollock by temporarily limiting the amount of pollock that may be harvested in that area during the time they are most vulnerable to excessive fishing mortality. The intended effect of this action is to carry out the conservation and management objectives of the FMP.

DATES: Effective February 6, 1991, until noon, Alaska local time on April 15, 1991. Comments are invited on this action and the environmental assessment (EA) on or before March 8, 1991.

ADDRESSES: Copies of the EA may be obtained from Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668. Comments on this action and the EA may be mailed to the same address.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Fishery Management Biologist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) management area are managed in accordance with the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations appearing at 50 CFR 611.93 and part 675.

Background

Pollock (*Theragra chalcogramma*) is the most abundant groundfish species in the eastern Bering Sea (EBS). The exploitable biomass (pollock aged 3 years and older) for 1991 over the continental shelf area of the EBS is estimated at 6.7 million metric tons (mt). An additional 405,000 mt is estimated for the Aleutian Islands subarea. Generally, the abundance of pollock in the EBS is characterized as high because of strong 1982 and 1984 year classes but declining because of weaker year classes recruiting to the exploitable population since 1984.

Recent, incomplete biological data suggest the existence of a third pollock population in the deep water Aleutian Basin that is different from the population on the EBS continental shelf or the population in the Aleutian Islands subarea. The international waters, outside the fishery management jurisdiction of either the United States or the Union of Soviet Socialist Republics, approximate the center of the Aleutian Basin (Figure 5). Age-composition data indicate that Aleutian Basis pollock are generally older and, at any specific age, generally smaller than those found on the EBS continental shelf. These data also indicate that pollock in the Aleutian Islands subarea are distinct from either those in the

Aleutian Basin or those on the EBS continental shelf. Genetic studies and other biological assessments are continuing to determine the stock structure of Bering Sea pollock.

Current scientific information suggests that pollock in the Bogoslof area, particularly during the roe season, are of the same stock as pollock in the Aleutian Basin and are connected to the EBS continental shelf stock through spawning and growth processes. Acoustic- and trawl-survey data from the vicinity of Bogoslof Island, near the center of reporting area 515, indicate that pollock in this area have the same age composition as those found in the Aleutian Basin. after the roe season, pollock in the Bogoslof area are believed to move elsewhere in the Aleutian Basin.

The exploitable biomass of pollock in the Bogoslof area was estimated during the roe season in 1988 and 1989 to be about 2.1 million mt. If these pollock have similar population dynamics as the EBS continental shelf stocks, the 1991 exploitable biomass of pollock in the vicinity of Bogoslof Island is estimated to be about 1.15 million mt. The calculated acceptable biological catch (ABC) of this population in 1991 is 286,000 mt. By comparison, the ABC of the EBS continental shelf stock for 1991 is estimated to be 1,676,000 mt.

The commercial catch of pollock exceeds that of all other groundfish species combined by about 1 million mt. In 1990, about 1.4 million mt of pollock were caught in the BSAI management area, which was about 77 percent of the total groundfish catch by U.S. fishermen in this area. This harvest was processed almost entirely by U.S. at-sea or shore-based processors. About 22,000 mt, less than 2 percent of the total 1990 catch, was processed by foreign at-sea processors working in joint ventures with U.S. fishermen. No joint venture processing has been authorized for the pollock fishery in 1991.

Common products made from pollock include frozen blocks, fillets, surimi, meal, and roe. Pollock roe, which has the highest value per mt, is harvested from pre-spawning aggregations of pollock during the roe season from January through mid-April.

In 1990, the Council recommended and the Secretary approved Amendment 14 to the FMP that, in part, provides authority to limit the amount of the total allowable catch (TAC) of pollock taken during the roe season. For the 1991 fishing year, the Council has recommended that the roe-season fishery be limited to 441,500 mt, which is 34 percent of the 1991 pollock TAC of 1.3 million mt for the Bering Sea subarea.

Need for Emergency Action

Although pollock in the Bering Sea subarea appear to be of two separate stocks, especially during the roe season, they cannot be managed separately under current regulations. One TAC, based only on the biomass and ABC estimates of pollock on the EBS continental shelf, is specified for the entire Bering Sea subarea. Pollock biomass and ABC in the Bogoslof area are estimated separately and not added to those for the EBS continental shelf because the two stocks appear to be separate.

The fishery for pollock in the Bogoslof area is concentrated in the first several months of the year because (1) pollock in highly aggregated, pre-spawning schools yield higher catch per unit of effort compared to later in the season when the fish are more dispersed, and (2) the high value of pollock roe markedly increases the value of the catch at that time. The roe-season fishery is expected to be more intensive in 1991 than in earlier years because of increased fishing effort from existing and new groundfish fishing vessels. Catch rates in the first 2 months of 1991 are forecasted to average 65,000 mt of pollock per week. At this rate, the fishery could harvest the roe-season catch limit of 441,500 mt for the Bering Sea subarea in less than 7 weeks and entirely from the Bogoslof area. Pollock harvests greater than 150 percent of the ABC for the Bogoslof area, combined with unlimited harvests of these fish in the international waters of the Bering Sea, could cause overfishing.

To help conserve the Aleutian Basin stock and prevent excessive harvest of the pollock stock in the Bogoslof area, the Council, at its December 1990 meeting, recommended emergency action to limit catches of pollock from the Bogoslof area to 200,000 mt. Based on information from NMFS fishery scientists, the Council noted that any closure of the Bogoslof area to the pollock fishery because this catch limit was attained would not need to continue after the roe season because pollock of the Aleutian Basin apparently leave the Bogoslof area after spawning.

The Council intends to submit an amendment to the FMP in 1991 to resolve this problem permanently beginning in 1992. This action was not taken earlier through the normal FMP amendment and rule-making procedures for three reasons.

First, the domestic fishery for groundfish generally, and for pollock in particular, has grown rapidly. Fishing effort during the 1991 roe season is expected to be intense because of a combination of this growth and reduced fishing time resulting from FMP Amendment 14. In the first 3 months of 1990, when pollock harvest rates were highest, about 196,600 mt of pollock were harvested from reporting area 515. This represents an average harvest rate of approximately 15,000 mt per week. Based on informal estimates from industry representatives, the average harvest rate during the 1991 pollock roe season is expected to be 65,000 mt per week, a greater than four-fold increase over the 1990 harvest rate. If the 1991 harvest rate porojections are realized, then 200,000 mt of pollock will be harvested in about 3 weeks instead of 3 months.

Second, the estimated ABC for pollock in the Bogoslof area decreased faster than expected. In November 1989, the ABC was calculated to be 630,000 mt in 1990. The entire 1990 pollock catch from reporting area 515 was about 289,500 mt. In November 1990, the ABC for Bogoslof area pollock in 1991 was calculated to be 286,000 mt. This 55 percent decrease in the ABC combined with a potential four-fold increase in fishing effort is an emergency conservation issue.

Finally, the current scientific perception of the population biology of Bering Sea pollock has been rapidly evolving. Over the past 2 years, fishery scientists from the United States and the Union of Soviet Socialist Republics have begun to share data that reveal new information on the size, movements, and stock structure of the Bering Sea pollock resource. The importance of the Bogoslof spawning area to the Aleutian Basin stock and its possible relationship to the EBS continental shelf stock have become generally understood only within the past year. Scientific work on this issue is continuing and new perceptions may emerge. For now, the Secretary is acting on the best available information.

Description of Emergency Interim Measures

This emergency interim rule will change existing regulations governing U.S. fishing in the Bering Sea subarea by implementing the following four management measures.

1. Bogoslof District Defined.

The Bogoslof District will be defined as new reporting area 518. This is that part of former reporting area 515 that is west of 167° W. longitude (Figure 6). The remaining eastern portion of former reporting area 515 is defined as new reporting area 519.

Acoustic surveys of pollock in the Bogoslof area during the winters of 1988

and 1989 indicate that the principal spawning aggregations of pollock are located in current reporting area 515 between 167° W. longitude and 170° W. longitude. Pollock in other areas over the EBS continental shelf, including the eastern part of reporting area 515, are not considered to be of the Aleutian Basin stock.

2. Catch Limit Specified.

Up to 200,000 mt of the pollock TAC may be harvested in the Bogoslof District during the roe season. When the Regional Director determines that 200,000 mt of pollock will be or have been harvested during the roe-season fishery in reporting area 518, a notice will be published in the **Federal Register** prohibiting directed fishing for pollock in the Bogoslof District.

This catch limit is conservatively less than the estimated ABC for the Bogoslof area pollock and should prevent overfishing of the Aleutian Basin pollock stock, which appears to spawn mainly in the vicinity of Bogoslof Island. Closure of the Bogoslof District is not expected to severely constrain the pollock fishery because other aggregations of pollock from the EBS continental shelf stock will be available to the fishery in reporting area 519 and other reporting areas.

3. Fishing Trip Redefined

The definition of fishing trip is changed for purposes of the roe-stripping provisions of Amendment 14 to the FMP. This change will end a fishing trip for a vessel when it leaves the Bogoslof District.

The Regional Director would not be able to determine how much pollock was harvested in the Bogoslof District without division of reporting area 515 into two new reporting areas. Current catch reports do not distinguish where catches are made within a reporting area. Those data are contained within daily fishing logbooks, which are not available for inseason management of catch limits.

Changing the definition of fishing trip is necessary because the Bogoslof District is an area of intensive pollock fishing during the roe season. The roe-stripping controls implemented under Amendment 14 limit the amount of roe and other pollock products produced during a fishing trip. For purposes of this limitation, a vessel is engaged in a fishing trip until the transfer or offloading of any pollock or pollock product, or until the vessel leaves the subarea where the fishing trip began, whichever comes first. This emergency rule changes the definition of fishing trip by adding the departure from the Bogoslof District to those activities that end a fishing trip that was begun in that area. This change will improve the effectiveness of the Amendment 14 roe-stripping controls.

4. Temporary Area Closure

Any closure of the Bogoslof District because the 200,000 mt catch limit is attained will cease to be effective at noon, Alaska local time, on April 15, 1991, and regulations currently governing fishing in the Bering Sea subarea will prevail. New reporting areas 518 and 519 will revert to reporting area 515.

There is no reason to keep the Bogoslof District closed to pollock fishing after the roe season. Aleutian Basin pollock that spawn in the Bogoslof area appear to leave that area after spawning between mid-March and mid-April, and pollock found in the Bogoslof area after April are believed to be of other stocks. Although this interim rule will cease to be effective on April 15, directed fishing for pollock will continue to be prohibited until June 1 under provisions of Amendment 14 to the FMP (56 FR 492; January 7, 1991).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator also finds that reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days the effective date of these emergency regulations under provisions of section 553(b) and (d) of the Administrative Procedure Act. Any delay in implementing this rule would increase the potential for overfishing and subsequent long-term adverse impacts on all users of the resource.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the appropriate State agency under section 307 of the Coastal Zone Management Act.

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

The Assistant Administrator prepared an EA for this rule and concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Director at the previously cited address.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it is not required to be promulgated as a proposed rule, and the rule is issued without opportunity for prior public comment. Because notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act and because no other law requires that notice and opportunity for comment be given for this rule, no initial or final regulatory flexibility analysis has been or will be prepared under sections 603(a) and 604(a) of the Regulatory Flexibility Act.

List of Subjects 50 CFR Part 675

Fisheries, Fishing vessels, Reporting and recordkeeping requirements.

Dated: February 5, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

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

1. The authority citation for 50 CFR part 675 continues to read as follows:

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

2. Effective February 6, 1991, through noon, Alaska local time, April 15, 1991, in § 675.2, a new definition for *Bogoslof District* is added in alphabetical order, and in the definition of *statistical area,* subparagraph (e) Statistical Area 515 is suspended, and two new subparagraphs (l) and (m) are added to read as follows:

§ 675.2 Definitions.

* * * * *

Bogoslof District means that part of the Bering Sea subarea that is south of a straight line between 55°46′ N. latitude, 170°00′ W. longitude and 54°30′ N. latitude, 167°00′ W. longitude; east of 170°00′ W. longitude; west of 167°00′ W. longitude; and north of the Aleutian Islands and straight lines between the

islands connecting the following coordinates in the order listed:

North latitude	West longitude
52°49.2′	169°40.4′
52°49.8′	169°06.3′
53°23.8′	167°50.1′
53°18.7′	167°51.4′

* * * * *

(l) Statistical Area 518—south of a straight line between 55°46′ N. latitude, 170°00′ W. longitude and 54°30′ N. latitude, 167°00′ W. longitude; east of 170°00′ W. longitude; west of 167°00′ W. longitude; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:

North latitude	West longitude
52°49.2′	169°40.4′
52°49.8′	169°06.3′
53°23.8′	167°50.1′
53°18.7′	167°51.4′

(m) Statistical area 519—south of a straight line between 54°30′ N. latitude, 167°00′ W. longitude and 54°30′ N. latitude, 164°54′ W. longitude; east of 167°00′ W. longitude; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed:

North latitude	West longitude
53°59.0′	166°17.2′
54°02.9′	166°03.0′
54°07.7′	165°40.6′
54°08.9′	165°38.8′
54°11.9′	165°23.3′
54°23.9′	164°44.0′

* * * * *

3. Effective February 6, 1991, through noon, Alaska local time, April 15, 1991, § 675.20 is amended by adding paragraph (a)(13), and revising paragraph (i)(2) to read as follows:

§ 675.20 General limitations.

(a) * * *

(13) When the Regional Director determines that 200,000 mt of pollock have been caught in the Bogoslof District, defined at § 675.2 of this part, before April 15, 1991, the Secretary will publish a notice in the **Federal Register** prohibiting directed fishing for pollock in the Bogoslof District until noon, Alaska local time, April 15, 1991.

* * * * *

(i) * * *

(2) *Trip.* for purposes of this paragraph, the operator of a vessel is engaged in a single fishing trip from the commencement of or continuation of fishing after the effective date of a notice prohibiting directed fishing under paragraph (a)(8) or (a)(13) of this section until any offload or transfer of any fish or fish product from that vessel or until the vessel leaves the subarea, or the Bogoslof District with respect to a notice under paragraph (a)(13) of this section, where fishing activity commenced, whichever occurs first.

4. Effective February 6, 1991, through noon, Alaska local time, April 15, 1991, part 675 is amended by suspending figure 2 and adding figures 5 and 6 as follows.

BILLING CODE 3510-22-M

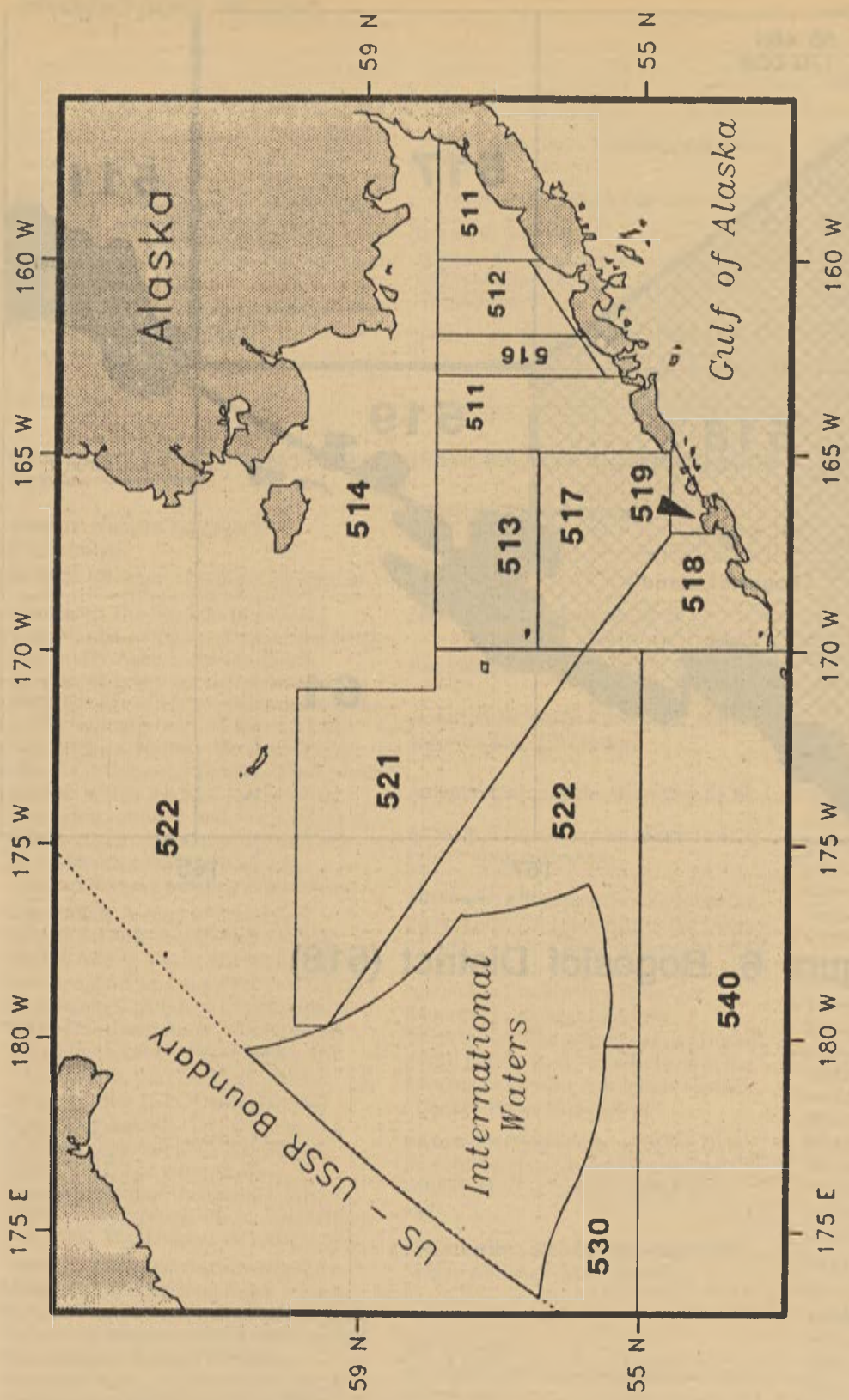

Figure 5. Regulatory and reporting areas of the Bering Sea and Aleutian Islands

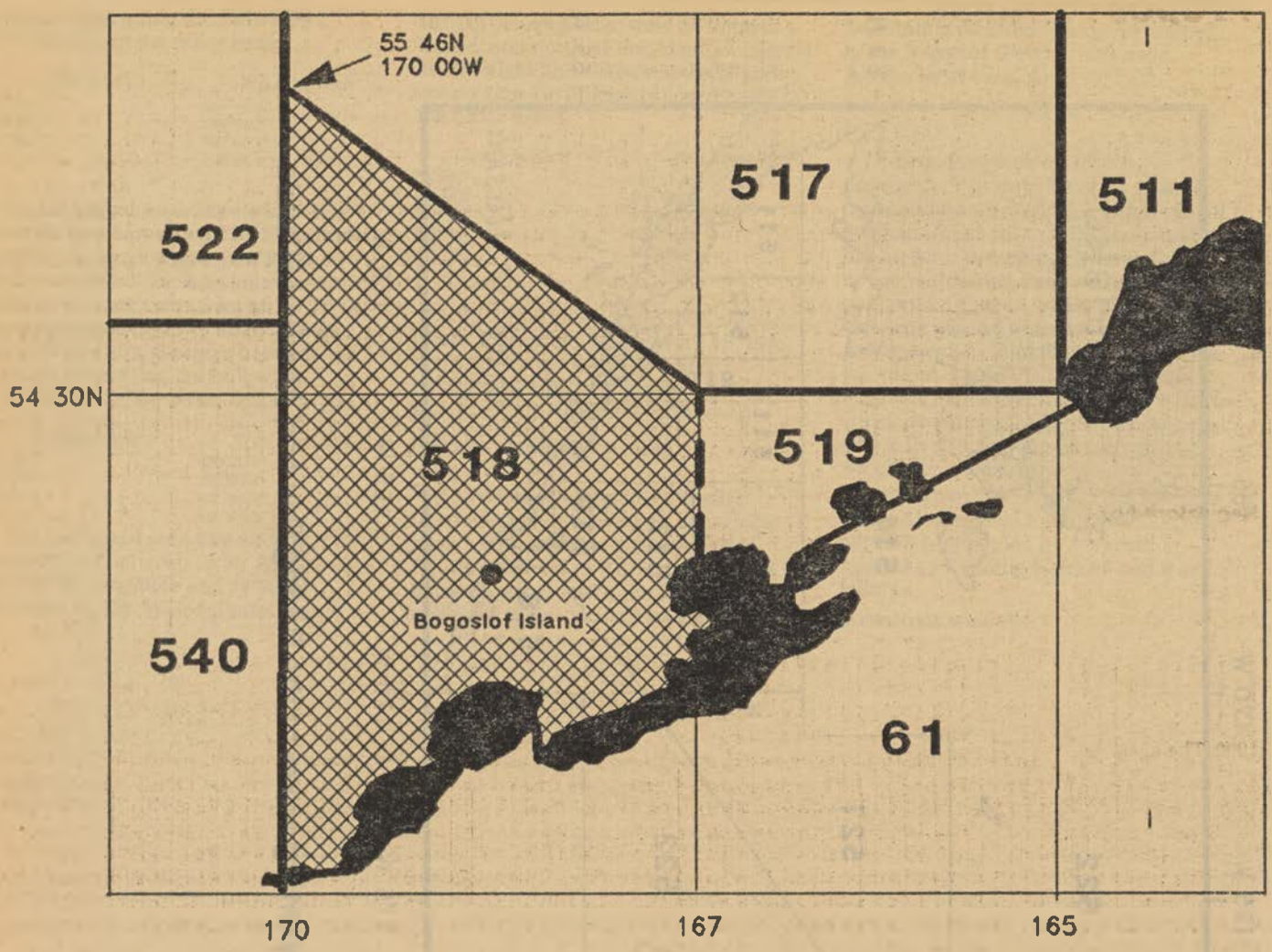

Figure 6. Bogoslof District (518)

[FR Doc. 91-3181 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-22-C

Proposed Rules

Federal Register
Vol. 56, No. 29
Tuesday, February 12, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the fourth quarter, October through December, of 1990. The agenda is issued to provide the public with information about NRC's rulemaking activities. The Regulatory Agenda is a quarterly compilation of all rules on which the NRC has recently completed action or has proposed, or is considering action and of all petitions for rulemaking that the NRC has received that are pending dispositions.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 9, No. 4, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 275–2060 or (202) 275–2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642.

Dated at Bethesda, Maryland, this 4th day of February 1991.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 91–3333 Filed 2–11–91; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 243

[Docket No. 47383; Notice 91–2]

RIN 2105–AB78

Aviation Security: Passenger Manifest Information; Correction

AGENCY: Office of the Secretary, DOT.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects the docket number appearing in the January 31, 1991, **Federal Register** issue at 56 FR 3810, in the advance notice of proposed rulemaking concerning Aviation Security: Passenger Manifest Information. The references to "Docket 47381; Notice 91–2" should read in the heading and in the Addresses section "Docket 47383; Notice 91–2".

DATES: The first sentence of the Date line still reads: Comments must be submitted on or before February 19, 1991.

FOR FURTHER INFORMATION CONTACT: Megan Marshall (202) 366–4877.

Dated: February 4, 1991.

Neil R. Eisner,

Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 91–3003 Filed 2–11–91; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREAS

Customs Service

19 CFR Part 162

RIN 1515–AA67

Proposed Customs Regulations Amendments Relating to the Liability of Common Carriers for Failure To Exercise the Highest Degree of Care and Diligence To Prevent Unmanifested Controlled Substances

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: By statute, a common carrier is liable for penalties and forfeiture of its conveyance if controlled substances are carried on board. The common carrier may avoid liability if it exercises the highest degree of care and diligence, the statutory standard, to prevent the carriage of controlled substances. There is no requirement under the law that any specific steps be taken in order to avoid the statutory liability. Congresss, however, directed that regulations be published setting forth criteria to assist common carriers in meeting the statutory standards of highest degree of care and diligence. This document proposes to amend the Customs Regulations by setting forth criteria that common carriers, if they wish to avoid liability when controlled substances are found aboard a conveyance, may use in determining whether they are taking all possible steps to comply with the statutory standard. The document also sets forth a new provision concerning the seizure of common carriers. A notice was published previously concerning these matters. After consideration of comments received in response to the notice, a modified proposal is now being published for comments.

DATES: Comments must be received on or before March 14, 1991.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Harriett D. Blank, Penalties Branch (202) 566–8317.

SUPPLEMENTARY INFORMATION:

Background

Section 1584 of title 19, United States Code (19 U.S.C. 1585), authorizes Customs to assess penalties when unmanifested merchandise is found on board a vessel or a vehicle. If any of the merchandise so found consists of certain specified drugs, the master of such vessel or person in charge of the vehicle or the owner of the vessel or vehicle, or any person directly or indirectly responsible for those drugs being in such merchandise may be liable for certain penalties pursuant to the statute, and the vessel may be held to secure payment of such penalties. It a vessel is being used as a common carrier at the time the unmanifested drugs are found, the master or the owner will not be held liable for the penalties, and the vessel will not be held to secure payment, if it can be established that neither the master nor any of the officers nor the owner of the vessel knew and could not, by exercise of the highest degree of care and diligence, have known that the drugs were on board.

As the laws relating to entry and clearance of vessels are applicable to aircraft pursuant to 49 U.S.C. App. 1474 and 1509 and 19 U.S.C. 1644, the penalties set forth in 19 U.S.C. 1584 are applicable when unmanifested drugs specified in the statute are found on board aircraft.

In addition to being subject to detention to secure payment, Section 3124 of the Anti-Drug Abuse Act of 1986 (Pub. L. 99–570) provided that under certain circumstances common carriers could also be subject to seizure and forfeiture when merchandise, the importation of which is prohibited, is found on board, unless it can be established that, by the exercise of the highest degree of care and diligence, none of the parties identified in the provision could have known that the merchandise was on board. This provision is set forth in 19 U.S.C. 1594(c).

It should be noted that while the two statutes cited above discuss the carrier's responsibility to exercise the highest degree of care and diligence to prevent the carriage of certain merchandise, they are inconsistent as to the types of merchandise. One statute, 19 U.S.C. 1584, specifies certain drugs and the other, 19 U.S.C. 1594, broadly states,"merchandise, the importation of which is prohibited". Accordingly, while the term "controlled substances" is used in lieu of prohibited merchandise, whenever appropriate, to narrow the scope of this rulemaking, there are some instances in this document where different terminology is used in different contexts to be consistent with the relevant statutory language.

When the drugs specified in 19 U.S.C. 1584 or other unmanifested controlled substances are found aboard a common carrier subject to the Customs laws, Customs may detain the conveyance in order to make a preliminary finding whether the owner or other appropriate party knew or should have known that the unmanifested controlled substances were on board. Customs makes this preliminary finding as a matter of policy.

If the conveyance owner or other party is cooperative and at this time provides sufficient reason to believe that he neither knew, nor, by the exercise of the highest degree of care and diligence, could have known of the presence of the controlled substances, the conveyance will be released. If sufficient reason is not provided, the conveyance will be seized and Customs will issue notices of penalty and seizure.

The parties are given an opportunity to petition for relief pursuant to the provisions of 19 U.S.C. 1618, and may raise as a ground for relief pursuant to Sections 1584(a)(2) and 1594(c), that they could not have known, by the exercise of the highest degree of care and diligence, that the drugs specified in 19 U.S.C. 1584 or other controlled substances were on board. The burden of proof is on the carrier. The claim must set forth the actions taken and relied upon as establishing that the party could not have known of the presence of the drugs or other unmanifested controlled substances, i.e., actions which establish that the highest degree of care and diligence was taken in the operations of the common carrier. Customs considers this claim, as well as any others raised in the petition, in determining the relief to be accorded in the petition process.

Determination of whether the highest degree of care and diligence has been exercised is made on a case-by-case basis inasmuch as the circumstances of each case vary. In this regard, it should be noted that the courts have viewed the statutory standard as requiring that those responsible for the common carrier "leave no stone unturned" in order to avoid the liability for the statutory penalties. General criteria for the type of actions which would be regarded as establishing that such a degree of care and diligence had been exercised so that the owner, master or other responsible party will not be held liable for the statutory penalties or forfeiture of the common carrier have been developed and used by Customs. Section 7369 of the Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 Note), however, required publication of criteria "for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any common carrier in meeting the standards * * * for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are on board the common carrier." For the purpose of the regulations that Customs is proposing, the term "controlled substances" is defined as those substances so defined by Congress in 21 U.S.C. 801. "Controlled substances" as defined in 21 U.S.C. 801 includes the drugs specified in 19 U.S.C. 1584.

On January 31, 1989, Customs published a document in the **Federal Register** (54 FR 4835), proposing certain procedures that a common carrier minimally would have to follow to meet the highest degree of care and diligence standard. The proposal set forth eleven procedures. Comments were solicited and over 50 comments were received.

Discussion of Comments

Most of the comments were from sea carriers and entities representing their interests. There were also many comments from air carriers and a few from the trucking industry. No responses were received on behalf of the rail industry. Among the general comments received were that the eleven procedures set forth in the proposal are too burdensome or impossible to follow; the burden of proving the highest degree of care and diligence should not be on the carrier; the case-by-case standard of whether a carrier has sustained the burden of proof is too subjective; the type of carrier should be taken into account in determining procedures; the terms of the proposed procedures are too vague; and Customs should meet with industry representatives to work out appropriate regulations.

After consideration of the comments, Customs is modifying the proposal in this document. Inasmuch as numerous meetings have been held in the past with industry groups and individual carriers concerning actions required; representatives responded to the first proposal in great detail; and we are requesting comments on a second proposed rulemaking, we believe that additional meetings with industry representatives are not necessary.

Regarding the issue of the burden of proof, 19 U.S.C. 1584(a)(2) and 1594(c) clearly place upon the carrier the burden of proving that it exercised the highest degree of care and diligence to prevent the carriage of the unmanifested controlled substances. The case-by case application of the standard in determining whether a carrier has

sustained the burden of proof is necessary inasmuch as penalties and forfeitures are incurred because of separate violations of the Customs laws. Because the circumstances of each case may differ, this permits a degree of flexibility which may well accrue to the benefit of diligent carriers. For example, two carriers may have in place identical security measures; however, because of differences in the actual facts and circumstances such as the location of the controlled substances on the carrier or implementation of the security measures in relation to a particular arrival of the common carrier, one may be found to have exercised the highest degree of care and diligence, and the other not.

Customs believe that the procedures proposed were not vague, but allowed flexibility. It is our view that Customs is only required to suggest possible measures a carrier may take to meet the statutory standard of care rather than to state specific measures that a carrier must take. Carriers are free to implement any measures in addition to, or in lieu of, those suggested by Customs which may satisfy the standard of exercising the highest degree of care and diligence.

Comments on Specific Proposed Procedures by Sea and Air Carriers

Customs proposed in the January 31, 1989, notice of proposed rulemaking that a carrier must submit evidence that it performed certain security measures to establish that it exercised the highest degree of care and diligence. Many commenters raised questions about several of the proposed security measures.

Regarding the proposed criterion that carriers be able to establish that they investigated the background of each employee, commenters had the following concerns. Some commenters stated that access to information may be restricted or prohibited by legal or constitutional provisions. Other commenters stated that an employee's standard of living may be too difficult or impossible to investigate. Yet other commenters, particularly sea carriers, stated that they are not always able to choose employees due to use of casual labor, restrictions at foreign ports or because of union restrictions.

Customs does not expect carriers to obtain information that is restricted, prohibited or impossible to obtain. Customs does expect carriers to do what is within their control to ensure that the personnel they employ are not engaged in drug smuggling. For example, a carrier would, at the very least, be expected to ascertain that new employees are trustworthy, and to take appropriate actions when there are indications of possible irregularities involving continuing employees, such as the fact that a regular employee suddenly comes into possession of belongings which seem inconsistent with the employee's income from the carrier and other known sources. Appropriate action would include supervising the employee more closely; providing a different work assignment; or informing Customs of any suspicions. If a carrier is unable to choose its employees, Customs would expect the carrier to bolster other security measures to compensate for the fact that it does not have absolute control over the choice of employees.

Regarding the proposed criterion that carriers know the identities of representatives of companies delivering merchandise to the foreign port of lading for shipment, and the identities of company employees receiving cargo at the foreign port of lading, with special attention being paid to first-time and infrequent shippers, commenters raised the following issues. Some commenters requested that Customs establish a clear standard with respect to the form of identification required. Others questioned how a carrier will know first-time shippers and what Customs means by special attention. Yet others stated that it is unreasonable to expect a carrier to know representatives of all companies, since there are so many of them and the companies make personnel changes.

While it may be difficult to know representatives of all companies, screening should enable carriers to keep track of those who have access to cargo in the carrier's possession and the cargo area. As for identifying first-time shippers, Customs believes that carriers can identify them by the paperwork they present to the shipper. Special attention can be paid to such factors as whether freight charges were paid in cash and whether the origin or destination of a shipment is identified by a post office box, potentially indicating a smuggling attempt. Customs will not expect a specific required form of identification. Customs believes screening is necessary in most circumstances; the particular screening system is up to the carrier.

Several commenters, based on the claim that they have no control over a facility, particularly at foreign ports, objected regarding the proposals that carriers should: Maintain a secure facility; restrict access to the cargo area to authorized personnel only; maintain 24-hour security; maintain adequate lighting in work areas and storage facilities; and routinely inspect the facility or conveyance and take appropriate action on the basis of observed deficiencies.

Customs response to this comment is that it is prudent for a carrier to maintain security in those areas under its control, and to take steps to compensate for lack of security in areas not under its control. For example, a vessel operator, at the very least, would be expected to maintain 24-hour security over the vessel itself by whatever means appropriate and to maintain adequate lighting on the vessel which illuminates the area immediately surrounding the vessel. Routine inspection of areas under a carrier's control can only be regarded as a prudent course of action. Carriers could also attempt to influence management of facilities not under their control to improve their security.

Regarding the proposal that carriers operate a program designed to insure that all packages and containers are manifested and that the marks, numbers, weights and quantities on the packages and containers agree with the manifest, two objections were raised. Some commenters stated that carriers may not open palletized or containerized shipments and other commenters stated that it is not always possible to weigh containers.

Customs response to these two objections is that accurate manifests are required by statute. Customs will take into account, when appropriate, that carriers are not permitted to open shipments received on pallets or in containers but will hold carriers responsible for any obvious weight discrepancies.

Comments from the Trucking Industry

The domestic trucking industry was particularly concerned over the definition of the highest degree of care and diligence within the context of penalties assessed for failure to manifest merchandise imported into the United States under the provisions of 19 U.S.C. 1584. There was some concern noted that domestic truckers would be subject to the penalties set forth in the proposed regulations.

Customs wishes to allay these concerns. Sections 1584 and 1594(c) of title 19, United States Code, pertain to manifest requirements for conveyances that are importing merchandise into the U.S. Domestic truckers are affected by these statutory provisions and the proposed regulations only to the extent that these truckers operate conveyances which enter the U.S. at land border. Generally, transporting merchandise within the U.S. would not subject domestic truckers to penalties under these proposed regulations.

Conclusion

After careful consideration of all the comments received and further review of the matter, Customs has decided to publish another proposed rulemaking on this subject matter and to allow interested parties an additional opportunity to submit comments. In this proposal, we seek to clarify that there is no requirement that any specific steps or actions be taken by a common carrier to avoid statutory liability for penalties and forefeiture of conveyances when controlled substances are found aboard a conveyance. Each common carrier must determine for itself what actions are appropriate for its activities, or whether it will take any action at all. This proposal sets forth criteria that common carriers may use in determining whether they are taking all possible steps to comply with the statutory standard of highest degree of care and diligence. Separate criteria are set forth for sea, air and land (rail and truck) carriers. The proposed criteria are divided into three (3) major categories: security of terminal facilities, security of the conveyance, and operational practices. These categories are further subdivided into more specific criteria, some of which are elaborated upon with one or more examples of specific measures which would be appropriate. A fourth category of criteria that is applicable to all carriers is also proposed pertaining to the ongoing process of security, including personnel security.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments are particularly invited regarding the anticipated effectiveness of the various security measures proposed by Customs, any suggested alternative measures that carriers would consider effective that Customs has not proposed, and the cost of pursuing any specific measures. All comments, including those that discuss cost, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229. Commenters on the original proposal need not resubmit their comments. The previously submitted comments will be reconsidered with any new comments received in response to this notice.

Regulatory Flexibility Act

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

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

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

List of Subjects in 19 CFR Part 162

Customs duties and inspection, Law enforcement, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures.

Proposed Amendments

It is proposed to amend part 162, Customs Regulations (19 CFR part 162), as set forth below:

PART 162—RECORDKEEPING, INSPECTIONS, SEARCH, AND SEIZURE

1. The authority citation for part 162 would be amended by revising the specific authority for § 162.65 and §§ 162.65 and 162.72, and by adding the specific authority for §§ 162.67 and 162.68 in proper numerical sequence as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624.

* * *

Section 162.65 also issued under 19 U.S.C. 1431(b), 1584, 1594, 1644, 21 U.S.C. 960, 961;

Sections 162.67 and 16.68 also issued under 19 U.S.C. 1594, 1595a;

Section 162.72 also issued under 19 U.S.C. 1431(b), 1644.

2. It is proposed to amend § 162.65 by redesignating paragraphs (c) through (e) as paragraphs (d) through (f), respectively and adding new paragraph (c) to read as follows:

§ 162.65 Penalties for failure to manifest narcotic drugs or marihuana.

* * * * *

(c) *Liability of common carriers.* In the case of a common carrier, the master or person in charge of the conveyance, or the owner of such conveyance or any person directly or indirectly responsible for the drugs specified in 19 U.S.C. 1584 being on the conveyance are liable for the payment of penalties prescribed in 19 U.S.C. 1584(a)(2) for failure to manifest those drugs and the conveyance shall be held for the payment of such penalties. However, if neither the master nor any of the officers nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have know, that those drugs were on board, the master or owner of the conveyance is not liable for such penalties and the vessel shall not be held subject to the line. Regarding the criteria for meeting the highest degree of care and diligence standard, see § 162.68 of this part.

* * * * *

3. It is proposed to amended part 162 by adding new §§ 162.67 and 162.68 to subpart F to read as follows:

§ 162.67 Seizures of common carriers.

For the purpose of seizure and forfeiture of a common carrier pursuant to 19 U.S.C. 1595a(a) as a result of the carrying of unmanifested controlled substances, or assisting in the carrying of such merchandise, the common carrier will be held to the same standard of the highest degree of care and diligence required under 19 U.S.C. 1594(c). The criteria for that standard in § 162.68 of this part are relevant under either provision. "Controlled substances" for the purpose of this section means those substances listed by Congress in 21 U.S.C. 801.

§ 162.68 Criteria for establishing highest degree of care and diligence.

(a) *General.* The highest degree of care and diligence required by 19 U.S.C. 1584(a)(2), 1594(c) and 1595a(a) to be exercised by a common carrier in order to avoid liability for penalties or seizure imposed by those provisions, necessitates the implementation and performance of appropriate security measures by the carrier. This section sets forth criteria which common carriers can use in establishing and maintaining security programs, and in determining whether they have taken necessary and prudent steps to avoid liability under the statutes. In order to establish that the highest degree of care and diligence has been exercised in a particular case, a common carrier must show that it has actually implemented and performed appropriate security measures and could not have know that the drugs specified in 19 U.S.C. 1584 or unmanifested controlled substances,

pursuant to 19 U.S.C. 1594 and 1595a, were aboard the conveyance on which they were found. "Controlled substances" for the purposes of this section means those substances listed by Congress in 21 U.S.C. 801. Customs will determine, based on the individual facts and circumstances surrounding each case, including the degree of control a carrier has in a particular situation, whether a common carrier has exercised the highest degree of care and diligence. Customs will take into account the measures taken by the common carrier at the foreign lading location, on board the conveyance while en route, and upon arrival in the U.S. A common carrier is not required to implement any or all the criteria set forth in this section. Carriers are free to implement any measures in addition to, or in lieu of, those set forth in this section which my satisfy the standard of exercising the highest degree of care and diligence. The carrier must demonstrate that it has exercised the highest degree of care and diligence in the circumstances to ensure that for the purpose of 19 U.S.C. 1584, the drugs specified in that statute, or for the purpose of 19 U.S.C. 1594 and 1595a, controlled substances, were not aboard and it could not have known they were.

(b) *Criteria for all carriers.* General criteria for all carriers are:

(1) Operation of a security program altered periodically to incorporate the availability of new technology and new information about smuggling methods and high-risk areas.

(i) Periodic reviews of security systems (e.g., alarms and similar systems) to assess their vulnerability and the taking of remedial action when appropriate.

(ii) Periodic seminars for all employees involved in cargo handling and documentation processing to promote security consciousness.

(2) Establishment and use of a routine system by which to communicate with Customs regarding enforcement concerns.

(i) Designation of a company official or representative at each U.S. port to be the point of contact with Customs on all matters identified as of enforcement interest to Customs.

(ii) Prompt disclosure to Customs and other law enforcement officials of all information which may lead directly or indirectly to the detection of controlled substances.

(3) Concerted efforts to establish that personnel are trustworthy and not involved in criminal activity.

(i) Investigation of the background of prospective employees to the extent permitted by law.

(ii) Program for employee identification. Example: I.D. cards incorporating photographs, holograms or fingerprints.

(iii) Examinations, not including body searches, of employees and their belongings which are sufficient to detect significant quantities of drugs being carried on or off the conveyance.

(iv) Appropriate action taken (e.g., closer supervision of employees, reassignment of employee; informing Customs of suspicious behavior) when there are obvious indications that an employee's standard of living, such as possession of expensive items, is inconsistent with an employee's wages and other known sources of income.

(c) *General criteria for sea carriers.* General criteria for sea carriers are:

(1) *Securing the terminal facilities.* (i) If the carrier does not operate the terminal, securing the area immediately surrounding the vessel. Examples: Providing lighting on board the vessel which illuminates the areas immediately surrounding the vessel and having 24-hour watches posted.

(ii) If the carrier operates the terminal, securing the entire area within the terminal and deterring unauthorized individuals and/or vehicles from access to the terminal. Examples: Providing lighting around the perimeter; having 24-hour watches posted around the perimeter and at points of entry; providing secure fencing; locking of doors or gates and issuing keys only when essential; locking of windows and/or protection with bars; providing an alarm system to detect vehicles or individuals who attempt to or who actually penetrate the perimeter; requiring authorized individuals to wear uniforms or badges; providing a key-card system; and screening at the point of entry and issuing temporary identification to non-employees who require access to the terminal and retrieving the identification when those persons exit the facility.

(2) *Securing the vessel.* (i) Controlling access to the vessel. Examples: Providing 24-hour gangway watches and posting watches dockside.

(ii) Controlling access to common and other areas aboard the vessel particularly while in port. Examples: Securing compartments such as rope lockers where this will not affect the safety or operation of the vessel; using special seals, such as serially numbered ones, to secure compartments.

(iii) Providing adequate lighting in all common areas.

(iv) Searching the vessel periodically both randomly and on a schedule, while in port and at sea, using a checklist developed specifically for the particular vessel.

(3) *Operational practices.* (i) Using a program to ensure that all packages and containers are manifested and that the marks, numbers, weights and quantities on the packages and containers agree with the manifest.

(ii) Checking containerized shipments for irregularities such as anomalous odors (odors inconsistent with the claimed content); significant weight discrepancies, absence of a seal, and evidence of tampering with the container or its seals.

(iii) Maintaining inventory control by using serially numbered bills of lading and seals.

(d) *General criteria for air carriers.* General criteria for air carriers are:

(1) *Securing the terminal facilities.*

(i) Securing the perimeter of the facilities. Examples: Providing adequate lighting; posting 24-hour watchers around the perimeter and at points of entry; providing secure fencing; locking doors or gates and issuing keys only when essential; locking windows and/or protection of windows with bars; and providing an alarm system to detect vehicles or individuals who attempt to or who actually penetrate the perimeter.

(ii) Controlling access by unauthorized individuals and/or vehicles. Examples: Requiring authorized individuals to wear uniforms or badges; providing a key-card system; and screening at the point of entry and issuing temporary identification to non-employees who require access and retrieving the identification when those persons exit the facility.

(2) *Securing the aircraft.* (i) Controlling access to the aircraft by the posting of security guards.

(ii) Securing the aircraft while on land. Examples: Securing the cabin, lavatory, and compartments within the lavatory, and the storage and cargo areas to the extent that this does not interfere with normal operations such as janitorial services or lading of the aircraft; and scrutinizing individuals working the janitorial and catering services.

(iii) Providing adequate lighting in the area immediately surrounding the aircraft.

(iv) Searching the aircraft periodically both randomly and on a schedule, while on the ground and airborne, using a checklist developed specifically for the particular aircraft.

(3) *Operational practices.* (i) Using a program to ensure that all packages are manifested and that the marks, numbers, weights and quantities on the packages agree with the manifest.

(ii) Using a program to ensure that all baggage is accompanied by a lawful passenger.

(iii) Maintaining inventory control by using serially numbered bills of lading and seals.

(iv) Checking shipments for irregularities such as anomalous odors (odors inconsistent with the claimed content); significant weight discrepancies; absence of a seal, and evidence of tampering with a container or holder of merchandise or its seals.

(e) *Criteria for land carriers.* Land carriers refers to truck and rail common carriers engaged in international traffic. Land cariers are responsible for:

(1) Securing terminal or transfer facilities within their control and the immediate area surrounding their trucks or rail cars;

(2) Controlling access to the trucks or rail cars while within their control

(3) Ensuring that all packages are manifested;

(4) Ensuring that there are no obvious inconsistencies between the marks, numbers, weights and quantities on the packages and those listed on the manifest;

(5) Maintaining inventory control by using serially numbered bills of lading and seals; and

(6) Checking shipments for irregularities such as anomalous odors (odors inconsistent with the claimed content); significant weight discrepancies; absence of a seal, and evidence of tampering with a container or holder of merchandise or its seals.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: January 31, 1991.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 91-3202 Filed 2-11-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Prevailing Practice Determinations

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Employment and Training Administration (ETA) of the Department of Labor (DOL) is publishing a proposed rule to amend the regulations for the temporary alien agricultural labor certification (H-2A) program. The proposed rule clarifies the procedures for prevailing practice determinations.

DATES: Written comments on the proposed rule are invited from interested parties. Comments must be received on or before March 14, 1991.

ADDRESSES: Send written comments to: Assistant Secretary of Labor, Employment and Training Administration, United States Department of Labor, room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Director, United States Employment Service.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Schaerfl, Director, United States Employment Service, Employment and Training Administration. Telephone: 202-535-0157 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is publishing a proposed rule to amend the regulations for the temporary alien agricultural labor certification (H-2A) program. The proposed rule reflects program experience gained since the H-2A program interim final rule was published on June 1, 1987 (52 FR 20496). See 20 CFR part 655, subpart B; see also 29 CFR part 501; and 54 FR 28037 (July 5, 1989). The proposed amendments clarify procedures for making prevailing practice determinations.

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). The Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) provides that the Attorney General may not approve such a petition from an employer for employment of nonimmigrant alien workers for temporary or seasonal services or labor in agriculture (H-2A visaholders) unless the petitioner has applied to the Secretary of Labor (Secretary) for a labor certification showing that:

(A) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and

(B) The employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188

DOL is proposing an amendment to include a definition of the term "prevailing" as it is used in the context of certain benefits other than wages provided by employers to their workers and certain practices engaged in by employers. The definition reflects the policy of DOL in this area during the predecessor H-2 program as well as the procedures for arriving at prevailing practice and related determinations in ETA Handbook No. 398 (53 FR 22076, June 13, 1988).

The criteria that are used by DOL in determining that an employer practice or benefit is, in fact, prevailing are as follows: (1) A majority of employers in an area (and for an occupation) engage in the practice (or offer the benefit); and (2) this majority of employers also employs a majority of U.S. workers in the occupation in the area. This standard and measurement is used for determinations concerning the provision of family housing, transportation advances, frequency of wage payments to workers, and utilization of farm labor contractors. For determinations concerning family housing and frequency of payment, the "majority of employers" component of the measurement includes H-2A and non-H-2A user employers in the area and the occupation. For determinations concerning advance transportation and utilization of farm labor contractors, the "majority of employers" component includes only non-H-2A users employers in the area and occupation. The inclusion or exclusion of H-2A user employers in these measurements is determined by pertinent statutory or regulatory descriptions of the particular practice or benefit.

The methodology used by DOL in making prevailing practice and related determinations differs from the methodology used in making prevailing wage determinations. Prevailing wage determinations are made in accordance with procedures established in ETA Handbook No. 385, supplemented by ETA Handbook No. 398. Prevailing wage rates usually represent a finding made by DOL, based on a State employment service agency (SESA) survey, of the median wage rate paid to workers in a crop activity and area. In arriving at a prevailing wage rate determination DOL normally is involved in examining and evaluating SESA reports which may show many different wage rates being paid by many employers in a crop

activity and area. While there may be a wide range of different rates being paid for the same crop activity in an area, the payment of a wage for work performed is a constant feature of an employer-employee relationship. This is not the case with the employer-employee components for which the "prevailing" standard of measurement described above applies, because the components being measured are specific and discrete employment variables that must be measured in absolute terms. Unlike wages, which are always present, these variables either do, or do not, exist; there is no range to be evaluated or median to be determined.

In adopting the methodology, DOL examined it and these two other alternative approaches:

1. Considering a practice to be prevailing when a simple majority of U.S. workers in an occupation and area receive a benefit, irrespective of the number of employers who provide the the benefit; and

2. Considering a practice to be prevailing when a simple majority of employers of U.S. workers in an area engage in the practice or provide the benefit, irrespective of the number of workers who receive the benefit or are affected by the practice.

Neither of these alternatives was adopted because they did not sufficiently allow for the wide variances in terms of size of employers and markup of the workforce in agricultural producing areas of the United States. With the first alternative approach, for example, it is conceivable that a substantial number of small employers with fewer than a majority of the total number of workers would be required to conform their practices to one or two large corporate entities with a bare majority of U.S. workers and far greater financial resources than the small farmers. With the second alternative approach, it is conceivable that a number of small farmers with relatively few workers could skew a prevailing practice determination to the extent that the determination would not present a realistic picture of conditions in an area when a few large employers actually dominate an area and engage in practices and provide benefits which affect many more workers than those employed by the majority of small farmers. On balance, DOL found the methodology that was adopted to be the fairest and most equitable of these considered.

This rule is being published as a result of the order of the United States District Court for the District of Columbia, in *Comite De Apoyo Para Los Trabajadores Agricolas (CATA)* v. *Dole*, Civil Action No. 89-2257 (D.D.C. February 27, 1990).

Regulatory Impact

This document affects only those employers using nonimmigrant alien workers in temporary agricultural jobs in the United States (H-2A visaholders). It does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR, 1981 Comp., Page 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document contains no paperwork requirements which mandate clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forest and forest products, Guam, Labor, Migrant labor, Wages.

Proposed Rule

Accordingly, part 655 of chapter V of title 20, Code of Federal Regulations, is proposed to be amended as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for part 655 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H) and 1184; 29 U.S.C. 49 *et seq.*; §§ 655.0, 655.00, and 655.000 also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1188, and 8 CFR 214.2(h)(4)(i); Subparts A and C also issued under 8 CFR 214.2(h)(4)(i); Subpart B also issued under 8 U.S.C. 1188; Subparts D and E also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m) and Pub. L. 101-238, sec. 3(c)(1), 103 Stat. 2099, 2103.

2. In § 655.100, paragraph (b) is amended by inserting, between the definitions of "Positive recruitment" and "Regional Administrator, Employment and Training Adminstration (RA)", a definition of "Prevailing", to read as follows:

§ 655.100 Overview of this subpart and definition of terms.

* * * * *

(b) * * *

Prevailing means, with respect to certain benefits other than wages provided by employers and certain practices engaged in by employers, that:

(1) A majority of employers in an area and for an occupation engage in the practice or offer the benefit; and

(2) This majority of employers also employes a majority of U.S. workers in the occupation and area (including H-2A and non-H-2A employers for purposes of determinations concerning the provision of family housing, frequency of wage payments, and workers supplying their own bedding, but non-H-2A employers only for determinations concerning the provision of advance transportation and the utilization of farm labor contractors).

* * * * *

Signed at Washington, DC, this 6th day of February, 1991.

Roderick A. DeArment,

Acting Secretary of Labor.

[FR Doc. 91-3273 Filed 2-11-91; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 211

[Docket No. 90N-0376]

RIN 0905-AA73

Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Proposed Amendment of Certain Requirements for Finished Pharmaceuticals

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend certain requirements of the current good manufacturing practice (CGMP) regulations for finished human and veterinary pharmaceuticals. The proposed amendments would provide manufacturers more flexibility and discretion in manufacturing drug products while maintaining those CGMP requirements that are necessary to assure drug product quality.

DATES: Comments by April 15, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration,

room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Meyer, Center for Drug Evaluation and Research (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8049.

SUPPLEMENTARY INFORMATION: Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is deemed to be adulterated unless the methods used in its manufacture, processing, packing, and holding, and the facilities and controls used therefore, conform to CGMP so that the drug meets the safety requirements of the act and has the identity and strength and meets the quality and purity characteristics that it is represented to have. FDA has promulgated regulations for the efficient enforcement of section 501(a)(2)(B) that set out minimum CGMP requirements for human and veterinary drug products (21 CFR parts 210 and 211).

I. Recent Amendments and Guidelines

Since the CGMP regulations were last updated in the **Federal Register** of September 29, 1978 (43 FR 45014), FDA has issued a number of **Federal Register** documents that amended certain CGMP regulations, or provided guidance respecting compliance with the CGMP regulations. Following is a summary of those documents:

1. A notice announcing the availability of a guideline describing practices and procedures for the preparation of compressed medical gases that the agency viewed as constituting compliance with the CGMP regulations was published in the **Federal Register** of August 18, 1981 (46 FR 41859). Subsequent notices announcing the availability of revisions of this guideline were published in the **Federal Registers** of April 18, 1984 (49 FR 15279) and March 22, 1989 (54 FR 11815).

2. A final rule amending the CGMP regulations in 21 CFR part 211 by establishing tamper-resistant packaging and labeling requirements for over-the-counter (OTC) drug products to improve the security of OTC drug packaging and help assure the safety and effectiveness of OTC drug products was published in the **Federal Register** of November 5, 1982 (47 FR 50442). This section of the CGMP regulations was subsequently amended by exempting contact lens solutions and certain other OTC drug products in a final rule published in the **Federal Register** of April 19, 1983 (48 FR 16658). Subsequently, FDA amended this section of the CGMP regulations to improve consumer protection with regard to two-piece hard gelatin capsules by requiring manufacturers of such capsules to use at least two tamper-resistant packaging features (see the **Federal Register** of February 2, 1989 (54 FR 5227)).

3. A final rule amending the CGMP regulations in 21 CFR part 211 by reducing the time that reserve samples of radioactive drugs containing radionuclides are required to be retained by manufacturers and exempting reserve samples of these drug products from the annual visual examination requirement was published in the **Federal Register** of March 29, 1983 (48 FR 13024).

4. A final rule amending the CGMP regulations in 21 CFR part 211 by exempting compressed medical gas products from the requirement that lot or control numbers of the drug product be recorded on distribution records was published in the **Federal Register** of March 16, 1984 (49 FR 9864).

5. A final rule amending the CGMP regulations in 21 CFR part 211 by requiring procedures for the review of complaints to determine whether they include serious and unexpected adverse events that are required to be reported to the agency was published in the **Federal Register** of July 3, 1986 (51 FR 24476).

6. A notice announcing the availability of a final guideline entitled "Guideline on General Principles of Process Validation" was published in the **Federal Register** of May 11, 1987 (52 FR 17638). The guideline was intended to inform interested persons of acceptable principles of process validation to facilitate compliance with the CGMP regulations.

7. A notice announcing the availability of a final guideline entitled "Guideline on Sterile Drug Products Produced by Aseptic Processing" was published in the **Federal Register** of June 9, 1987 (52 FR 21742). The guideline was intended to inform interested persons of acceptable aseptic processing practices and procedures to facilitate compliance with the CGMP regulations.

8. A notice announcing the availability of a draft guideline entitled "Guideline on the Preparation of Investigational New Drug Products" was published in the **Federal Register** of February 26, 1988 (53 FR 5835). The guideline was intended to inform interested persons of certain practices and procedures for the preparation of investigational new drug products that constitute acceptable ways of compliance with the applicable CGMP regulations.

9. A proposed rule amending the CGMP regulations in 21 CFR part 211 by revising certain labeling control provisions to reduce the frequency of drug product mislabeling was published in the **Federal Register** of June 23, 1989 (54 FR 26394).

II. Background

In the **Federal Register** of July 14, 1981 (46 FR 36333), FDA announced its plan for undertaking a systematic review of its existing rules in accordance with the requirements of the Regulatory Flexibility Act and Executive Order 12291.

The notice solicited data, information, and views from the public to assist the agency in its review. In the **Federal Register** of July 2, 1982 (47 FR 29004), FDA announced its plans for reviewing its existing rules based on these comments and other sources of information. Among the regulations listed for review were the CGMP regulations (21 CFR parts 210 and 211).

Accordingly, under the Regulatory Flexibility Act and Executive Order 12291, FDA conducted a retrospective review of the CGMP regulations to determine whether any of the existing provisions should be changed, modified, or revoked. FDA focused its review on CGMP regulations that have been subject to public comments and citizen petitions, or have been the subject of enforcement activity by the agency.

FDA has identified several areas where changes in the CGMP regulations would be justified and is now proposing to amend certain provisions of those regulations. Through issuance of the proposed amendments, FDA intends to relieve, where possible, unnecessary regulatory burdens without affecting those CGMP requirements that are necessary to assure drug product quality under the act.

III. Proposed Changes

The following is a discussion of the proposed amendments to the CGMP regulations:

1. Section 211.42 Design and Construction Features.

This regulation requires manufacturers to establish, for certain manufacturing operations enumerated in § 211.42(c), separate or defined areas to prevent contamination or mixups. As noted in the preamble to the final CGMP regulations (comment 128, 43 FR 45037; September 29, 1978), this section is intended to ensure that "enough physical separation be employed as is necessary to prevent contamination or mixups. The degree of separation will depend on the type of operation and its proximity to other operations within the

plant. The phrase 'separate or defined' is not intended necessarily to mean a separate room or partitioned area, if other controls are adequate to prevent mixups and contamination." The agency has reviewed reports of instances, however, where this requirement has been interpreted to mean that complete physical separation is intended for all operations. Accordingly, the agency is proposing to revise § 211.42(c) to include the phrase "as necessary" to clarify this section since as discussed in the preamble to the 1978 final rule, other control systems may be used in lieu of complete physical separation.

2. Section 211.68 Automatic, Mechanical, and Electronic Equipment

FDA is proposing to amend this requirement in paragraph (b) to clarify that the degree and frequency of input/output checking from a computer or related system of formulas or other records or data be based on the complexity and reliability of the computer or related system. This proposal is in response to a number of industry comments questioning the need to check routinely the accuracy of input to and output from a previously validated computer system.

As stated in the preamble of the final CGMP regulations (comment 186, 43 FR 45014 at 45042; September 29, 1978), computer printouts do, on occasion, contain errors. Whether due to faulty input, programming, malfunction, or other reasons, they can result in a serious production error and the distribution of an adulterated product. Thus, while the degree of verification is left to the discretion of each manufacturer, the agency believes that this section contemplates, at a minimum, the use of routine accuracy checks, to provide a high degree of assurance that input to and output from a computer or related system are reliable and accurate. The agency intends that each manufacturer will exercise reasonable judgment based on a variety of factors, such as the complexity of the computer or related system, in developing a method for preventing inaccurate data input and output.

3. Section 211.137 Expiration Dating

FDA has received a number of industry comments and citizen petitions about the applicability of the CGMP requirements to investigational new drug products for human or animal use. Based on a careful review of these comments, FDA has tentatively concluded that it is not necessary to require that investigational new drug products be subject to the expiration dating requirements set forth in § 211.137. Section 211.137 requires that all drug products bear an expiration date as assurance that the products meet applicable standards of identity, strength, quality, and purity at the time of use. A drug's expiration date is required to be established on the basis of stability studies conducted on the drug product pursuant to the stability testing provisions under § 211.166. The agency acknowledges, that, at the start of clinical investigations of new drug products, relatively limited stability data may be available to establish expiration dates. In some instances, this necessitates that investigational new drug products be destroyed even thought they may meet appropriate standards or specifications as supported by ongoing stability studies. The agency believes that adequate assurances that investigational drugs meet applicable standards may be obtained by demonstrating the product's stability during its estimated period of use in the clinical investigation. This would preclude the possibility of premature outdating and permit clinical supplies of investigational new drug products to remain in use for as long as stability testing demonstrates that these products meet their appropriate standards or specifications. The agency notes that, unlike commercially distributed drug products, the monitoring and control of investigational new drug products can be readily achieved in the limited and closed systems used to distribute investigational new drug products to clinical investigators. Therefore, the agency is proposing to amend the CGMP regulations by exempting investigational new drug products from the expiration dating requirements provided appropriate stability studies demonstrate that such products meet appropriate standards or specifications during their use in clinical investigations.

The proposed exemption from the expiration dating requirements would not exempt investigational new drug products that are to be reconstituted at the time of dispensing from bearing expiration dating for the reconstituted drug product. The agency views the exemption as not warranted for reconstituted drug products because of the typically short shelf life for these drug products. Thus, the agency believes that expiration dating is both necessary and desirable for investigational new drug products after they are reconstituted to ensure that medical personnel are informed of the length of time these drug products can be used.

4. Section 211.170 Reserve Samples

Paragraph (b) of this section currently requires that a reserve sample that is representative of each lot or batch of a drug product be examined visually at least once a year for evidence of deterioration unless such examination would affect the integrity of the reserve sample. This provision is intended to facilitate investigations of possible product defects. The annual examination of representative samples entails an extensive investment of resources by many manufacturers. The agency has tentatively concluded that the objective of this requirement can be achieved through an alternate procedure that will relieve part of the regulatory burden and provide equal assurance of drug product quality. Accordingly, the agency is proposing to amend § 211.170(b) to require that reserve samples from representative sample lots or batches selected by acceptable statistical procedures be examined visually at least once a year for evidence of deterioration unless visual examination would affect the integrity of the reserve samples.

5. Section 211.180 General Requirements

Paragraph (e)(1) of this section requires that, for the quality standards evaluation for each drug product, the procedures include provisions for a review of every batch, whether approved or rejected, and, where applicable, records associated with the batch. The intent of this requirement, as stated in the preamble to the final CGMP regulations (comment 431, 43 FR 45014 at 45067; September 29, 1978), is "to provide reliable procedures for a manufacturer to review the quality standards for each drug product." The agency has become aware that some manufacturers have interpreted this provision to require the review of every batch record produced during the year for each drug product. However, it was not the agency's intention to require review of every batch record in every instance. For example, a review of a representative number of batch records for each drug product would be adequate to establish a drug product profile. If a representative check of batch records showed an adverse quality trend, adopting a procedure to check every batch record would clearly be appropriate. Therefore, the agency is proposing to revise § 211.180(e)(1) by clarifying that, for the quality standard evaluation for each drug product, the written procedures shall include provisions for a review of a

representative number of batch records, whether approved or rejected, for each drug product.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Economic Impact

The agency has considered the economic impact and regulatory flexibility implications of this proposed rule and has determined that it requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposed amendments to the CGMP regulations are intended to allow drug manufacturers more flexibility and discretion in manufacturing drug products while maintaining the minimum CGMP requirements necessary to assure drug product quality. This will encourage innovation and the development of more efficient manufacturing procedures that should lead to cost savings for drug manufacturers. Therefore, the agency has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

VI. Request for Comments

Interested persons may, on or before April 15, 1991, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 211

Drugs, Labeling, Laboratories, Packaging and containers, Prescription drugs, Reporting and recordkeeping requirements, Warehouses.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR Part 211 be amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. The authority citation for 21 CFR part 211 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 506, 507, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, 356, 357, 360b, 371, 374).

2. Section 211.42 is amended in the introductory text of paragraph (c) by revising the second sentence to read as follows:

§ 211.42 Design and construction features.

* * * * *

(c) * * * There shall be separate or defined areas for the firm's operations as necessary to prevent contamination or mixups as follows:

* * * * *

3. Section 211.68 is amended by adding a new sentence after the second sentence in paragraph (b) to read as follows:

§ 211.68 Automatic, mechanical, and electronic equipment.

* * * * *

(b) * * * The degree and frequency of input/output verification shall be based on the complexity and reliability of the computer or related system. * * *

4. Section 211.137 is amended by redesignating paragraph (g) as paragraph (h), and by adding new paragraph (g) to read as follows:

§ 211.137 Expiration dating.

* * * * *

(g) New drug products for investigational use are exempt from the requirements of this section, provided that such drug products meet appropriate standards or specifications as demonstrated by stability studies during their use in clinical investigations. In the case of dug products that are to be reconstituted at the time of dispensing, their labeling shall bear expiration dating for the reconstituted drug product.

* * * * *

5. Section 211.170 is amended by revising the fourth sentence in the introductory text of paragraph (b) to read as follows:

§ 211.170 Reserve samples.

* * * * *

(b) * * * Except those drug products described in paragraph (b)(2) of this section, reserve samples from representative sample lots or batches selected by acceptable statistical procedures shall be examined visually at least once a year for evidence of deterioration unless visual examination would affect the integrity of the reserve sample. * * *

* * * * *

6. Section 211.180 is amended by revising paragraph (e)(1) to read as follows:

§ 211.180 General requirements.

* * * * *

(e) * * *

(1) A review of a representative number of batch records, whether approved or rejected, for each drug product.

* * * * *

Dated: January 18, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91–3290 Filed 2–11–91; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3904-3]

Open Meeting of the Negotiated Rulemaking Advisory Committee—Lead Acid Battery Recycling Rule

AGENCY: Environmental Protection Agency.

ACTION: FACA Committee Meeting—Negotiated rulemaking committee on the lead acid battery recycling rule.

SUMMARY: As required by Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the next meeting of the Advisory Committee to negotiate a rule to recycle lead acid batteries. The meeting is open to the public without advance registration.

The purpose of the meeting is to consider information on the status of lead acid battery recycling, and to generate and discuss issues and options for the committee to discuss.

DATES: The meeting will be held on February 27, 1991 from 10 am to 4 pm.

ADDRESSES: The meeting will be held at the Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of lead acid battery recycling rule should call Nancy Laurson, Office of Toxic Substances, U.S. EPA, (202) 382–7363. Persons

needing further information on administrative matters such as committee arrangements or procedures should contact Deborah Dalton, EPA Regulatory Negotiation Project, (202) 382–5495 or the Committee's facilitator, John McGlennon, (617) 742–8228.

Dated: February 7, 1991.

Thomas E. Kelly,

Director, Office of Regultory Management and Evaluation, Office of Policy, Planning and Evaluation.

[FR Doc. 91–3315 Filed 2–11–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Ch. I

[FRL–3905–1]

Intent To Form an Advisory Committee To Negotiate Amendments to Regulations for Class II Wells

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting cancellation.

SUMMARY: This notice amends the announcement of an upcoming organizational meeting of the advisory committee that appeared in the **Federal Register** (56 FR 4957) notice dated February 7, 1991.

DATED: February 8, 1991.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Smith, Underground Injection Control Branch (WH–550E), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY NOTICE: Due to last minute scheduling problems encountered by several significantly impacted parties, the organizational meeting to be held on February 12–13, 1991 at The Embassy Suites Hotel, 1250 22nd Street, NW, Washington, DC is hereby canceled. The meeting will be rescheduled at the earliest possible date that will accommodate all parties. Advance notice of the rescheduled meeting date will be published in the **Federal Register.**

Public comment on whether the EPA should establish a Federal Advisory Committee to negotiate amendments to the Underground Injection Control (UIC) regulations governing injection wells associated with oil & gas production is still welcome and desired. Comments and suggestions relative to this initiative should be submitted to the EPA by March 1, 1991.

ADDRESS: Comments should be submitted to Françoise M. Brasier, Chief, Underground Injection Control Branch (WH–550E), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Dated: February 8, 1991.

Carl B. Reeverts,

Acting Director, Office of Drinking Water.

[FR Doc. 91–3445 Filed 2–11–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

Western Pacific Bottomfish and Seamount Groundfish Fisheries

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 4 to its Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) for Secretarial review and is requesting comments from the public. Copies of Amendment 4 may be obtained from the Council at the address below.

DATES: Comments on the amendment should be submitted on or before April 2, 1991.

ADDRESSES: All comments should be sent to E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment and the environmental assessment are available from the Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, Hawaii 96813, (808) 541–1974.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Terminal Island, California (213) 514–6660 or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, Hawaii, (808) 955–8831.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Act also requires that the Secretary, upon receiving a plan or amendment, immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider all public comments in determining whether to approve the plan or amendment.

Amendment 4 proposes to establish on a permanent basis the observer requirements applicable to bottomfish fishing vessels in the northwestern Hawaiian Islands (NWHI) under emergency rules promulgated by the Secretary of Commerce, at the Council's request, effective November 26, 1991 (55 FR 49050). These emergency regulations are effective until 2400 hours local time February 24, 1991, and may be extended for 90 days under the Magnuson Act. The Council proposes that the effective date of this amendment coincide with the expiration of the emergency regulations.

An environmental assessment (required under the National Environment Policy Act) and regulatory impact review/initial regulatory flexibility analysis (required under Executive Order 12291 and the Regulatory Flexibility Act) are incorporated in Amendment 4. All are available for public review as noted above.

The receipt date for Amendment 4 was February 1, 1991. Proposed regulations to implement Amendment 4 are scheduled to be filed with the Office of the **Federal Register** within 15 days after the receipt date.

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

Dated: February 6, 1991.

David S. Crestin,

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

[FR Doc. 91–3268 Filed 2–7–91; 8:48 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 29
Tuesday, February 12, 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

Forest Service

Cleanup and Rehabilitation of the White King and Lucky Lass Uranium Mines, Fremont National Forest, Lake County, OR

AGENCY: Forest Service, USDA.

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

SUMMARY: Notice is hereby given that the Forest Service, USDA, will modify the title of an environmental impact statement (EIS) for the White King/Lucky Lass Abandoned Uranium Mine Remedial Action Project. As a result of the analysis efforts, a new title has been selected that more accurately reflects the associated analysis process being conducted. Therefore, the title of the EIS for this project which was printed in the Notice of Intent published in the **Federal Register** on August 10, 1989 (54 FR 32837) is revised to "Cleanup and Rehabilitation of the White King and Lucky Lass Uranium Mines".

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this revised notice of intent to Felix R. Miera, Project Manager, Lakeview Ranger District, HC 64, Box 60, Lakeview, Oregon 97630, phone (503) 947-3334.

Dated: February 11, 1991.

Thaddeus Yarosh

Acting Forest Supervisor.

[FR Doc. 91-3327 Filed 2-11-91; 8:45 am]

BILLING CODE 3410-11-M

Chikamin Timber Sale, Wenatchee National Forest, Chelan County, WA

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: The office of the Secretary, USDA, gave notice that the Chief of the Forest Service vacated the decision contained in the December 1989 Record of Decision which amended the Regional Guide for the Pacific Northwest Region with regard to management of northern spotted owl habitat. This notice appeared in the October 3, 1990, **Federal Register** (55 FR 40413). The announcement in the **Federal Register** further states that the Forest Service will conduct timber management activities in a manner not inconsistent with the May, 1990 Interagency Scientific Committee recommendations pending enactment of new legislation. The Interagency Scientific Committee report recommends that the entire Chikamin Timber Sale project area be placed in a Category 1 Habitat Conservation Area, which precludes timber harvest.

The Chikamin Timber Sale notice of intent, published in the September 1, 1989, **Federal Register** (54 FR 36365), is hereby recinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Jim Furlong, Project Team Leader, Lake Wenatchee Ranger District, Wenatchee National Forest, 2297 State Highway 207, Leavenworth, Washington 98826, phone: (509) 763-3103.

Dated: January 29, 1991.

Sonny J. O'Neal,

Forest Supervisor.

[FR Doc. 91-3328 Filed 2-11-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-404]

Live Swine From Canada; 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 live swine from Canada for the period April 1, 1988 to March 31, 1989. We preliminarily determine the net subsidy for live swine (other than sows and boars) to be Can$0.0548/lb., and the net subsidy for sows and boars to be Can$0.0051/lb. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 12, 1991.

FOR FURTHER INFORMATION CONTACT: Britt Doughtie 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 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 live swine from Canada (50 FR 32880). On August 11, 1989, the National Pork Producers Council requested an administrative review of the order. We initiated the review, covering the period April 1, 1988 through March 31, 1989, on September 20, 1989 (52 FR 38712). The Department has now conducted the adminstrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by these reviews are shipments of Canadian live swine. Through 1988, such merchandise was classifiable under item number 100.8500 of the Tariff Schedules of the United States Annotated (TSUSA). Such merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 0103.91.00 and 0103.92.00. The TSUSA and HTS item numbers are provided for convenience and Custom's purposes. The written description remains dispositive.

The review covers the period April 1, 1988 through March 31, 1989 and 46 programs.

On December 20, 1990, Pryme Pork Ltd. (Pryme), of St. Malo, Manitoba, an exporter of live weanling swine (weanlings), requested that the Department determine, pursuant to 19 CFR 355.29, that weanlings be excluded from the scope of the countervailing duty order on live swine from Canada. In its request, Pryme presents an analysis of weanlings based on the

criteria set forth by the Department in Certain Steel Products from the United Kingdom (47 FR 35668; August 12, 1982) to determine whether merchandise having the same generic description could be distinguished from the goods subject to an antidumping duty order for the purpose of determining and publishing separate dumping margins. According to Pryme's analysis, weanlings are different from butcher hogs because: (1) Weanlings have a different tariff classification; (2) weanlings have dissimilar physical characteristics; (3) weanlings are customarily categorized differently; (4) weanlings have separate pricing mechanisms; (5) buyers of weanlings have different expectations; (6) weanlings have distinguishable channels of trade; (7) weanlings have different uses; and (8) weanlings undergo extensive processing after sale. Based on these criteria, Pryme concludes that weanlings are not within the scope of the order and requests that the Department issue instructions requiring the liquidation of all outstanding entries of weanlings and the refund of all countervailing duties paid on weanlings, with interest, in accordance with 19 CFR 355.24.

For purposes of determining whether weanlings are within the scope of the countervailing duty order on live swine, the Department referred to its regulations on scope determinations, published at 19 CFR 355.29. This order is on live swine. The ITC, at page A-2 of its final determination, defined live swine as follows: "in general usage, swine are referred to as hogs and pigs. The term 'hogs' generally refers to mature animals and 'pigs' to young animals. The provision for live swine in the TSUS under item 100.85 applies to all domesticated swine regardless of age, sex, size, or breed." (USITC Publication 1733, Determination of Investigation No. 701.TA-224 (Final) for Live Swine and Pork from Canada, July 1985).

The product descriptions of the merchandise contained in the ITC's determination and the CVD order are dispositive as to whether the merchandise in question is within the scope of the countervailing duty order. Therefore, we did not consider the additional criteria listed in § 355.29(i)(2) of the Department's regulations. Because the order covers live swine and the definition of live swine used by the ITC encompasses weanlings, the Department determines that weanlings are included in the scope of the countervailing duty order on live swine from Canada.

Analysis of Programs

I. Federal Programs

1. Agricultural Stabilization Act

The Agricultural Stabilization Act (ASA) of 1957-58 was passed by the federal government to provide for the price stabilization of named and designated agricultural commodities. On June 27, 1985, section 10 was added to the ASA. This amendment created a new option to establish commodity-specific price stabilization schemes, the National Tripartite Price Stabilization Schemes, based on agreements between the federal government, the provinces and the producers. See Notice of Preliminary Results of Countervailing Duty Administrative Review; Live Swine from Canada (53 FR 22189; June 14, 1988). The agrement reached on live swine is called the National Tripartite Price Stabilization Scheme for Hogs, and this agreement will be discussed under Section II.

Named commodities, including cattle, hogs, lambs and wool; industrial milk and industrial cream; corn and soybeans; and spring wheat, winter wheat, oats and barley not produced in the designated area as defined in the Canadian Wheat Board Act, are statutorily guaranteed eligibility for payouts from ASA whereas any other commodity is required to be designated by the Governor in Council and requires a separate, yearly appropriation vote by Parliament. Because of the distinction between named and designated commodities, and the fact that only 14 commodities received ASA benefits in FY 1988/89, we preliminarily determine that the ASA is countervailable because benefits from ASA are provided to a specific enterprise or industry, or group of enterprises or industries, in accordance with section 771(5) of the Tariff Act.

Although the ASA did not make payments for hogs produced during the review period, ASA's annual reports showed payments were made in FY 1988/89 for hogs produced in previous years. ASA payments are made on a per hundredweight (cwt.) basis. We used 220 pounds as the average weight of slaughter hogs (excluding sows and boars) in Canada. Payments are made only on indexed slaughter hogs. Indexing is a method of grading hog carcasses according to lean meat percentage, loin fat and weight. Because sows and boars are not indexed, they are not eligible for payments from ASA.

Producers in two provinces (Quebec and Saskatchewan) received payments from ASA during the review period. To calculate the benefit, we divided the ASA payments received by the total weight of live swine (minus sows and boars) produced in the two provinces during the review period. We used 220 pounds as the average weight of slaughter hogs (excluding sows and boars). We then multiplied the benefit by the two provinces' share of total Canadian exports of live swine (minus sows and boars) to the United States, resulting in a benefit from this program during the review period that was significantly less than Can$0.0001/lb., which is effectively zero. Because sows and boars are not eligible for payments from ASA, we preliminarily determine the benefit from this program to be zero for sows and boars.

2. Feed Freight Assistance Program

The Feed Freight Assistance Program is administered by the Canadian Livestock Feed Board (the Board) under the livestock Feed Assistance Act of 1966 (LFA). The Board acts to ensure: (1) The availability of feed grain to meet the needs of livestock feeders; (2) the availability of adequate storage space in Eastern Canada to meet the needs of livestock feeders; (3) reasonable stability in the price of feed grain in Eastern Canada to meet the needs of livestock feeders; and (4) equalization of feed grain prices to livestock feeders in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories. Although this program is clearly designed to benefit livestock feeders, FAA payments are made also to feed mills that transform the feed grain into livestock feed, when these feed mills are the first purchasers of this grain. The Board makes payments related to the cost of feed grain storage in Eastern Canada, and payments related to the cost of feed grain transportation to, or for the benefit of, livestock feeders in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories, in accordance with the regulations of the Act.

Because this program benefits only a specific group of enterprises or industries, namely livestock feeders and grain millers, in specific areas, namely Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories, we preliminarily determine that the program is countervailable. During the review period, payments were made to feed grain users for transportation assistance.

The Livestock Feed Board of Canada calculated that 4.13 percent of the total transportation expenditures for feed grains receiving assistance under this program in FY 1988/89 were made to

benefit live swine producers in the designated areas of Canada. Therefore, we divided the amount of feed transportation expenditures attributable to live swine producers by the total weight of live swine produced in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories during the review period. We then weight-averaged the benefit by these areas' share of total Canadian exports of live swine, including sows and boars, to the United States, resulting in benefits from this program during the review period for both sows and boars and other live swine that were significantly less than Can$0.0001/lb., which are effectively zero.

II Federal Provincial Programs

1. National Tripartite Stabilization Scheme for Hogs

On June 27, 1985, Bill C–25, an amendment to the ASA, enabled the introduction of cost sharing tripartite or bipartite stabilization plans involving the producer, the federal government and/or the provinces. Pursuant to § 10.1 of this amendment, federal and provincial ministers have signed agreements covering hogs, lambs, cattle, apples, sugar beets, white pea beans and other dry edible beans, honey, and onions.

Signatories to the National Tripartite Stabilization Scheme for Hogs in 1986 were Alberta, Manitoba, Ontario and Saskatchewan. The original four agreements were implemented on July 1, 1986. In February 1989, five additional provinces (British Columbia, New Brunswick, Nova Scotia, Prince Edward Island, and Quebec) became signatories to the scheme by signing agreements. Their membership in the scheme was made retroactive to January 1, 1989.

The general terms of the Tripartite Scheme on Hogs are as follows: all hog producers in participating provinces receive the same level of support per unit; the cost of the scheme is shared between Canada, the province, and the producer; producer participation in the scheme is voluntary; the provinces may not offer separate stabilization plans or other *ad hoc* assistance for hogs (with certain exceptions); and the federal government may not offer compensation to swine producers in a province not a party to an agreement. The scheme must operate at a level that limits losses but does not stimulate over-production.

The Tripartite Agreements provide for a five year phase-in period to adjust for differences between the Tripartite Scheme and the provincial programs still in effect. Existing provincial stabilization plans are to be completely phased out by 1991. During the review period, seven provincial stabilization programs remained in effect (see Section III).

Hogs eligible for stabilization payments under the Tripartite Scheme must index 80 or above. Sows and boars are not eligible for benefits because they are not indexed. Stabilization payments are made when the market price falls below the support price. The difference between the support price and the average market price is the amount of the stabilization payment.

The Tripartite Program does not act in law to limit the number of commodities that may be covered under agreements. Therefore, it is necessary to consider whether there is *de facto* specificity. The Omnibus Trade and Competitiveness Act of 1988 amended section 771(5)(B) of the Tariff Act to provide that "the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been in fact provided to a specific enterprise or industry, or group thereof." Therefore, to determine whether a program is limited to a specific enterprise or industry or group of enterprises or industries, we consider: (1) Whether the law of the foreign government acts to limit the availability of a program; (2) the number of industries or groups thereof that actually use a program; (3) whether there are dominant users of a program, or whether certain industries or groups thereof receive disproportionately large benefits under a program; and (4) the extent to which a government exercises discretion in conferring benefits under a program (*see e.g.* § 355.43(b)(2) of "Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments", 54 FR 23366 at 23379, 1989).

However, the Tripartite Program was limited in fact to only twelve commodities in eight agreements during FY 1988/89. Hog producers were the dominant users of the program accounting for 52 percent of the total payouts from the program in FY 1988/89. Furthermore, there are no explicit or standard procedures or criteria for evaluating Tripartite Agreement requests. For the foregoing reasons, in accordance with section 771(5)(B), we preliminarily determine that the Tripartite Program is countervailable because it is limited to a specific enterprise or industry, or group of enterprises or industries.

During the review period, payouts for hogs were made under the Tripartite Agreements in the provinces of Alberta, Manitoba, Ontario and Saskatchewan. To calculate the benefit, we divided two-thirds (representing the federal and provicial portions) of the payments made in FY 1988/89 by the total weight of live swine (minus sows and boars) produced in the four provinces in FY 1988/89. We then weight-averaged the benefit by the four provinces' share of total Canadian exports of live swine (minus sows and boars) to the United States. On this basis, we preliminarily determine the benefit for live swine (excluding sows and boars) to be Can$0.0481/lb. during the review period. Because sows and boars are not eligible for payments from the Tripartite Scheme, we preliminarily determine the benefit for sows and boars to be zero during the review period.

2. Canada/British Columbia Agri-Food Regional Development Subsidiary Agreement (ARDSA)

On July 25, 1985, Canada and British Columbia signed an agreement to continue agricultural development cooperation between the two governments. The agreement was preceded by the ARDSA which existed between July 1977 and July 1983. The objectives of the new agreement are to improve the competitiveness of the agri-food industry in British Columbia, increase economic output and employment opportunities in the industry, and conserve and improve the province's agricultural resources. Programs funded under the new agreement are: (1) Productivity Enhancement—including research studies in technology development, technology transfer, market and new product development, farm and agribusiness education, commodity and program planning, and public information, evaluation and implementation; (2) Resource Development—including regional irrigation and water supply systems, watershed drainage systems for agriculture, soil conservation and improvement; and (3) Commodity Development, including on-farm commodity enhancement, new and expanded market facilities, agricultural support facilities and services.

Under the new agreement, each government is committed to spending up to Can$20,000,000 over five years. Funding for projects under this agreement will be jointly shared by both

governments. For the review period, the only expenditures relevant to the swine industry were made in the program of productivity enhancement. All of these expenditures went to university-headed research projects. We verified that the results of these research projects were made publicly available. Therefore, we preliminarily determine that payments made for these research projects are not countervailable.

3. Canada/Quebec Subsidiary Agreement on Agri-Food Development

On December 14, 1984, the Government of Canada entered into an Economic and Regional Development Agreement with the Province of Quebec. Programs funded under the agreement are: (1) Research and Development—including contract research and food research; (2) Technological Innovations and New Initiatives—including agricultural production, conservation, processing and marketing; and (3) Soil Conservation and Improvement—including inventory of soil degradation problems, soil and water conservation research, and technology transfer in soil and water conservation.

Majority funding for projects under this agreement is shared evenly between the federal and provincial governments, with the applicant generally contributing a small portion. For the review period, the only expenditures relevant to the swine industry were made for five research projects involving on-farm demonstration of technologies new to Quebec. We verified that all of the results of these research projects were made publicly available. Therefore, we preliminarily determine that payments made for these research projects are not contervailable.

III. Provincial Price Stabilization Programs

1. Saskatchewan Hog Assured Returns Program (SHARP)

SHARP was established in 1976 pursuant to the Saskatchewan Agricultural Returns Stabilization Act. Under this act, the provincial government may establish a stabilization plan for any agricultural commodity. However, only hogs and cattle have such plans. SHARP provides stabilization payments to hog producers in Saskatchewan at times when market prices fall below a designated "floor price." The program is administered by the Saskatchewan Pork Producers' Marketing Board on behalf of the provincial Department of Agriculture. Participation is voluntary and is open to all hog producers in the province. Coverage is limited to 1,500 indexed hogs per producer each quarter.

Because payments from this program were provided to indexed hogs and cattle only, we preliminarily determine that the program is limited to a specific enterprise or industry, or group of enterprises or industries and is therefore countervailable.

In accordance with the Tripartite Agreement, SHARP is being phased out and will be terminated by March 31, 1991. No producers have been allowed to join SHARP since December 31, 1985.

The program is funded by levies on the sale of hogs covered by the program. Levies from participating producers range from 1.5 to 4.5 percent of market returns on the sale of hogs and are matched by the province. After the Tripartite Agreement was implemented on July 1, 1986, SHARP payments were reduced by the amount of Tripartite Scheme payments. Whenever the balance in the SHARP account is insufficient to make payments to participants, the provincial government lends the needed funds to the program at terms consistent with commercial considerations. The principal and interest on these loans are repaid by the Board using the producer and provincial contributions.

The floor price for this program is calculated quarterly, and stabilization payments are made when the market price is below the floor price. Payments were made to indexed hog producers in each quarter of the review period. Sows and boars were not eligible for payments.

To calculate the benefit, we allocated the province's half of the total stabilization payments during FY 1988/89 over the total weight of live swine (minus sows and boars) produced in Saskatchewan. We then weight-averaged the benefit by Saskatchewan's share of total Canadian exports of live swine (minus sows and boars) to the United States. On this basis, we preliminarily determine the benefit to be zero for sows and boars and Can$0.0005/lb. for other live swine during the review period.

2. British Columbia Farm Income Insurance Plan (FIP)

The FIP was established in 1979 in accordance with the Farm Income Insurance Act of 1973 (the Farm Act) in order to assure income for farmers when commodity market prices fluctuate below basic costs of production. The guidelines for the individual commodities receiving benefits are in Schedule B of the Farm Act. Schedule B4 contains the guidelines for swine producers.

FIP is only available to farmers producing commodities specified in the Schedule B guidelines. Therefore, we preliminarily determine that this program is countervailable because payments were limited to a specific group of enterprises or industries.

The program is administered by the provincial Ministry of Agriculture and Food and the British Columbia Federation of Agriculture, and is funded equally by producers and the provincial government. Premiums are paid in all quarters regardless of market results.

FIP payments are calculated quarterly based on the difference between costs of production and market returns. Participating producers receive FIP payments for calendar quarters during which costs of production exceed market returns. The basic costs of production and market returns are calculated quarterly according to a cost of production model described in the Farm Act. The same per unit cost of production model is used for all products receiving benefits. The Farm Act requires that ASA payments to individual producers be added to the market return price. Payments were made to indexed hog producers in each quarter of the review period. Sows and boars were not eligible for payments.

To calculate the benefit, we allocated the province's half of the total stabilization payments during FY 1988/89 over the total weight of live swine (minus sows and boars) produced in British Columbia. We then weight-averaged the benefit by British Columbia's share of total Canadian exports of live swine (minus sows and boars) to the United States. On this basis, we preliminarily determine the benefit to be zero for sows and boars and Can$0.0007/lb. for other live swine during the review period.

3. Quebec Farm Income Stabilization Insurance Programs (FISI)

The FISI was established in 1976 under the "Loi sur l'assurance-stabilisation des revenus agricoles." The program is administered by the Regie des Assurances Agricoles du Quebec (the Regie). The purpose of the program is to gurarantee a positive net annual income to participants whose income is lower than the stabilized net annual income. The stabilized net annual income is calculated according to a cost of production model that includes an adjustment for the difference between the average wage of farm workers and the average wage of all other workers in Quebec. When the annual average farm worker income is lower than the stabilized net annual income, the Regie

makes a payment to the participant at the end of the year.

Two-thirds of the funding for the program is provided by the provincial government and one-third by producer assessments. Participating in a stabilization scheme is voluntary. However, once a producer enrolls in a program, he must make a five-year commitment. The maximum number of feeder hogs eligible to be insured is 5,000 per farmer, and a maximum of 400 sows per farmer may also be insured. Whenever the balance in the FISI account is insufficient to make payments to participants, the provincial government lends the needed funds to the program at market rates. The principal and interest on these loans are repaid by the Regie using the producer and provincial contributions.

The program covers fourteen different producer groups, including oats, hogs, barley, slaughter beef, corn, piglets, heavy grain veal, soybeans, feed wheat, food-grade wheat, heavy milk veal, cow calves, potatoes, and lambs. Several major agricultural commodities, such as eggs, dairy products, and poultry, which make up a large portion of Quebec's total agricultural production, are not covered under this program. Because this program provides benefits to only 14 commodities, we determine that it is limited to a specific group of enterprises or industries, and is therefore countervailable.

Quebec joined the federal government's Tripartite Price Stabilization Scheme during the review period. The Tripartite Scheme largely replaces the FISI, but the difference between payments made under the Tripartite Scheme and what FISI payments would have been before Tripartite are still covered by FISI. All producers enrolled in the FISI program are also in the Tripartite Scheme, whereas some farmers opted for single coverage under the Tripartite Scheme.

To calculate the benefit, we multiplied the total payments made under both the piglet and feeder hog programs during the review period by two-thirds (representing the provincial portion). We divided this amount by the total weight of live swine (minus sows and boars) produced in Quebec. We than weight-averaged the benefit by Quebec's share of total Canadian exports of live swine (minus sows and boars) to the United States. On this basis, we preliminarily determine the benefit to live swine (excluding sows and boars) is Can$0.0001/lb. during the review period. The benefit to sows and boars is zero because they are excluded from this program.

IV. Other Provincial Programs

1. *Alberta Crow Benefit Offset Program*

The purpose of this program, which is administered by Agriculture Alberta, is to eliminate market distorations in feed prices created by the federal government's policy on grain transportation. Assistance is provided on feed grain produced in Alberta, feed grain produced outside Alberta but sold in Alberta, and feed grain produced in Alberta to be fed to livestock on the same farm. The government provides certificates to registered feed grain users and registered feed grain merchants, which can be used as partial payments for grains purchased from grain producers. Feed grain producers who feed their own grain to their own livestock submit a claim directly to the government for payment.

Hog producers receive benefits in one of three ways. Hog producers who do not grow any of their own feed grain receive certificates which are used to cover part of the cost of purchasing grain. Second, hog producers who grow all of their own grain submit a claim to the Government of Alberta for direct payment. Finally, hog producers who grow part of their own grain but also purchase grain receive both certificates and direct payments.

Because this program is limited to feed grain users, we preliminarily determine that it is limited to a specific enterprise or industry, or group of enterprises or industries, and is therefore countervailable.

The payment from this program during the review period was Can$13 per ton. To determine the benefit to swine producers from this program, we first calculated a hog grain consumption to weight-grain ratio, using information from Economic Indicators of the Farm Sector, Costs of Production—Livestock and Dairy, 1989, a U.S. Department of Agriculture publication. From this document, we determined that 3.5 pounds of grain are required to grow 1 pound of pork. The average size of a market hog in Alberta is 220 pounds, and weanlings weight on average 40 pounds at the time they begin eating grain. Swine therefore increase in weight 180 pounds prior to sale for slaughter. This 180 pounds weight gain multiplied by the 3.5 ratio means that each hog consumes approximately 630 pounds of grain.

We established at verification that barley, wheat, and oats make up approximately 92 percent of all grains consumed by livestock. Using figures from the Alberta Supply and Disposition Tables, we divided the total livestock consumption for these three grains in the review period by 92 percent to estimate the total metric tons of grain consumed by livestock in Alberta during the review period.

For swine production figures for the review period, we used the Supply-Disposition Balance Sheets of Statistics Canada. We multiplied this number by the average grain consumption per hog and divided the result by total grain used to feed livestock animals. We thus calculated live swine's percentage of total livestock consumption of grain in Alberta to be 14.01 percent. We then multiplied this percentage by the total value of certificates and payments received during the review period to calculate the benefit to swine producers from this program. We then weight-averaged the benefit by Alberta's share of total Canadian exports of live swine, including sows and boars to the United States. On this basis, we preliminarily determine the benefit to be Can$0.0042/lb. for live swine (excluding sows and boars) and Can$0.0042/lb. for sows and boars during the review period.

2. Ontario Farm Tax Rebate Program

This program replaced the Ontario Farm Tax Reduction Program. Eligible farmers receive a rebate of 100 percent of property taxes levied on farm properties for municipal and school purposes; levied for local improvements under the Local Improvement Act; levied under the Provincial Land Tax Act or the Local Roads Boards Act; and imposed under the Local Services Boards Act. Farm property includes farm lands and outbuildings. Eligible properties include farms that produce food, fish, breeding horses and donkeys, pregnant mare's urine, fur-bearing animals, tobacco, flowers, nursery stock, sod or ornamentals.

Any resident of Ontario may recieve a rebate if he/she owns and pays taxes on eligible properties. Residents of Southern and Western Ontario must produce farm products with a gross value of at least Can$8,000 and residents of Northern and Eastern Ontario must produce products with a gross value of at least Can$5,000. Because this program is limited to a specific group of enterprises or industries, we preliminarily determine that this program is countervailable.

To calculate the benefit, we divided total rebates to swine producers by the total weight of live swine produced in Ontario during the review period. We then weight-averaged the result by Ontario's share of Canadian exports of live swine, including sows and boars, to the United States during the review period. On this basis, we preliminarily

determine the benefit to be Can$0.0004/lb. for live swine (excluding sows and boars) and Can$0.0004/lb. for sows and boars during the review period.

3. Ontario (Northern) Livestock Improvement and Transportation Assistance Programs

The Northern Livestock Improvement Program reimburses farmers for up to 20 percent of the purchase cost of breeding stock, including dairy cows, heifers, beef bulls, rams, ewes, and boars. A maximum of Can$2,500 may be reimbursed to an individual during a three-year period. Swine producers are reimbursed for a maximum of Can$100 per boar. The Northern Livestock Transportation Assistance Program, terminated on March 31, 1989, reimbursed producers living in Northern Ontario 50 percent of the costs of transporting high quality breeding stock from Southern to Northern Ontario.

Because these programs provide payments that are limited to livestock producers in Northern Ontario, we preliminarily determine that they are limited to a specific enterprise or industry and are therefore countervailable. To calculate the benefit, we divided the total payment to hog producers under these programs by the total weight of live swine produced in Ontario during the review period. We then weight-averaged the result by Ontario's share of Canadian exports of live swine to the United States during the review period, resulting in benefits from this program during the review period for both sows and boars and other live swine that were significantly less than Can$0.0001/lb., which are effectively zero.

4. Ontario Pork Industry Improvement Plan (OPIIP)

This five-year plan is effective from April 1, 1986 to March 31, 1991. The plan provides grants to Ontario swine producers to enable them to improve their productivity, profitability and competitive position by increasing their efficiency. To be eligible for the plan, producers must be residents of Ontario, own or lease facilities in Ontario for swine production and have at least 20 sow equivalents. One sow equivalent is equal to one sow or 15 marketweight hogs marketed annually. Ten types of grants are available to swine producers under this plan. These grants are for the following: swine production analysis, enterprise analysis, swine ventilation, productivity and quality improvement, artificial insemination, rodent control, private veterinary herd health program, education, feed analysis, and herd health improvement. During the review period, Ontario swine producers received grants under each of these programs.

Because the OPIIP provides grants only to swine producers, we preliminarily determine that it is limited to a specific enterprise or industry and is therefore countervailable.

To calculate the benefit, we divided the total value of all grants provided to swine producers during the review period over the total weight of live swine produced in Ontario during this period. We then weight-averaged the result by Ontario's share of total Canadian exports of live swine, including sows and boars, to the United States during the review period. On this basis, we preliminarily determine the benefits from this program to be Can$0.0002/lb. for sows and boars and Can$0.0002/lb. for other live swine during the review period.

5. Quebec Productivity Improvement and Consolidation of Livestock Production Program

This program was established in April 1987 to provide financial assistance to livestock producers for the diversification and consolidation of farm operations. The program is limited to producers with small farming operations and is divided into eight subprograms. Swine producers are eligible only for the Farm Building Improvements Subprogram. This subprogram provides grants for changes to existing piggeries in order to consolidate single-purpose operations into farrow-to-finish operations. The grants cover up to 30 percent of the actual cost of the conversion as well as the purchase and installation of special equipment.

To be eligible for assistance, applicants must be recognized farm producers according to the Farm Producers' Act and be registered with the Bureau de Renseignements Agricoles. Producers operating farrowing facilities must maintain between 40 and 80 sows, and finishing farms must maintain between 500 and 1,000 hogs. The maximum assistance is Can$200 per sow and Can$25 per hog, with a maximum of Can$15,000 per farm operation for the duration of the program.

Because this program is limited to livestock producers, we preliminarily determine that it is limited to a specific group of enterprises or industries, and is therefore countervailable.

To calculate the benefit, we divided the total payment to swine producers by the total weight of live swine produced in Quebec during the review period. We then weight-averaged the result by Quebec's share of total Canadian exports of swine, including sows and boars, to the United States during the review period, resulting in benefits from this program during the review period for both sows and boars and other live swine that were significantly less than Can$0.0001/lb., which are effectively zero.

6. Quebec Regional Development Assistant Program

This program was established in April 1987 to promote regional development in Quebec. The program consists of four subprograms: (1) Soil upgrading; (2) consolidation of cattle and sheep production; (3) assistance for transporting livestock; and (4) marketing assistance. The Livestock Transportation Subprogram is the only one available to hog producers. This subprogram provides financial assistance to eligible producers for transporting animals to a government inspected slaughterhouse or to a public market. Quebec is divided into twelve agricultural regions, only five of which (three full regions and parts of two others) are eligible for aid under the subprogram. For purposes of this program, these five regions are divided into seven zones based on the distance from the Montreal-Quebec triangle. The assistance offered varies according to the zone in which the applicant's operation is located.

Because this program is limited to livestock producers in specific regions of Quebec, we preliminarily determine that it is limited to a specific group of enterprises or industries and is limited to specific geographic areas and is therefore countervailable.

To calculate the benefit, we divided the total payment to swine producers by the total weight of live swine produced in Quebec during the review period. We then weight-averaged the result by Quebec's share of total Canadian exports of live swine, including sows and boars, to the United States during the review period, resulting in benefits from this program during the review period for both sows and boars and other live swine that were significantly less than Can$0.0001/lb., which are effectively zero.

7. Saskatchewan Livestock Investment Tax Credit

Saskatchewan's 1984 Livestock Tax Credit Act provides tax credits to individuals, partnerships, cooperatives and corporations who own and feed livestock in Saskatchewan for slaughter. Claimants must be residents of Saskatchewan and pay Saskatchewan income taxes. Eligible claimants receive

credits of Can$25 for each bull, steer or heifer, Can$2 for each lamb and Can$3 for each hog, and the tax credits may be carried forward for up to seven years. The credits must be included as taxable income the year after receipt. The credit is available to hogs indexing 80 or higher.

Because this program is limited to livestock producers, we preliminarily determine that it is limited to a specific group of enterprises or industries and is therefore countervailable.

To calculate the benefit, we divided the total amount of hog credits issued by the total weight of live swine (minus sows and boars) produced in Saskatchewan. We then weight-averaged the result by Saskatchewan's share of total exports of live swine (minus sows and boars) to the United States. On this basis, we preliminarily determine the benefit from this program to be Can$0.0002/lb. for live swine (other than sows and boars) during the review period. Because sows and boars are not eligible for this program, we preliminarily determine the benefit from this program to be zero for sows and boars.

8. Saskatchewan Livestock Facilities Tax Credit Program

This program was implemented on January 1, 1986 and provides tax credits to livestock producers for investment in livestock production facilities. The credit may only be used to offset provincial taxes. Applications for tax credits must be received by the Saskatchewan Ministry of Agriculture no later than six months after the project is completed.

Livestock covered by this program can be raised for either breeding or slaughter. Eligible livestock include cattle, horses, sheep, swine, goats, poultry, bees, fur-bearing animals raised in captivity, or any other designated animals. Investments covered under the program include new buildings, improvements to existing livestock facilities, and any stationary equipment related to livestock facilities.

The program pays 15 percent of 95 percent of project costs, or 14.25 percent of total costs, in order not to overlap with the Business Investment Tax Credit Program, a federal program. Participants may carry forward any unused credit for up to seven years. Because this program is limited to livestock producers, we preliminarily determine that it is limited to a specific group of enterprises or industries and is therefore countervailable.

To calculate the benefit, we divided the tax credits used by hog producers during the review period by the total weight of live swine produced in Saskatchewan during the review period. We then weight-averaged the result by Saskatchewan's share of total exports of live swine, including sows and boars, to the United States during the review period. On this basis, we preliminarily determine the benefit of the Can$0.0001/lb. for sows and boars and Can$.0001/lb. for other live swine during the review period.

9. British Columbia (B.C.) Feed Grain Market Development Program

This program was initiated on August 1, 1987, and was terminated at the end of the 1988 crop year, with the last payments being issued in February 1990. It was designed to address two issues: (1) The cash-flow problem for the grain producers in the Peace River area of Northern British Columbia, and (2) the drain of livestock into Alberta for feeding and slaughter (primarily for cattle) due to the Alberta Crow Benefit Offset Program. The program provided Can$15/ton to the grain producer when the grain was sold domestically. Livestock producers purchasing this grain were paid Can$11/ton of feed grain consumed. The payments provided an incentive for the grain users to purchase the more expensive (due to transportation costs) B.C. grain, and an incentive for the B.C. grain producers to sell in B.C., rather than exporting the grain.

Because this program is limited to grain producers and grain users in B.C., we preliminarily determine that it is limited to a specific group of enterprises or industries and is therefore countervailable.

To calculate the benefit, we divided the amount paid to swine producers by the total weight of live swine produced in British Columbia during the review period. We then weight-averaged the result by British Columbia's share of total exports of live swine, including sows and boars, to the United States during the review period. On this basis, we preliminarily determine the benefit to be Can$0.0001/lb. for sows and boars and Can$0.0001/lb. for other live swine during the review period.

10. British Columbia Special Hog Payment Program

As a result of a labor dispute at a major B.C. packing plant in the fall of 1988, the value of market hogs during this period fell sharply. The strike resulted in higher shipping costs for the hog purchasers because the swine were sent to slaughter houses in other provinces. In response, the government established a short-term program with payments made in FY 1988/89 only.

Because this program is limited to swine producers, we preliminarily determine that it is limited to a specific group of enterprises or industries and is therefore countervailable.

To calculate the benefit, we divided the total payments from this program by the total weight of live swine produced in British Columbia during the review period. We then weight-averaged the result by British Columbia's share of total exports of live swine, including sows and boars, to the United States during the review period, resulting in benefits from this program during the review period for both sows and boars and other live swine that were significantly less than Can$0.0001/lb., which are effectively zero.

Other Programs

We examined the following programs and preliminarily determine that exporters of live swine from Canada to the United States did not use them during the review period: (1) Manitoba Hog Income Stabilization Plan; (2) Alberta Red Meat Interim Insurance Program; (3) British Columbia Swine Herd Improvement Program; (4) New Brunswick Hog Price Stabilization Program; (5) New Brunswick Livestock Incentives Program; (6) New Brunswick Agricultural Development Act—Swine Assistance Program; (7) New Brunswick Hog Marketing Program; (8) New Brunswick Swine Industry Financial Restructuring Program; (9) New Brunswick Tripartite Price Stabilization Scheme for Hogs; (10) New Brunswick Swine Assistance Policy on Boars; (11) New Brunswick Tripartite Price Stabilization Program; (12) Newfoundland Weanling Bonus Incentive Policy; (13) Newfoundland Hog Stabilization Program; (14) Nova Scotia Natural Products Act—Pork Price Stabilization Program; (15) Nova Scotia Tripartite Price Stabilization Program; (16) Nova Scotia Swine Herd Health Policy; (17) Nova Scotia Transportation Assistance Program; (18) Nova Scotia Improved Sire Policy; (19) Prince Edward Island Hog Price Stabilization Program; (20) Prince Edward Island Transportation Grants; (21) Prince Edward Island Tripartite Price Stabilization Program; (22) Prince Edward Island Swine Development Program; (23) Prince Edward Island Interest Payments on Assembly Yard Loan; (24) Ontario Hog Price Stabilization Program; (25) Ontario Weaner Pig Stabilization Plan; (26) Newfoundland Farm Products Corporation—Hog Price Support Program; and (27) Newfoundland Weanling Bonus Incentive Policy.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy for the period April 1, 1988 through March 31, 1989 to be Can$0.0051/lb. for sows and boars and Can$0.0548/lb. for all other live swine.

The Department intends to instruct the Customs Service to assess countervailing duties of Can$0.0051/lb. on shipments of sows and boars and Can$0.0548/lb. on all other live swine for all shipments exported on or after April 1, 1988 and exported on or before March 31, 1989.

As provided by section 751(a)(1) of the Tariff Act, the Department also intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties of Can$0.0051/lb. on shipments of sows and boars and Can$0.0548/lb. on all other live swine 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 § 355.38(e) of the Department regulations.

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 briefs 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: January 31, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-3339 Filed 2-11-91; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination; Certain Coater Blade Steel

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain coater blade steel.

SHORT-SUPPLY REVIEW NUMBER: 38.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a short-supply allowance for 280 metric tons of certain coater blade steel for 1991 under the U.S.-EC steel arrangement.

EFFECTIVE DATES: February 6, 1991.

FOR FURTHER INFORMATION CONTACT: Sally A. Craig or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377-0165 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On January 22, 1991, the Secretary received an adequate petition from J.N. Eberle & Cie ("Eberle")— of Augsburg, Federal Republic of Germany, through the Commission of the European Communities, requesting a short-supply allowance for 280 metric tons of this product for 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Products. Eberle requested short supply because this product is not available in the United States and because it has insufficient quota available. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

The requested material, which is used in the printing industry, meets the following specifications:

Width range: 2.5–4.25 inches;
Thickness range: 0.012–0.050 inch;
Straightness deviation: Maximum of 0.024 inch/10 feet of length;
Flatness: Extra accurate, with maximum deviation of 0.0025 inch/inch of width;
Other: High wear resistance, edge finish without notches, no surface defects, hardened and tempered, narrow tensile strength tolerances with maximum deviation ±7 KSI.

Action

On January 22, 1991, the Secretary established an official record on this short-supply request (Case Number 38) in the Centeral Records Unit, room B-009, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) Commerce's Short-Supply Procedures require the Secretary to apply a rebuttable presumption that a product is in short supply and to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that the importation of additional quantities of the requested steel product was authorized during each of the two immediately preceding years. Therefore, the Secretary has applied a rebuttable presumption that this product is presently in short supply in accordance with section 4(b)(4)(B)(i)(II) of the Act and § 357.106(b)(1)(ii) of Commerce's Short-Supply Procedures.

Unless domestic steel producers provided proof that they could and would produce the requested quantity of this product within the desired period of time, provided it represented a normal order-to-delivery period, the Secretary would issue a short-supply allowance not later than February 6, 1991. On January 29, 1991, the Secretary published a notice in the **Federal Register** announcing a review of this request and providing domestic steel producers an opportunity to rebut the presumption of short supply. All comments were required to be received no later than February 5, 1991. No comments were received.

Conclusion

Since the Secretary received no comments to the **Federal Register** notice by potential suppliers to rebut the Secretary's presumption of short supply for the requested product, the Secretary

hereby grants, pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, a short-supply allowance for 280 metric tons of the requested coater blade steel for 1991 under the U.S.-EC steel arrangement.

Dated: February 6, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-3340 Filed 2-11-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Listing Endangered and Threatened Species; Action To Review the Status of the Harbor Porpoise

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

ACTION: Notice of intent to conduct a status review and request for information.

SUMMARY: NMFS will review the status of the harbor porpoise (*Phocoena phocoena*) to determine whether the species or any distinct population stock of harbor porpoise should be designated as depleted under the Marine Mammal Protection Act (MMPA) or if the species or distinct population segment should be added to the List of Threatened and Endangered Species under the Endangered Species Act (ESA). To ensure that the review is comprehensive, NMFS is soliciting information and data concerning the status of the harbor porpoise.

DATES: Comments and information must be received by April 15, 1991.

ADDRESSES: Comments should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources, F/PR2, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro, Protected Species Management Division, NMFS, 301-427-2323.

SUPPLEMENTARY INFORMATION:

Background

Section 115 of the MMPA contains provisions allowing the Secretary of Interior or Secretary of Commerce (Secretary) to designate a species or population stock as depleted (below its optimum sustainable population level). In accordance with section 115(a)(2) of the MMPA, NMFS is requesting assistance in obtaining scientific information on the harbor porpoise or any distinct population stock of harbor porpoise.

Section 4 of the ESA and 50 CFR part 424 contain provisions allowing the Secretary to add or remove a species or distinct population segment from the List of Endangered and Threatened Species. If the Secretary determines there is substantial scientific or commercial information indicating that listing a certain species may be warranted, a status review is conducted.

A species could be determined endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Determinations concerning decisions on listings are made solely on the best available scientific and commercial data available after a status review of the species is conducted and after taking into account any efforts being made by a state or foreign nation, or its subdivision, to protect the species.

NMFS believes there is substantial scientific and commercial information indicating that the status of the harbor porpoise should be reviewed.

Biological Information Solicited

To ensure that the review is complete and is based on the best available data, NMFS is soliciting information and comments concerning the status of the harbor porpoise, or any distinct population stock or segment of harbor porpoise, from any interested person. It is requested that data, information, and comments be accompanied by (1) Supporting documentation such as maps, bibliographic reference, or reprints of pertinent publications and (2) the person's name, address, and any association, institution, or business that the person represents.

Dated: February 6, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 91-3298 Filed 2-11-91; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's (Council) Fishery Planning Committee and its Data Committee will hold public meetings on February 27 and on February 28, 1991, respectively. The Fishery Planning Committee will hold a second meeting on March 19, 1991. On February 27 the Fishery Planning Committee will meet at the Juneau Airport Travelodge, Glacier Room, 9200 Glacier Highway, Juneau, AK, at 9 a.m. On February 28 the Data Committee will meet at the Juneau Airport Travelodge, Glacier Room (address above), at 9 a.m. On March 19 the Fishery Planning Committee will meet, at the National Marine Fisheries Service, Alaska Fisheries Science Center, Building 4, room 2079, at 9 a.m.

The Fishery Planning Committee is scheduled to review on February 27 the halibut working group's recommended alternatives as part of the halibut limited access analysis. The Committee also will receive a detailed status report on the biological, economic, and social impact anaylsis of the inshore/offshore allocation issue. Preliminary results from the analyses will be available; the analytical team will likely seek the Committee's final guidance in preparation for an integrated analytical document which is due to be reviewed by the Committee in March.

On February 28 the Data Committee will review the proposed user fee program designed to assist in funding the domestic observer program and approve, for public review, the draft analytical package.

On March 19 the Fishery Planning Committee will review a draft inshore/offshore analysis. The Committee's comments will be forwarded to the analytical team for comment on the public review package which is due in April. The Committee also is scheduled to develop alternatives for a moratorium on entry into all fisheries within the Council's area of jurisdiction.

For more information contact Steve Davis, Deputy Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Dated: February 6, 1991.

David S. Crestin,

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

[FR Doc. 91-3237 Filed 2-11-91; 8:45 am]

BILLING CODE 3510-22-M

Endangered Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Request for modification to scientific research permit no. 675 (P440).

SUMMARY: Notice is hereby given that Dr. C. Scott Baker has requested a

modification to Permit No. 675 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) and § 220.24 of the Regulations Governing Endangered Species (50 CFR part 217–222).

Permit No. 675, issued August 24, 1989 (54 FR 35220), authorized taking by harassment of up to 400 humpback whales (*Megaptera novaeangliae*) during photo-identification activities and the collection of skin biopsies in the territorial waters of the United States.

Modification No. 1 was issued on November 15, 1989 (54 FR 47543) to include Alaska, Hawaii, the Mariana Islands, and the Antarctic continent.

Modification No. 2 was issued on May 31, 1990 (55 FR 22056) to allow for an increase in the collection and importation from the sea of biopsy samples from a maximum of 80 minke whales (*Balaenoptera acutorostrata*) and 40 southern right whales (*Balaena australis*) from the Antarctic Peninsula region of the southern hemisphere. Modification No. 2 also allowed for the importation of biopsy samples of humpback whales collected in the territorial waters of other nations.

Modification No. 3 was issued on January 3, 1991 (56 FR 248) to collect skin biopsy samples from a maximum of 200 gray whales (*Enchrichtius robustus*), 200 bowhead whales (*Balaena mysticetus*), and 100 blue whales (*Balaenoptera musculus*) in the territorial waters of the United States. Authorization was granted to import into the United States biopsy tissue samples from gray, blue, and bowhead whales collected in territorial waters of other nations and to export, from the United States to New Zealand, biopsy tissue samples from humpback, minke, and southern right whales.

This modification is requested to allow collection of biopsy samples using a larger (6 cc) sampling instrument that would provide the sample volume needed to carry out sensitive laboratory analyses of the possible presence and concentration of polychlorinated biphenyls (PCB's), organochlorine pesticides, polycyclic hydrocarbons, and other potentially harmful tissue contaminants. In addition, authorization is requested to use a commercially available compressed gas-powered shoulder gun to project both the modified and unmodified biopsy instruments. The take is the same as already authorized under Permit No. 675. No additional animals were requested.

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

Written data or views, or requests for a public hearing on this proposed modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Highway, room 7320, 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 proposal 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 proposed modification 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 are available for review by interested persons in the following offices:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Room 7320, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;

Director, Northeast Region, National Marine Fisheries Service NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415; and

Administrator, Western Pacific Program Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, room 106, Honolulu, Hawaii 96822–2396.

Dated: February 5, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91–3299 Filed 2–11–91; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Regulatory Coordination Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, DC headquarters located at room 532, 2033 K Street, NW., Washington, DC 20581, on February 27, 1991, beginning at 1:30 p.m. and lasting until 5 p.m. The agenda will consist of:

Agenda

1. Report to the Committee from the Working Group on Speculative Limits.
2. Report to the Committee from the Working Group on Regulation of Managed Accounts.
3. Report to the Committee from the Working Group on International Issues.
4. Follow-up on issues discussed at earlier Committee meetings, including:
(a) Report of recommendations on clearing and settlement by Dennis Earle; and
(b) Commodity pool issues, including the Commission's CPO/CTA study; disclosure of CPO/CTA performance record disclosure (ROR); and investment restrictions on pool investment in affiliates;
(c) Proposed rules regarding transfer of accounts;
(d) Risk disclosure issues.
5. Other issues for Committee consideration; additional working groups; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the agenda matters listed above. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 16, 1990 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Chairman Wendy L. Gramm, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Regulatory Coordination Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Hathaway in writing to the foregoing address at least three business days before the meeting.

Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on February 6, 1991.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91-3235 Filed 2-11-91; 8:45 am]

BILLING CODE 6351-01-M

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairperson: Donald L. Tendick, Deputy Executive Director.

Members: Andrea Corcoran, Director, Division of Trading and Markets; Dennis Klejna, Director, Division of Enforcement; Joanne Medero, General Counsel; Gerry Gay, Director, Division of Economic Analysis.

DATES: This action was effective February 6, 1991.

ADDRESSES: Commodity Futures Trading Commission, Office of Personnel, room 202, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Stacy L. Dean, Director, Office of Personnel, Commodity Futures Trading Commission, room 202, 2033 K Street NW., Washington, DC 20581, (202) 254-3275.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, 55 FR 19772, May 11, 1990.

Issued in Washington, DC on February 6, 1991.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 91-3293 Filed 2-11-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on the Directed Energy Weapons for Delay & Denial Security Systems will meet on 28 February 1991, at Grand Forks AFB, North Dakota, from 8 a.m. to 5 p.m. and on 1 March 1991 at Offutt AFB, Nebraska, from 8 a.m. to 5 p.m.

The purpose of this meeting is to obtain information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-3278 Filed 2-11-91; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Proposal Review Committee of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 19-21, 1991, 9 a.m. until conclusion of business each day.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue SW., Room 1130 (Sanchez Room), Washington, DC 20202. Telephone: 202/732-1887 (Messages Only).

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street SW., Room 4072, Switzer Building, Washington, DC 20202-7556. Telephone: 202-732-1353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (part C, title V, Pub. L. 100-297) and to advise the Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

Under section 5342(b)(2) of the Indian Education Act, the Council is directed to review applications for assistance submitted under the Indian Education Act and to make recommendations to the Secretary of Education with respect to their approval. The Proposal Review Committee of the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business each day at approximately 5 p.m. The agenda includes reviewing grant applications for assistance under programs authorized by subparts 1, 2, and 3 of the Indian Education Act, including applications for (1) Discretionary Grants to Indian-Controlled Schools; (2) Planning, Pilot, and Demonstration Projects; (3) Educational Services for Indian Children Projects; and (4) Educational Services for Indian Adults.

Discussion during the closed meeting may disclose sensitive information about applicants, qualifications of proposed staff, funding levels and requests, and the names and comments of expert reviewers. Such discussion would disclose commercial or financial information obtained from a person which is privileged or confidential and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (4) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c)).

The public is being given less than 15 days notice due to problems in scheduling this meeting.

A summary of the activities of the closed meeting and related matters, which are informative to the public consistent with the policy of title 5 U.S.C. 552b, will be available to the public within 14 days of the meeting.

Dated: February 7, 1991.

Signed at Washington, DC.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 91-3394 Filed 2-11-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Energy.

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 by March 14, 1991. 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 Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–546.
3. 1902–0155.
4. FERC–546, Certificate Rate Filings: Gas Pipeline Rates.
5. Extension.
6. On occasion.
7. Mandatory.
8. Business or other for-profit.
9. 125 respondents.
10. 4.67 responses.
11. 40 hours per response.
12. 23,350 hours.
13. The data filed in rate filings to implement certificated new services for the transportation and sale of natural gas are used by the Commission to establish a basis for determining just and reasonable rates that should be charged.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, February 6, 1991.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91–3338 Filed 2–11–91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF85-253-002]

North Powder Energy, Inc.; Errata to Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

February 6, 1991.

A notice of the application for recertification of a facility as a qualifying small power production facility filed by North Powder Energy, Inc. (Applicant) on January 9, 1991, was published in the **Federal Register** on January 29, 1991 (Volume 56, page 3244). On January 30, 1991, Applicant clarified that, but for the change in ownership described in the application for recertification, the small power production facility described in the application for recertification is the same as previously described to the Commission for purposes of certification.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3241 Filed 2–11–91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-82-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 5, 1991

Take notice that Columbia Gas Transmission Corporation (Columbia) on February 1, 1991, tendered for filing the tariff sheets identified on Appendix A for inclusion in its FERC Gas Tariff, First Revised Volume No. 1, to be effective March 4, 1991.

The purpose of the tariff sheets is to submit a new Rate Schedule, designated OPT, under which Columbia proposes to provide off-peak firm transportation service under its blanket transportation certificate. Such service would be equivalent to firm transportation service under Columbia's current FTS Rate Schedule, except that the service could be interrupted for up to either 30 or 60 days during the winter period, when capacity would be needed to meet other firm services. OPT would be a firm service, with a higher priority than Columbia's interruptible services. Rates for OPT would be established at the level of the current FTS commodity charge and a reduced level of the current FTS reservation charge. Columbia is also submitting revisions to certain existing tariff sheets solely for the purpose of incorporating references to the new rate schedule.

Columbia states that it is submitting this service in response to inquiries from current and potential customers, and that the service would be a valuable addition to its current menu of services. Columbia plans to make capacity available initially through the use of an open season, and will conduct a lottery if necessary to allocate capacity.

Columbia states that copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 13, 1991. 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 Columbia's filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3242 Filed 2-11-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-96-NG]

The Montana Power Co.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting The Montana Power Company (MPC) blanket authorization in FE Docket No. 90-96-NG to import up to 10 Bcf of Canadian natural gas to serve its system supply requirements over a two-year period beginning on February 7, 1991, through February 6, 1993.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 6, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-3337 Filed 2-11-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44563; FRL 3877-3]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on *m*-phenylenediamine (*m*-pda) (CAS No. 108-45-2), *o*-phenylenediamine (*o*-pda) (CAS No. 95-54-5), and *p*-phenylenediamine (*p*-pda) (CAS No. 106-50-3) submitted pursuant to a final test rule. Test data was also submitted on 1,1,1-trichloroethane (CAS No. 71-55-6) and octamethylcyclotetrasiloxane (omcts) (CAS No. 556-67-2) pursuant to a testing consent order. All tests were submitted under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received. Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for *m*-pda, *o*-pda and *p*-pda were submitted by du Pont Chemicals pursuant to a test rule at 40 CFR 799.3300. They were received by EPA on January 16 and 17, 1991. A submission for *m*-pda describes a mouse bone marrow micronucleus assay. Another submission for *m*-pda, *o*-pda and *p*-pda describes an acute aquatic toxicity study. Health and environmental effects testing is required by this test rule. This chemical is used in aramid fibers, rubber and plastic antioxidants, photographic chemicals, dye intermediates, corrosion inhibitors and pesticides.

Test data for 1,1,1-trichloroethane were submitted by the Halogenated Solvents Industry Alliance pursuant to a consent order at 40 CFR 799.5000. They were received by EPA on January 14, 1991. The submissions describe the acute motor activity effects in rats, the acute neurophysiologic effects in rats, and the acute neurophysiologic effects via gavage in rats. Health effects testing is required by this consent order. This chemical is used as a cleaning stabilizer.

Test data for omcts were submitted by the Silicones Health Council on behalf of the test sponsors and pursuant to a consent order at 40 CFR 799.5000. The data were received by EPA on January 10, 1991. The submissions describe a toxicity test with rainbow trout (*oncorthynchus mykiss*) embryos and larvae. Environmental effects testing is required by this test rule. This chemical is used as an intermediate in the production of polydimethylsiloxane.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44563). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: January 29, 1991.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 91-3316 Filed 2-11-91; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3903-7]

List of Facilities Prohibited From Receiving Government Contracts

AGENCY: Environmental Protection Agency.

ACTION: EPA list of facilities prohibited from receiving government contracts under 40 CFR part 15.

SUMMARY: 40 CFR 15.40 requires the Environmental Protection Agency (EPA) to publish in the **Federal Register** a list of all persons and facilities prohibited under 40 CFR part 15 from receiving federal government contracts, grants, loans, subcontracts, subgrants, or subloans. The following list contains the names and locations of the prohibited facilities, the effective date of each listing and removal (if applicable).

FOR FURTHER INFORMATION CONTACT: T.A. Gipson, Listing Official, Office of Enforcement, United States Environmental Protection Agency, room 112 NE Mall (LE-133), 401 M St., SW., Washington, DC 20460. Telephone 202-475-8777.

SUPPLEMENTARY INFORMATION: Section 306 of the Clean Air Act [42 U.S.C. 7401 *et seq.*, as amended by Pub. L. 91-604], and section 508 of the Clean Water Act (33 U.S.C. 1251 *et seq.*, as amended by Pub. L. 92-500), and Executive Order 11738, authorize EPA to bar (after appropriate Agency procedures) facilities which have given rise to violations of the Clean Air Act (CAA) or the Clean Water Act (CWA) from being

used in the performance of any federal contract, grant or loan. On April 16, 1975, regulations implementing the requirements of the statutes and the Executive Order were promulgated in the **Federal Register** (see 40 CFR part 15, 40 FR 17124, April 16, 1975, as amended at 44 FR 6911, February 5, 1979). On September 5, 1985, revisions to those regulations were promulgated in the **Federal Register** (see 50 FR 36188, September 5, 1985). The regulations provide for the establishment of a List of Violating Facilities which reflects those facilities ineligible for use in nonexempt federal contracts, grants, loans, subcontracts, subgrants, or subloans.

The List of Violating Facilities is comprised of two sublists. Sublist 1, mandatory listing (40 CFR 15.10), includes those facilities listed on the basis of a conviction under section 113(c)(1) of the CAA or section 309(c) of the Clean Water Act. Sublist 2, discretionary listing (40 CFR 15.11), includes those facilities listed on the basis of continuing or recurring noncompliance with clean air or clean water standards, and:

1. A conviction by a federal court under section 113(c)(2) of the CAA, or
2. Any injunction, order, judgment, decree (including consent decrees), or other form of civil ruling by a federal, state or local court issued as a result of noncompliance with clean air or water standards, or
3. A conviction by a state or local court of a criminal offense on the basis of noncompliance with clean air standards or clean water standards, or
4. Violation of an administrative order issued under sections 113(a), 113(d), 167, or 303 of the Clean Air Act or section 309(a) of the CWA, or
5. A Notice of Noncompliance issued by EPA under section 120 of the CAA, or
6. An enforcement action filed by EPA in federal court under sections 113(b), 167, 204, 205, or 211 of the CAA or section 309(b) of the CWA due to noncompliance with clean air or water standards.

This **Federal Register** Notice identifies facilities placed on the List of Violating Facilities as a result of discretionary listing under 40 CFR 15.11; those facilities for which EPA has received and reviewed court documents and other information indicating that they are subject to mandatory listing under 40 CFR 15.10; and facilities removed from the list pursuant to 40 CFR 15.20 or 15.21. Facilities whose owners or operators have been convicted of criminal violations under section 113(c)(1) of the CAA or section 309(c) of the CWA are automatically ineligible for any Federal agency contract, grant or loan effective the date of conviction. It should be noted that section 705 of the CAA Amendments of 1990 amended section 306(a) of the CAA to expand the categories of CAA criminal violations which are subject to mandatory listing to include a criminal conviction pursuant to any offense under CAA section 113(c). Prior to the CAA Amendments of 1990, CAA section 306(a) prohibited the federal government from using in the performance of government contracts, grants or loans a facility which was owned, leased or supervised by any person who was convicted of a criminal offense under CAA section 113(c)(1) if that facility gave rise to the violation which led to the conviction. The prohibition did not include convictions for a criminal offense under CAA section 113(c)(2), violations of reporting and recordkeeping requirements.

The List of Violating Facilities is maintained by the Contractor Listing Program in the Office of Enforcement and is revised whenever a facility is added to the List or removed from the List. EPA notifies the General Services Administration (GSA) Office of Acquisition Policy that a facility has been added to or removed from the EPA List of Violating Facilities at the same time that EPA notified the affected facility. GSA then immediately adds the facility to, or removes the facility from, the electronically maintained consolidated lists of parties excluded throughout the U.S. Government from receiving federal contracts (or certain subcontracts) and from receiving certain types of Federal assistance. The GSA also issues a monthly publication, "Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs." Subscriptions to the "Lists of Parties * * *" can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone (202) 783–3238. Further information regarding GSA's "Lists of Parties Excluded * * *" may be obtained by writing to the Office of GSA Acquisition Policy, U.S. General Services Administration, Washington, DC 20405, Attention: Ms. Natalie L. Jones or Ms. Jacqueline M. Higgins.

The following is the list of all facilities currently on the EPA List of Violating Facilities. Facilities which have been added since publication of the last **Federal Register** notice are identified with one asterisk (*).

List of Violating Facilities

Sublist 1: Mandatory Listing

Name and Effective Date	Location and Basis for Listing
Apodaca & Sons Plating Co., Oct. 3, 1988.	El Monte, California Facility, CWA Sec. 309(c).
*Astro Circuit Corp., June 29, 1989.	Lowell, Massachusetts Facility, CWA Sec. 309(c).
*Ballard Shipping Co., Sept. 9, 1989.	Vessel M/T World Prodigy, CWA Sec. 309(c).
*Bill L. Walters Companies, The, Feb. 9, 1989.	Denver, Colorado Facility, CWA Sec. 309(c).
*Borjohn Optical Technology, Inc., Nov. 7, 1990.	Burlington, Massachusetts Facility, CWA Sec. 309(c).
Bridgeport Wrecking Co., Inc., Mar. 15, 1990.	Bridgeport, Connecticut Facility, CAA Sec. 113(c)(1).
California Tank Lines, Inc., May 14, 1987.	Stockton, California Facility, CWA Sec. 309(c).
*Caroline Tires, Inc., July 25, 1990.	West Palm Beach, Florida Facility, CWA Sec. 309(c).
Chemical Formulators, Jan. 29, 1981.	Nitro, West Virginia Facility, CWA Sec. 309(c).
Chemical Transfer Co., May 14, 1987.	Stockton, California Facility, CWA Sec. 309(c).
Colorado River Sewage System Joint Venture, Aug. 31, 1987.	Parker, Arizona Facility, CWA Sec. 309(c).
*Country Estates Investment, Inc., d/b/a Colony Cove Mobile Home Park, Apr. 11, 1989.	Springfield, Missouri Facility, CWA Sec. 309(c).
*DAR Construction, Inc., Apr. 7, 1989.	Staten Island, New York Facility, CWA Sec. 309(c).
*De Nardi Corp., Dec. 20, 1990.	El Cajon, California Facility, CWA Sec. 309(c).
*Denver Sanitary Co., Mar. 15, 1988.	Denver, Colorado Facility, CWA Sec. 309(c).
Donahoo, Charles A., Jr., d/b/a Charlie Wrecking, Dec. 12, 1989.	Louiseville, Kentucky Facility, CAA Sec. 113(c)(1).
*Enid, City of, Wastewater Treatment Facility, Apr. 2, 1990.	Enid, Oklahoma, CWA Sec. 309(c).
*Finishing Corp. of America, Mar. 14, 1990.	Cambell, Ohio Facility, CWA Sec. 309(c).
*Fisher RPM Electric Motors Inc., Feb. 8, 1990.	Albany, Oregon Facility, CWA Sec. 309(c).

Name and Effective Date	Location and Basis for Listing
Fleischman's Yeast, Inc., Division of Burns, Philp & Co., Ltd., May 14, 1986, effective date of listing.	Sumner, Washington Facility CWA Sec. 309(c).
[November 14, 1986, effective date of facility's transfer from Nabisco to Burns, Philp]	
*George Skofield Company, The, Sept. 19, 1988.	Tacoma, Washington Facility, CWA Sec. 309(c).
Holland, James S. d/b/a Middle Keys Marine & Construction, Inc., or Middle Keys Marine Construction, Inc., or Keys Marine and Construction, June 7, 1985.	Marathon, Florida Facility, CWA Sec. 309(c).
Hope Resource Recovery, Inc., Sept. 18, 1986.	Long Island, New York Facility, CAA Sec. 113(c)(1).
Marathon Development Corp., May 4, 1988.	Providence, Rhode Island Facility, CWA Sec. 309(c).
*Mills, Carey C. and Ocie Mills, Apr. 13, 1989.	Milton, Florida Facility, CWA Sec. 309(c).
Ocean Reef Club, Inc., Oct. 22, 1986.	Key Largo, Florida Facility, CWA Sec. 309(c).
*Olympus Terrace Sewer District, July 21, 1989.	Mukilteo, Washington Facility, CWA Sec. 309(c).
Pearlman, Irwin, Dec. 30, 1986.	Pittsburgh, Pennsylvania Facility, CAA Sec. 113(c)(1).
*Pennwalt Corporation, The, Aug. 9, 1989.	Tacoma, Washington Facility, CWA Sec. 309(c).
*Phil J. Lambert, Inc., Dec. 4, 1989.	Colebrook, New Hampshire Facility, CWA Sec. 309(c).
*Pillsbury Company, The, Oct. 22, 1990.	Joplin, Missouri Facility, CWA Sec. 309(c).
*Pozsgai, John, July 13, 1989.	Morrisville, Pennsylvania, CWA Sec. 309(c)(1).
*Progressive Oil Co., Inc., Nov. 17, 1989.	Gloucester, Massachusetts Facility, CWA Sec. 309(c).
Protex, Industries, Inc., Dec. 27, 1987.	Denver, Colorado Facility, CWA Sec. 309(c).
Reidy Terminal/Wisconsin Barge Lines, Sept. 4, 1987.	St. Louis, Missouri Facility, CWA Sec. 309(c).
*R-M Industries, Inc., Nov. 1, 1989.	Rock Hill, South Carolina Facility, CWA Sec. 309(c).
Sea Gleaner Marine, Inc., Oct. 6, 1986.	Bellevue, Washington Facility, CWA Sec. 309(c).
Sea Port Bark Supply, Oct. 21, 1986.	Tacoma, Washington Facility, CWA Sec. 309(c).
Shenango Inc., Coke & Iron Division, June 13, 1988.	Neville Island, Pittsburgh, Pennsylvania Facility, CWA Sec. 309(c).
*Tudor Investment Corp., May 25, 1990.	Eastern Shore, Maryland Facility, CWA Sec. 309(c).
Waterbury House Wrecking Co., Dec. 19, 1985.	Waterbury, Connecticut Facility, CAA Sec. 113(c)(1).
*Welco Plating, Inc., Apr. 27, 1988.	Woodville, Alabama Facility, CWA Sec. 309(c).
*Wells Metal Finishing, Inc., Mar. 22, 1990.	Lowell, Massachusetts Facility, CWA Sec. 309(c).
Wilgenburg Dairy, Dec. 22, 1987.	Bakersfield, California Facility, CWA Sec. 309(c).
Williams, Salvatore C., Dec. 30, 1986.	Pittsburgh, Pennsylvania Facility, CAA Sec. 113(c)(1).
Wisconsin Barge Lines, Sept. 4, 1987.	St. Louis, Missouri Facility, CWA Sec. 309(c).

Sublist 2: Discretionary Listing—None

The following is the list of all facilities removed from the EPA List of Violating Facilities since the publication of the last **Federal Register** notice. Facilities which have been both added and removed since the last notice are identified with two asterisks (**).

Name and Effective Date of Listing and Effective Date of Removal	Location and Basis for Listing
Sublist 1: Mandatory Listing	
**Ashland Oil, Inc., March 9, 1989, Aug. 7, 1989.	Floreffe, Pennsylvania Facility, CWA Sec. 309(c).
**Big Spring Waste Water Treatment Facility, Nov. 27, 1989, Aug. 21, 1990.	Big Spring, Texas, CWA Sec. 309(c).
**Sellen Construction Co., May 30, 1989, June 13, 1990.	Seattle, Washington Facility, CWA Sec. 309(c).
**Valmont Industries, Inc., June 26, 1989, June 5, 1990.	Valley, Nebraska Facility, CWA Sec. 309(c).
**Zarcon Corp., February 10, 1989, Aug. 1, 1990.	San Diego, California Facility, CWA Sec. 309(c).
Sublist 2: Discretionary Listing	
**Saint Thomas Paving Company, Ltd., July 10, 1989, July 10, 1990.	St. Thomas, Virgin Islands Facility, CAA Sec. 113(a).

Dated: January 27, 1991

James M. Strock,

Assistant Administrator for Enforcement.

[FR Doc. 91-3132 Filed 2-11-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Strachan Shipping Co./Star Shipping A/S Terminal Agreement; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement no.: 224-200471

Title: Strachan Shipping Company/Star Shipping A/S Terminal Agreement

Parties:

Strachan Shipping Company (SSC)

Star Shipping A/S

Synopsis: The Agreement provides for SSC's freight handling services at specified rates in Port Everglades, Florida. The Agreement is for a 1-year term.

By Order of the Federal Maritime Commission.

Dated: February 7, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-3314 Filed 2-11-91; 8:45 am]

BILLING CODE 6730-01-M

San Diego Unified Port District/Pasha Properties, Inc., et al.; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments one each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200327–001.

Title: San Diego Unified Port District/Pasha Properties, Inc. Terminal Agreement.

Parties:

San Diego Unified Port District (Port)
Pasha Properties, Inc. (Pasha)

Filing Party: Mr. John M. Reardon, Deputy Director, Property Department, Port of San Diego, P.O. Box 488, San Diego, CA 92112.

Synopsis: The Agreement amends the basic agreement to evidence Pasha's exercise of its option to enter into an agreement with the Port to operate a motor vehicle terminal at a portion of the National City Marine Terminal.

Agreement No.: 224–200472.

Title: Puerto Rico Ports Authority/Sea-Land Service, Inc., Marine Terminal Agreement.

Parties:

Puerto Rico Ports Authority (Authority)
Sea-Land Service, Inc. (Sea-Land).

Filing Party: Mayra N. Cruz Alvarez, Contracts Supervisor, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936–2829.

Synposis: The Agreement provides for a 10-year lease to Sea-Land of premises and facilities at Puerto Nuevo (9.5114 "cuerdas" of area). Sea-Land has the option to extend the term of the agreement for an additional five years subject to certain specified terms and conditions. Sea-Land shall pay to the Authority a minimum monthly rental of $13,577.52.

Dated: February 6, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–3276 Filed 2–11–91; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 91–05]

Brahm and Krenz International, Ltd. as Agent for Envirex, Inc. v. China Ocean Shipping Co. (COSCO), COSCO North America, Inc. and Norton Lilly International, Ltd.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Brahm and Krenz International, Ltd. as agent for Envirex, Inc. ("Complainant") against China Ocean Shipping Company (COSCO), COSCO North America, Inc. and Norton Lilly International, Ltd. ("Respondents") was served February 6, 1991. Complainant alleges that Respondents engaged in violations of sections 8(a)(1) and 8(d) of the Shipipng Act of 1984, 46 U.S.C. aps. 1707(a)(1) and (d), by failing to file an agreed upon rate in Respondent's tariff.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examinatioin in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 6, 1992, and the final decision of the Commission shall be issued by June 5, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 91–3277 Filed 2–11–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Michigan National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 4, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Michigan National Corporation, Farmington Hills, Michigan, and Mergerco, Inc., Farmington Hills, Michigan, to acquire 100 percent of the voting shares of Lockwood Banc Group, Inc., Houston, Texas, and thereby indirectly acquire Lockwood National Bank of Houston, Houston, Texas. In connection with this application, Mergerco, Inc. has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, February 6, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-3287 Filed 2-11-91; 8:45 am]

BILLING CODE 6210-01-F

The Sanwa Bank Limited; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR

225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 1991.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. The Sanwa Bank Limited, Osaka, Japan; to acquire a general partnership interest in Sanwa Duval L.P., New York, New York, and Los Angeles, California, through a newly-formed, wholly-owned subsidiary to be organized under the laws of Delaware and thereby engage in providing advice to financial and non-financial corporate and other institutions with respect to mergers, acquisitions, divestitures, restructurings, financing transactions, joint ventures, capital-raising vehicles and similar transactions including rendering fairness opinions, providing valuation services and conducting feasibility studies. These activities have been determined to be permissible for bank holding companies. *See The Fuji Bank, Limited*, 75 Federal Reserve Bulletin 577 (1989); *SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988); *Amsterdam-Rotterdam Bank N.V.*, 73 Federal Reserve Bulletin 726 (1987); *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987). Applicant also proposes to offer dealer-manager services in connection with tender offers as an incidental activity.

Board of Governors of the Federal Reserve System, February 6, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-3288 Filed 2-11-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012191 AND 020191

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Humana Inc., Michael Reese Hospital and Medical Center, Michael Reese Hospital and Medical Center	91-0350	01/23/91
Whitney 1990 Equity Fund, L.P., Vitarine Pharmaceuticals, Inc., Crown Drug Co., Inc.	91-0509	01/23/91
Capricon Investors, L.P., BBC Brown Boveri Ltd., Basic Incorporated	91-0454	01/24/91
Capricon Investors, L.P., ASEA AB, Basic Incorporated	91-0455	01/24/91
Chevron, Inc., Mobil Corporation, Mobil Corporation	91-0498	01/24/91
Mabon, Nugent & Co., Istituto Mobiliare Italiano, IMI Securities Corporation	91-0506	01/24/91
Instituto Mobiliare Italiano, Mabon Nugent & Co., Mabon Nugent & Co.	91-0507	01/24/91
Baylor University, Memorial Hospital of Garland, Memorial Hospital of Garland	91-0424	01/25/91
Parker & Parsely Development Partners, L.P., Parker & Parsely Petroleum Company, Parker & Parsely Petroleum Company	91-0439	01/25/91
Damson Energy Company, L.P., Parker & Parsely Petroleum Company, Parker & Parsely Petroleum Company	91-0499	01/25/91
Damson Income Energy Company, L.P., Parker & Parsely Petroleum Company, Parker & Parsely Petroleum Company	91-0500	01/25/91
Damson Institutiional Energy L.P., Parker & Parsely Petroleum Company, Parker & Parsely Petroleum Company	91-0464	01/28/91
Gustavo Cisneros, Interco Incorporated, Converse Inc.	91-0465	01/28/91
William Cook plc, Naco, Inc., Natl. Castings Inc.	91-0468	01/28/91
Crown Cork & Seal Company, Inc., Peter Kiewit Sons', Inc., Continental International Holding Co., Inc.	91-0471	01/28/91
Berkshire Hathaway Inc., PS Group, Inc., PS Group, Inc.	91-0483	01/28/91
Occidental Petroleum Corporation, Chevron Corporation, Chevron U.S.A. Inc.	91-0511	01/28/91
Nationwide Mutual Insurance Company, Roy E. Disney and Patricia A. Disney, Shamrock Broadcasting, Inc.	91-0518	01/28/91
Chrysler Corporation, Douglas H. Wolf, Pinnacle Partners	91-0524	01/28/91
ALLTEL Corporation, C-TEC Corporation, C-TEC Management Information Systems, Inc.	91-0475	01/29/91
Phillips Petroleum Company, The Williams Companies, Northwest Pipeline Corporation	91-0503	01/30/91
The British Petroleum Company, P.L.C., National Convenience Stores Incorporated, Eleventh NCS Realty Company	91-0505	01/30/91
The Dunlap Company, Paul Steketee & Sons Company, Paul Steketee & Sons Company	91-0508	01/30/91
Sears, Roebuck and Co., Richard and Suzanne Schlott, National Homenet, Inc., First Referral Network, Inc.	91-0514	01/30/91
House of Fabrics, Inc., Fabricland, Inc., Fabricland, Inc.	91-0495	01/31/91

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012191 AND 020191—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
House of Fabrics, Inc., Fabricland, Inc., Fabricland, Inc.	91-0496	01/31/91
Johnson & Firth Brown plc, Canadian Pacific Limited, United Dominion Industries, Inc. (Monroe Forgings Div.)	91-0493	02/02/91
Norddeutsche Landesbank Girozentrale, Aachener und Munchener Beteiligungs-AG, Bank fur Gemeinwirtschaft AG	91-0522	02/01/91
Vereniging Aegon, Enstar Group, Inc., Western Reserve, IDEX Distributors, Inc., IDEX Investor	91-0531	02/01/91
Evered plc, Bardon Group plc, Bardon Group PLC	91-0534	02/01/91
IBL, S.A., Fred B. Roedel, Chalet Susse International, Inc.	91-0536	02/01/91
Kaneb Services, Inc., Furmanite PLC, Furmanite PLC	91-0538	02/01/91
Asko Deutsche Kaufhaus Aktiengesellschaft, Werner K. Rey, Adia S.A.	91-0541	02/01/91
Werner K. Rey, Asko Deutsche Kaufhaus Aktiengesellschaft, Comco Holding AG	91-0542	02/01/91

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 91-3323 Filed 2-11-91; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3321]

CPC International Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, an advertiser, seller, and distributor of Mazola Corn Oil and Mazola Margarine from misrepresenting the effects of such oil or margarine products on serum cholesterol levels, and from making claims concerning such products' ability to reduce the risk of developing heart disease, or to reduce serum cholesterol levels, unless at the time such representations are made, they are substantiated with competent and reliable scientific evidence.

DATES: Complaint and Order issued January 2, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Robert Cheek, FTC/S-4002, Washington, DC 20580. (202) 326-3045.

SUPPLEMENTARY INFORMATION: On Thursday, June 21, 1990, there was published in the **Federal Register**, 55 FR 25371, a proposed consent agreement with analysis In the Matter of CPC International Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52.

Donald S. Clark,

Secretary.

[FR Doc. 91-3321 Filed 2-11-91; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, the Decision and Order, and the statement of Commissioner Owen are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Docket No. C-3320]

Guild Mortgage Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a San Diego, CA., corporation to accurately calculate and disclose the annual percentage rate, finance charge, payment schedule and other information required by Regulation Z; and to make adjustments to the accounts of consumers listed, by paying restitution to consumers totalling almost $500,000 over a five-year-period.

DATES: Complaint and Order issued December 31, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Carole Reynolds, FTC/S-4429, Washington, DC 20580. (202) 326;-3230.

SUPPLEMENTARY INFORMATION: On Tuesday, October 16, 1990, there was published in the **Federal Register**, 55 FR 41878, a proposed consent agreement with analysis In the Matter of Guild Mortgage Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.

Donald S. Clark,

Secretary.

[FR Doc. 91-3322 Filed 2-11-91; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, the Decision and Order, and the statement of Commissioner Strenio are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Peer Review Meeting to Discuss the Draft Congressional Report "Feasibility and Value of Performing Multisite Epidemiological Studies for Superfund Sites"; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Peer Review Meeting to Discuss the Draft Congressional Report "Feasibility and Value of Performing Multisite Epidemiological Studies for Superfund Sites."

Time and Date 8:30 a.m.–4:30 p.m., February 21, 1991.

Place: Courtyard by Marriott-Executive Park, 1236 Executive Park Drive, NE., Atlanta, Georgia 30329.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 25 people.

Matters to be Considered: The meeting will convene a group of interested parties to review and discuss a draft report which addresses the concept of conducting multisite epidemiological studies at Superfund sites. The panel will consider such areas as the value of multisite epidemiological studies; the feasibility and appropriate uses of multisite studies; costs and benefits; and the identification of supporting literature.

Oral comments will be scheduled at the discretion of the meeting facilitator and as time permits.

Contact Person for More Information: Dr. Je Anne R. Burg, Chief, Exposure and Disease Registry Branch, Division of Health Studies ATSDR, (MS–E31), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–0561 or FTS 236–0561.

Dated: February 5, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91–3329 Filed 2–11–91; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Work Group on Community Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting.

Name: NCVHS Work Group on Community Health Statistics.

Time and Date: 1 p.m.–5 p.m., March 5, 1991.

Place: Room 405A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC. 20201.

Status: Open.

Purpose: The purpose of this meeting is for the work group to explore issues and concerns about the availability of statistics to monitor the health of communities.

Contact Person for more Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 5, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91–3330 Filed 2–11–91; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS)

Time and date: 9 a.m.-5 p.m., March 6–7, 1991

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open

Purpose: The purpose of this meeting is for the Committee to receive and consider reports from each NCVHS subcommittee; to discuss disability data policies and research activities; and to address new business as appropriate.

Contact Person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 5, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91–3331 Filed 2–11–91; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 91N–0001]

Use of the Term "Fresh" on Food Labels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: In this notice, the Food and Drug Administration (FDA) is reviewing the statements that it has made on the use of the term "fresh" on food labels and labeling. In March of 1990, the agency announced its intention to issue proposed regulations on the use of this term, which, if adopted, will have the force and effect of law. FDA is requesting that industry not make use of this term pending adoption of a final rule on this subject and announcing that it will, in its discretion, take appropriate regulatory action against misuse of that term.

FOR FURTHER INFORMATION CONTACT: Raymond E. Newberry, Center for Food Safety and Applied Nutrition (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0187.

SUPPLEMENTARY INFORMATION: During the past several months, FDA has received an increasing number of complaints about the use of the term "fresh" on food products that are made with heat-treated ingredients or ingredients that have been concentrated and then reconstituted. The agency has received trade complaints, as well as complaints from consumers, consumer advocates, members of Congress, and the news media about the use of this term. FDA is concerned about the proliferation of deceptive label claims involving the term "fresh" and the resultant consumer confusion.

Label claims that deceptively refer to a product as "fresh" have appeared in the past but with much less frequency. In the 1940's, the agency stated in Trade Correspondence (TC)–71 that it would not take exception to terms such as "frozen fresh" on packaged frozen foods, provided that the foods are actually fresh when frozen. However, in TC–99, FDA stated that the word "fresh" is generally understood by consumers to indicate an article of recent origin. For butter, the agency continued, the word would be appropriate only if the butter had been recently churned. The agency considered that the term "fresh" was not applicable to butter that had been kept for a length of time, such as with the usual commercial practice of storing butter in cold storage warehouses until it is marketed. In TC–281, FDA stated that the term "fresh tomato juice" should not be applied to the ordinary canned product.

In the **Federal Register** of October 11, 1963 (28 FR 10900), FDA published its final order in a proceeding on definitions and standards of identity for orange juice and orange juice products. Finding of fact no. 2 in that order stated:

> Fresh orange juice is not a suitable name for the commercially packaged expressed juice of oranges. The housewife who for many years has squeezed oranges knows this juice to be orange juice. The term "fresh" is ambiguous in that it is difficult to determine and to draw the line when a product is fresh and when it is no longer fresh. The use of the term "fresh" on commercially packed orange juice or orange juice products would tend to confuse and mislead consumers.

The order contained other similar and related comments concerning "fresh." Finding of fact no. 17, for example, stated in part:

> The problem most encountered in the United States is the adulteration of orange juice products with water an sugar. The next most frequent problem is misrepresentation of reconstituted orange juice and of

pasteurized orange juice as fresh orange juice. The investigation further showed that even managers of retail food stores over the country are confused concerning the identity of various single-strength orange juice products. There is general confusion in the area.

Consistent with these statements, FDA's current policy, stated in Compliance Policy Guide 7120.06, is that the term "fresh" should not be applied to foods that have been subjected to any from of heat or chemical processing. FDA has recently issued letters to tow firms because of their misuse of the term "fresh," one on the label of a pasta sauce product, the other on the label of orange juice made from concentrate.

FDA expects to issue in the near future a proposed regulation on the use of the term "fresh" on food labels. (See "Food Labeling Reform," FDA, March 7, 1990, pp. 8–9, a copy of which is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.) The agency is currently surveying and reviewing food labels on the market that use the term "fresh." The review should be helpful in identifying the issues that must be addressed in the regulation. In addition, FDA has received a petition (Docket number 90P–0430/CP1) that requests that the agency issue a regulation that would, among other things, prohibit use of the term "fresh" finished tomato products that contain previously processed tomato ingredients.

Until such time as the agency promulgates a final rule on this subject, it intends to make determinations as to whether to bring enforcement actions against products that bear "fresh" claim on a case-by-case basis, based on consideration of whether the claim is misleading. FDA will consider the various policy statements that it has issued in making these determinations.

In addition, given the apparent confusion that exists in the marketplace about when a "fresh" claim would be appropriate, FDA requests that manufactures, packers, an other persons who label foods not make any new or increased use of this term until a final rule on the subject is promulgated.

Dated: February 7, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91–3341 Filed 2–7–91; 3:01 pm]

BILLING CODE 4160–01–M

National Institutes of Health

Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concernig individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winnie Martinez, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B.

Executive Secretary: Judith M. Podskalny, Westwood Building, room 421A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7583.

Dates of Meeting: March 7–8, 1991.

Place of Meeting: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: March 7, 7 p.m.–8 p.m.

Closed: March 7, 8 p.m.–adjournment; March 8, 8 a.m.–5 p.m.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Executive Secretary: Daniel Matsumoto, Westwood Building, room 404B, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–8830.

Dates of Meeting: March 4–5, 1991.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: March 4, 8 a.m.–8:30 a.m.

Closed: March 4, 8:30 a.m.–adjournment; March 5, 8 a.m.–adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Executive Secretary: Ann A. Hagan, Westwood Building, room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7841.

Dates of Meeting: February 15, 1991.

Place of Meeting: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: February 15, 8:30 a.m.–9 a.m

Closed: February 15, 9 a.m. to adjournment.

Dated: February 1, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–3271 Filed 2–11–91; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Biotechnology Information Subcommittee of the Biomedical Library Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biotechnology Information Subcommittee of the Biomedical Library Review Committee on March 14, 1991, convening at 8:30 a.m. in the third-floor Conference Room of the Marriott Hotel—Medical Center, 6580 Fannen Street, Houston, TX 77030.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications from 8:30 a.m. to approximately 5 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material,

and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, 20894, telephone number: 301-496-4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: February 1, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-3272 Filed 2-11-91; 8:45 am]

BILLING CODE 4140-01-M

Research Grants Division Advisory Committee; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for February through March 1991, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	February-March 1991 meeting	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi, Rm. A13, Tel. 301-496-0012	Mar. 7-8	8:30	Holiday Inn, Bethesda, MD.
AIDS & Related Research 2, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191	Mar. 1	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, Rm. A13, Tel. 301-496-7286	Feb. 27-Mar. 1	8:30	Holiday Inn, Bethesda, MD.
AIDS & Related Research 4, Dr. Mohindar Poonian, Rm. A10, Tel. 301-496-4666	Mar. 7-8	8:30	Holiday Inn, Crown Plaza, Rockville, MD.
AIDS & Related Research 5, Dr. Mohindar Poonian, Rm. A10, Tel. 301-496-4666	Mar. 14	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191	Mar. 11	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191	Mar. 15	8:30	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences-1, Dr. Luigi Giacometti, Rm. 303, Tel. 301-496-5352	Mar. 20-22	9:00	St. James Hotel, Washington, DC.
Behavioral and Neurosciences-2, Dr. Luigi Giacometti, Rm. 303, Tel. 301-496-5352	Mar. 14	9:00	Omni Shoreham Hotel, Washington, DC.
Biological Sciences-1, Dr. James R. King, Rm. A22, Tel. 301-496-1067	Mar. 13-15	8:30	St. James Hotel, Washington, DC.
Biological Sciences-2, Dr. Syed Amir, Rm. 326, Tel. 301-496-3117	Mar. 18-20	8:30	Holiday Inn, Chevy Chase, MD.
Biological Sciences-3, Mr. Gene Headley, Rm. A27, Tel. 301-496-6724	Mar. 25-26	8:30	St. James Hotel, Washington, DC.
Biomedical Sciences, Dr. Charles Baker, Rm. 219, Tel. 301-486-7150	Mar. 25-27	8:30	Holiday Inn Crowne Plaza, Rockville, MD.
Clinical Sciences-1, Ms. Jo Pelham, Rm. 353, Tel. 301-496-7477	Mar. 28-29	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences-2, Ms. Jo Pelham, Rm. 353, Tel. 301-496-7477	Mar. 25-26	8:30	Holiday Inn Crowne Plaza, Rockville, MD.
Immunology, Virology & Pathology, Dr. Lynwood Jones, Rm. A20, Tel. 301-496-7510	Mar. 13-15	8:30	Holiday Inn, Chevy Chase, MD.
International & Cooperative Projects, Dr. Sandy Warren, Rm. 222, Tel. 301-496-7600	Mar. 8-9	8:30	Hyatt Regency Hotel, Bethesda, MD.
Physiological Sciences, Dr. Nicholas Mazarella, Rm. 222, Tel. 301-496-1069	Mar. 21-22	8:30	Holiday Inn Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: February 1, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-3270 Filed 2-11-91; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended most recently at 55 FR 48295, November 20, 1990) is amended to reflect the current functions assigned to the Office of Rural Health Policy (HBA13) within the Office of the Administrator, Health Resources and Services Administration.

Under HB-10, Organization and Functions, delete in its entirety the functional statement for the Office of Rural Health Policy (HBA13) and substitute the following:

Office of Rural Health Policy (HBA13). Serves as a focal point within the Department and as a principal source of advice to the Secretary for coordinating nationwide efforts to strengthen and improve the delivery of health services to populations in rural areas. Specifically: (1) Collects and analyzes information regarding the special problems of rural health care providers and populations; (2) works with States, State hospital associations, private associations, foundations, and other organizations to focus attention on, and promote solutions to, problems related to the delivery of health services in rural communities; (3) provides staff support to the National Advisory Committee on Rural Health; (4) stimulates and coordinates interaction on rural health activities and programs, both within the Department (particularly with the Health Care Financing Administration) and with other Federal agencies, such as the Veterans Administration, the Department of Agriculture, the Department of Defense, and the Department of Transportation; (5) supports rural health center research across the country and keeps informed of research and demonstration projects funded by States and foundations in the field of rural health care delivery; (6) establishes and maintains a resource center for the collection and dissemination of the latest information and research findings related to the delivery of health services in rural areas; (7) coordinates responses to inquiries from congressional and private sector sources related to rural health; (8) advises the Secretary on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under Titles XVIII and XIX of the Social Security Act on the financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, and access to (and the quality of) health care in rural areas; (9) oversees compliance by the Health Care Financing Administration (HCFA) with the requirement that rural hospital impact analyses are developed whenever proposed HCFA regulations might have a significant impact on a substantial number of small rural hospitals; (10) oversees compliance by HCFA with the requirement that 10 percent of its research and demonstration budget is used for rural projects; (11) supports specialized rural programs on minority health, mental health, and agricultural health and safety; (12) plans and manages a nationwide grant program which provides health outreach services in rural areas; and (13) plans and manages a program of grants to States to initiate and expand offices of rural health.

This reorganization if effective upon date of signature.

Dated: January 24, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91-3291 Filed 2-11-91; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[AA-660-00-4143-02]

Oil, Gas, and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, NM

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed order.

SUMMARY: The Interior Department proposes to revoke the existing and all previous Orders of the Secretary concerning, and adopt a new Order in lieu thereof providing for, concurrent operations in the prospecting, developing and producing of oil and gas and potash deposits within the Designated Potash Area. Changes in the Order would be made to ensure compatibility with the State of New Mexico Oil Conservation Division Order No. R-111-P.

DATES: Comments should be submitted by April 15, 1991. Comments received or postmarked after the above date may not be considered in the decisionmaking process on the final order.

Comments should be sent to: Director (660) Bureau of Land Management, Room 3411, Main Interior Bldg., 1849 C Street, NW., Washington, DC 20240.

Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul Politzer or Donal F. Ziehl, (202) 208-7722 or 208-7753.

SUPPLEMENTARY INFORMATION: On October 28, 1986, the Office of the Secretary of the Interior published in the **Federal Register** (51 FR 39425) an Order governing potash and oil and gas drilling within the Designated Potash Area in Eddy and Lea Counties, New Mexico. That Order was a successor to, and largely continued the policies set forth in, a series of such orders dating back to 1951. Their purpose has been to assure the orderly development of both the oil and gas resources and the potash deposits owned by the United States, so as to maximize the eventual recovery of each.

This Order would revoke the 1986 and all previous Orders. All leases continue to be governed by existing regulations and stipulations. This Order establishes a new management framework for the potash and oil and gas reserves within the Designated Potash Area compatible with the New Mexico Oil Conservation Division's Order No. R-111-P. That Order adopted the terms of "The Statement of Agreement Between the Potash Industry and Oil and Gas Industry on Concurrent Operations in the Potash Area," dated November 23, 1987. The potash operators agreed to allow the oil and gas lessees to drill certain deposits in return for a commitment to limit oil and gas drilling to sites outside planned potash development zones.

The proposed Order would modify the terms of the existing Secretarial Order to improve lease administration by better addressing the needs of the industries and the responsibilities of the Bureau of Land Management (BLM). The modifications of the Order would create new administrative boundaries allowing for easier resolution of issues involving overlapping leasehold interests. Life of Mine Reserves (LMR) would comprise the areas excluded from oil and gas exploration to ensure protection from gas migration.

The changes proposed in existing procedures primarily involve the substitution of "LMR" for the terms "enclave" and "potash enclave." LMR would be defined as those potash deposits within the Potash Area reasonably believed by the potash lessee to contain potash ore in sufficient thickness and grade to be minable using current day mining methods, equipment, and technology. Information used by the potash lessee in identifying its LMR would be checked for consistency with data available to BLM. Any proposals rejected by BLM would be returned to the lessee for modification. Information used by the potash lessee in identifying its LMR would be filed with the BLM but considered privileged and confidential and not subject to public disclosure.

Definitions have been added for "LMR" and "buffer zones," and the remaining sections of the order have been renumbered accordingly. The term "buffer zones" refers to the zones that surround each LMR to be established by the BLM authorized officer. Oil and gas drilling is not allowed within the boundaries of the buffer zones for safety

reasons. In general the width of these buffer or safety zones will be ¼ mile for oil wells drilled less than 5,000 feet (and abandoned works), and ½ mile for gas and oil wells deeper than 5,000 feet. These distances have been essentially agreed upon by both the oil and gas and potash industries.

The first proposed modification is in section B. The first stipulation is modified to unequivocably notify future oil and gas lessees that development rights are subject to this Order and to future modifications to this Order to ensure that both potash and oil and gas lessees will ultimately be able to recover the leased resources.

The next proposed modification is in section E, part 3. This would adopt the new terminology of "LMR" in place of "potash enclaves." Also, no formal maps will be maintained to reflect the frequent changes in the LMR submitted by the various lessees, but information on the changes would be maintained by BLM and kept available when decisions concerning proposed exploratory oil and gas drilling operations need to be made.

In section F, part 1, LMR would again be substituted for "potash enclaves" to provide consistent use of the new term. In adopting the LMR system, certain changes in policy are made in the present order. The BLM is proposing a policy of excluding drilling within LMR's and generally allowing drilling outside of LMR's. Exceptions will be negotiated among all affected parties prior to a final decision. This policy will replace the previous policy which was a general rule against drilling in enclaves subject to exception for:

(1) Oil and gas drilling from barren areas within the potash enclaves, approved by the authorized officer upon determination it would not adversely affect mining operations; and

(2) Drilling islands located more than one mile outside the projected 3-year mining area approved by the authorized officer, when oil and gas cannot be reached otherwise.

A system of clear boundaries between permissible and impermissible locations for oil and gas activities, with exceptions subject to negotiation involving all affected parties, produces more satisfactory resolution of conflicts between oil and gas and potash producers than the unilateral decisions by BLM officials to designate islands within the potash enclaves authorized by the 1986 Order. All matters, however, remain subject to the final decision of the BLM.

In section F, part 1, the statement of general policy in the 1986 Order is revised to clarify that the Department of the Interior (DOI) reserves the right to deny a permit outside an LMR in areas containing significant potash reserves.

A modification made in section F, part 4 would involve a change of the term "enclave" to "LMR." This change does not alter the discretion of the BLM authorized officer to approve Applications for Permit to Drill.

Finally the Order provides that the holders of existing oil and gas and potash leases may agree to be governed by the provisions of this Order by filing an election with the Bureau to that effect.

The principal author of this proposed order is Donal F. Ziehl, Division of Solid Mineral Operations, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The DOI has determined under Executive Order 12291 that this order is not a major rule, and under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have significant economic impact on a substantial number of small entities. Additionally, no Takings Implication Analysis pursuant to Executive Order 12630 is required. The DOI has determined that the order would not cause a taking of private property inasmuch as leases issued prior to its promulgation would be subject to its provisions only upon the election or consent of the affected lessees.

The Order in no ways changes or affects existing Federal, State or local governmental relationships or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposed order will not warrant the preparation of a Federalism Assessment.

The information collection requirements contained in the order have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1004–0142.

The Order of the Secretary is proposed to read as follows: Oil, Gas, and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico.

Order

Section 1. *Purpose.* This Order adopts procedures for concurrent operations in prospecting for, and development and production of, oil and gas and potash deposits owned by the United States within the Designated Potash Area in order to maximize the eventual recovery of both resources.

Section 2. *Authority.* This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181, *et seq.*), and the Mineral Leasing Act for Acquired Lands of 1947, as amended (43 U.S.C. 351–359).

Section 3. *Subject.* Restatement of rules for concurrent operations in prospecting for, and development and production of, oil and gas and potash deposits owned by the United States within the Designated Potash Area.

I. This Order of the Secretary of the Interior revokes and replaces the following Orders: Order of the Secretary of the Interior dated February 6, 1939 (4 FR 1012); Order of the Secretary of the Interior dated October 16, 1951 (16 FR 10669); Order of the Secretary of the Interior dated May 11, 1965 (30 FR 6692 93); Order of the Secretary of the Interior dated November 5, 1975 (40 FR 51486); and Order of the Secretary of the Interior dated October 28, 1986 (51 FR 39425). The lands described in the Order of February 6, 1939 (except the E½SE¼, sec. 24 and the E½E½, W½SE¼, S½SW¼, sec. 25, T. 20 S., R. 29 E., New Mexico Principal Meridian, which were withdrawn from all forms of entry by Public Land Order No. 569, (14 FR 1086)), and which were opened for oil and gas leasing by the cited Order of October 16, 1951, shall continue to be open for oil and gas leasing. This Order shall not affect the current status of lands with respect to their being withdrawn from, or open for, entry or leasing.

II. Oil, gas and potash leasing and development on the lands described in section V of this Order shall be subject to the following provisions:

III. General Provisions

A. Definitions

The term "potash" as used in this Order shall be deemed to embrace potassium and associated minerals as specified in the Act of February 7, 1927 (30 U.S.C. 281–287).

The term "LMR" (Life of Mine Reserves) refers to potash deposits within the Potash Area reasonably believed to contain potash ore in sufficient thickness and grade to be minable using current standard industry mining methods, equipment, and technology.

The term "buffer zones" refers to the zones surrounding each LMR in which no oil or gas drilling shall be allowed. These buffer zones will be designated by the authorized officer of the Bureau of Land Management (BLM). In general, buffer zones are ¼ mile for oil wells drilled less than 5,000 feet and abandoned mine workings; and ½ mile for gas and oil wells deeper than 5,000 feet. The 5,000 foot depth requirement is the approximate depth of the base of the Delaware Mountain Group.

B. Issuance of Oil and Gas Leases

The DOI, in order to protect the rights of oil and gas and potash lessees and operators, will continue its practice, commencing with the Order of May 11, 1965 (30 FR 6692–93), of including stipulations in oil and gas leases to implement the policies of the Order of the Secretary for Oil, Gas, and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico. Therefore, any party awarded a competitive oil and gas lease, or any applicant for a noncompetitive oil and gas lease, for lands included in the Designated Potash Area shall accept, as a condition to the issuance of such lease, a stipulation to the lease as follows:

1. Drilling for oil and gas shall be permitted only as authorized in the Order of the Secretary for Oil, Gas and Potash Leasing and Development Within the Designated Potash Area of Eddy and Lea Counties, New Mexico dated (insert date of publication) 1990 as hereinafter revised from time to time.

2. No wells shall be drilled for oil or gas at a location which, in the opinion of the authorized officer, would result in undue waste of potash deposits or constitute a hazard to or interfere unduly with mining operations being conducted for the extraction of potash deposits.

3. When the authorized officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the authorized officer.

4. The drilling or the abandonment of any well on such lease shall be accomplished in accordance with applicable oil and gas operating regulations (43 CFR 3160), and such reqirements as the authorized officer may prescribe as necessary to prevent the infiltration of oil, gas, or water into formations containing potash deposits or into mines or workings being utilzied in the extraction of such deposits.

In taking any action under part B, items 1, 2, 3, and 4 of this Order, the authorized officer shall take into consideration the applicable rules and regulatioins of the Oil Conservation Division of the State of New Mexico.

C. Extension of Oil and Gas Leases

As a condition to the granting of any discretionary extension of any existing lease embracing lands included in the Designated Potash Area, the lessee shall execute a stipulation identical to that specified in part B, items 1, 2, 3, and 4 of this Order.

D. Potash Leases

All potash permits and leases hereafter issued, or existing potash leases hereafter renewed, for Federal lands within the Designated Potash Area shall be subject to a requirement, either to be included in the lease or permit or to be imposed as a stipulation, to the effect that no mining or exploration operations shall be conducted that, in the opinion of the authorized officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil or gas lease issued for the same lands.

E. Minable Reserves

Each potash lessee shall file anually by January 1 with the District Manager, BLM, a map(s) on which has been delineated the following information with respect to the Federal potash leases which are then held:

1. The areas where active mining operations are currently in progress in one or more ore zones;

2. The areas where operations have been completed in one or more ore zones;

3. Those areas that are not presently being mined which are considered to be part of LMR's.

4. Proposed buffer zones for any of the above.

The authorized officer shall review the information submitted and make any revisions in the boundaries of the proposed minable reserves of the LMR that are consistent with the data available at the time of such analyses.

F. Oil and Gas Drilling

1. Prior to permitting any oil and gas drilling in the Designated Potash Area, the BLM—shall make a finding that: (1) such drilling will not interfere with the mining and recovery of potash deposits, and (2) the interest of the United States will best be served by permitting such drilling.

2. It is the general policy of the DOI to deny approval of applications for permits to drill oil and gas test wells from surface locations within LMR's and their buffer zones; and to approve permits outside LMR's and their associated buffer zones. However, the DOI may disapprove a permit in other portions of the Designated Potash Leasing Area which it determines contain significant potash reserves. Any deviation from this general policy will require negotiation of affected parties and the BLM. These negotiations will be subject to the final decision of the BLM.

3. In order to protect the equities between oil and gas lessees, while at the same time reducing the number of oil and gas wells which operators propose to drill in the Potash Area, the authorized officer shall make greater use of his/her discretion to require unitization pursuant to the regualtions in 43 CFR 3180. Unitization shall be mandatory in those cases where completion of the proposed well as a producer might result in the drainage of oil and gas from beneath other Federal lands with no drillable locations within an LMR. Any unit plan hereafter approved or prescribed that includes oil and gas leases covered by this Order shall include a provision embodying in substance the requirements set forth in part B, items 1, 2, 3, and 4 of this Order.

4. The DOI shall cooperate with the New Mexico Oil Conservation Division in the implementation of that agency's rules and regulations. In that regard, the Federal potash lessees shall continue to have the right to protest to the New Mexico Oil Conservation Division the drilling of a proposed oil and gas test well on Federal lands, provided that the location of this well is within the State of New Mexico's "Oil-Potash Area" as that area is delineated by New Mexico Oil Conservation Division Order No. R–111, as amended. However, the DOI shall exercise its prerogative to make the final decision of whether to approve the drilling of any proposed well on a Federal oil and gas lease within the Potash Area.

5. Applications for permits to drill vertical test wells for oil and gas at locations that are in the Potash Area but outside the State of New Mexico's "Oil-Potash Area," and which are outside an LMR and buffer zones, may be routinely processed by the authorized officer.

G. Access to Maps and Surveys

1. Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR 3160), shall be available for inspection at the BLM Roswell District Office by any party holding a potash permit or lease on the lands on which the well is situated

insofar as such records are pertinent to the mining and protection of potash deposits.

2. Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR part 3590) shall be available for inspection at the BLM Roswell District Office by any party holding an oil and gas lease on the same lands, insofar as such records are pertinent to the development and protection of oil and gas deposits.

3. Maps of the BLM Designated Potash Leasing Area shall be available for inspection in the BLM Rosewell District and Carlsbad Resource Area Offices. Copies of such maps shall be available at the same offices.

IV. The lessee of any existing lease in the Designated Potash Area may make such lands subject to the rules and regulations of Part III of this Order by filing an election to do so, in duplicate, with the BLM New Mexico State Office, Santa Fe, New Mexico. Except to the extent modified by this Order, the general regulations contained in 43 CFR parts 3100, 3160, and 3180 (governing the leasing and development of oil and gas) and 43 CFR Group 3500 (governing the leasing and development of potash deposits), shall be applicable to the lands covered by this Order.

V. The Designated Potash Area is as follows:

New Mexico Principal Meridian

T. 22 S., R. 28 E.,
Secs. 25 and 36.
T. 23 S., R. 28 E.,
Sec. 1.
T. 19 S., R. 29 E.,
Secs. 1 and 2;
Secs. 11 to 15 inclusive;
Secs. 22 to 27 inclusive;
Secs. 35 and 36.
T. 20 S., R. 29 E.,
Secs. 1 and 2;
Secs. 11 to 15 inclusive;
Secs. 22 to 27 inclusive;
Secs. 34 to 36 inclusive.
T. 21 S., R. 29 E.,
Secs. 1 to 5 inclusive;
Secs. 10 to 15 inclusive;
Secs. 22 to 27 inclusive;
Secs. 34 to 36 inclusive.
T. 22 S., R. 29 E.,
Secs. 1 to 5 inclusive;
Secs. 8 to 17 inclusive;
Secs. 19 to 36 inclusive.
T. 23 S., R. 29 E.,
Secs. 1 to 17 inclusive;
Secs. 21 to 28 inclusive;
Secs. 33 to 36 inclusive.
T. 24 S., R. 29 E.,
Secs. 1 to 4 inclusive.
T. 18 S., R. 30 E.,
Secs. 8 to 17 inclusive;
Secs. 20 to 29 inclusive;
Secs. 32 to 36 inclusive.
T. 19 S., R. 30 E.,
T. 20 S., R. 30 E.,
T. 21 S., R. 30 E.,
T. 22 S., R. 30 E.,
T. 23 S., R. 30 E.,
T. 24 S., R. 30 E.,
Secs. 1 to 18 inclusive.
T. 19 S., R. 31 E.,
Secs. 7 and 18;
Secs. 31 to 36 inclusive.
T. 20 S., R. 31 E.,
T. 21 S., R. 31 E.,
T. 22 S., R. 31 E.,
T. 23 S., R. 31 E.,
T. 24 S., R. 31 E.,
Secs. 1 to 18 inclusive;
Secs. 35 and 36.
T. 25 S., R. 31 E.,
Secs. 1 and 2.
T. 19 S., R. 32 E.,
Secs. 25 to 28 inclusive;
Secs. 31 to 36 inclusive.
T. 20 S., R. 32 E.,
T. 21 S., R. 32 E.,
T. 22 S., R. 32 E.,
Secs. 1 to 12 inclusive.
T. 19 S., R. 33 E.,
Secs. 21 to 36 inclusive.
T. 20 S., R. 33 E.,
T. 21 S., R. 33 E.,
T. 22 S., R. 33 E.,
Secs. 1 to 12 inclusive.
T. 19 S., R. 34 E.,
Secs. 19 and 20;
Secs. 29 to 32 inclusive.
T. 20 S., R. 34 E.,
Secs. 3 to 10 inclusive;
Secs. 15 to 36 inclusive.
T. 21 S., R. 34 E.,
Secs. 5 to 8 inclusive;
Secs. 17 to 20 inclusive;
Secs. 29 to 32 inclusive.
T. T. 22 S., R. 34 E.,
Sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Section 4. *Administrative provisions.* The Director, Bureau of Land Management, is authorized to delegate responsibilties herein as are determined appropriate.

Section 5. *Effective date.* This Order is effective upon the date of publication.

Dated: December 28, 1990.

James M. Hughes,

Acting Assistant Secretary.

[FR Doc. 91-3285 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Wapato Irrigation Project, Washington

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice of operation and maintenance rates.

SUMMARY: The purpose of this notice is to change the assessment rates for operating and maintaining the Wapato Irrigation Prject for 1991 and subsequent years. The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: February 12, 1991.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232-4169, telephone FTS 429-6750; commercial (503) 231-6750.

SUPPLEMENTARY INFORMATION: On December 6, 1990 in the **Federal Register**, Volume 55, No. 246, Page 51350, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for Calendar Year 1991 and subsequent years until further notice.

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective 30 days after date of publication in the **Federal Register**. Operation and maintenance rates and related information are published under the authority delegated to the Assistant Secretary-Indian Affairs by the Secretary of the Interior in 230 DM 1 and delegated by the Assistant Secretary-Indian Affairs to the Area Director in BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Wapato Irrigation Project for Calendar Year 1991 and subsequent years. This notice is pursuent to the authority contained in the Acts of August 1, 1914 (38 Stat. 587), as March 7, 1928 (45 Stat. 210).

The purpose of this notice is to announce an increase in the Wapato Project assessment rates proportionate with actual operation and maintenace costs. The assessment rates for 1991 will amount to an increase of 8% for the Wapato Satus unit, 15% for B lands due to increased storage charges and a 28% increase for the Toppenish-Simcoe & Ahtanum Units, which have not had an increase for the past eight years.

Wapato Irrigation Project—General

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in part 171, Operation and Maintenance, title 25—Indians, Code of Federal Regulations. (42 FR 30362, June 14, 1977)

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 of each year. These dates may be varied by 20 days depending on weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules.

Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1991 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report	$15.00
(2) Requests for Verification of Account Delinquency Status, Per Report	10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee) Per Bill	10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill	10.00
(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report	10.00
(6) Requests for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County, Recording Fee	10.00
(7) Review of subdivision plats	10.00

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1991 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1991 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bills issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1991 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$29.60
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	29.60
(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre	5.54
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands	32.56

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied against all tracts of less than one acre.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership remaining unpaid on or after July 1 following the due date shall be considered delinquent. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of

charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Wilford G. Bowker,

Acting Portland Area Director.

[FR Doc. 91-3311 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[B-060-7122-08-1016]

Availability of Record of Decision for the Western Mojave Land Tenure Adjustment Project in Kern, Los Angeles, and San Bernardino Counties, CA

AGENCY: Bureau of Land Management, Interior. Cooperating Agency: U.S. Air Force.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) in coordination with the U.S. Air Force has completed a Record of Decision for the Western Mojave Land Tenure Adjustment (LTA) PRoject near Barstow, California. The decision is to select and implement Alternative VII as modified through consultation with the U.S. Fish and Wildlife Service.

DATES: The Record of Decision was signed on January 12, 1991.

ADDRESS: Copies may be requested from Karla Swanson, Bureau of Land Management, 150 Coolwater Lane, Barstow, CA 92311.

FOR FURTHER INFORMATION CONTACT: Karla Swanson, Special Projects Manager at the above address or telephone (619) 256-3591.

SUPPLEMENTARY INFORMATION: The Western Mojave Land Tenure Adjustment (LTA) Project seeks to improve manageability of public lands managed by the Bureau of Land Management and reduce risk to Air Force airspace use through a voluntary land exchange program in the Western Mojave region. Within a 2.8 million-acre project area, approximately 417,000 acres of public lands within the Western Mojave region will be retained under Bureau management. Approximately 105,000 acres of scattered public lands suitable for disposal to the private sector will be made available only through land exchange to acquire approximately 255,000 acres of private lands interspersed with public land, providing for a more manageable and less fragmented land pattern. Of the total of 672,000 acres of combined existing public land and acquired private lands, management by BLM will be: 620,000 acres as Limited Use Multiple Use Class and 52,000 acres as Moderate Use Multiple Use Class.

Public lands beneath Air Force airspace will be managed with consideration of Air Force airspace concerns.

Dated: January 25, 1991.

Gerald Hillier,

District Manager.

[FR Doc. 91-3239 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-40-M

[MT-940-08-4520-11]

Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plat of survey for the following described land accepted December 4, 1990, will be officially filed in the Montana State Office, Billings, Montana, effective 30 days after publication.

Principal Meridian, Montana

T. 28 N., R. 55 E.

The plat representing the dependent resurvey of portions of the south boundary, the subdivisional lines, the adjusted original meanders of the former left bank of the Missouri River, the right bank of Big Muddy Creek, the subdivision and a metes and bounds survey in section 28, and the subdivision of section 32, and the survey of a portion of the subdivision of section 32, certain division lines of accretion in sections 28, 32, and 33, and a portion of the present left bank meanders of the Missouri River, and a portion of the present right bank meanders of Big Muddy Creek, Township 28 North, Range 55 East, Principal Meridian, Montana.

The triplicate original of the following described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on the plat, is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. The protested plat of survey will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

This survey was executed at the request of the Bureau of Indian Affairs, Billings, Area Office.

EFFECTIVE DATE: January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: February 4, 1991.

Thomas P. Lonnie,

Acting State Director.

[FR Doc. 91-3281 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-DN-M

[CO-930-01-4214-10; COC-52453]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

February 1, 1991

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 10.45 acres of National Forest System lands for 20 years. This withdrawal would protect five constructed huts/lodges which are a part of a chain of overnight ski lodges between Aspen and Vail, Colorado. This notice closes these sites to location and entry under the mining laws for up to two years. The lands remain open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before May 13, 1991.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303-239-3706.

SUPPLEMENTARY INFORMATION: On January 24, 1991, the Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch 2):

Parcels of National Forest System land occupied by a Hut/Lodge of the Tenth Mountain Trail Association System. The geographical position of the Hut/Lodge facility at each site has been determined with a 2-channel, sequencing, code phase Global Positioning System, nonsurvey quality receiver. The position is based on North American Datum—1927 (NAD 27). The dimensions and relationship of the boundaries of each parcel to the hut/lodge is identical:

Beginning at Corner No. 1, from which the northeast corner of the hut/lodge bears S. 45° W., 212.13 feet.

From Corner No. 1, by metes and bounds,

W. 300 feet to corner No. 2;
S. 300 feet to corner No. 3;
E. 300 feet to corner No. 4;
N. 300 feet to corner No. 1, the place of beginning.

Each parcel as described contains 2.09 acres.

Sixth Principal Meridian

White River National Forest

Estin Hut/Lodge

At approximately Latitude 30° 27′ 54.3″ N. and Longitude 106° 38′ 56.0″ W.

Said parcel lies in approximately section 3, T. 7 S. R. 83 W., identified by Protraction Diagram No. 10, accepted May 10, 1965.

Schuss/Zesiger Hut/Lodge

At approximately Latitude 39° 26′ 18.10″ and Longitude 106° 16′ 37.11″ W.

Said parcel lies in approximately the S½NE¼ and N½SE¼ of section 13. T. 7 S. R. 80 W.

Fowler/Hilliard Hut/Lodge

At approximately Latitude 39° 29′ 34.71″ N. and

Longitude 106° 17′ 21.42″ W.

Said parcel lies in approximately the SW¼SW¼ of section 25, T. 6 S. R. 80 W.

Gates Hut/Lodge

At approximately Latitude 39° 23′ 59.8″ N. and Longitude 106° 38′ 54.1″ W.

Said parcel lies in approximately the NW¼ of section 34, T. 7 S. R. 83 W. San Isabel National Forest.

Uncle Bud's Hut/Lodge

At approximately Latitude 39° 18′ 05.26″ N. and Longitude 106° 24′ 17.52″ W.

Said parcel lies in approximately the NE¼NE¼ of section 2, T. 9 S. R. 81 W.

The areas described aggregate approximaely 10.45 acres of lands in the San Isabel and White River National Forests in Eagle and Lake Counties.

The purpose of this withdrawal is to protect existing cross-country ski huts/lodges which are a part of a chain of overnight facilities between Aspen and Vail, Colorado.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with this proposal, or to request a public meeting, may present their views in writing to the Colorado State Director. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with the Bureau of Land Management Manual, § 2351.16B.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period two years from the date of publication of this notice in the **Federal Register**, the land will be segregated from the mining laws as specified above unless the application is denie_ or cancelled or the withdrawal is approved prior to that date. During this period the Forest Service will continue to manage these lands.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 91-5280 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-JB-M

[OR-943-01-4214-11; GP1-104; WASH-0844-A, OR-22108(WASH)]

Proposed Continuation of Withdrawals; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a portion of two separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following identified lands and projects are involved:

Gifford Pinchot National Forest

1. WASH-0844-A, Public Land Order No. 3870 dated November 12, 1965. Silver Star Administrative and Recreation Area, 320 acres located in Sec. 18, T. 3 N., R. 5 E., W.M., in Skamania County, approximately 14 miles northeast of Camas.

Sunset Administrative Site, 85.16 acres located in Sec. 19, T. 4 N., R. 5 E., W.M., in Skamania County, approximately 18 miles northeasterly of Camas.

Government Mineral Springs Recreation Area; 232.30 acres located in Sec. 25, T. 5 N., R. 6 E., and Sec. 31, T. 5 N., R. 7 E., W.M., in Skamania County, approximately 20 miles east of Yacolt.

Willard Administrative Site, 80 acres located in Sec. 35, T. 4 N., R. 9 E., W.M., in Skamania County, approximately 8 miles northwest of the town of White Salmon.

Misquito Lakes Guard Station and Recreation Area, 548 acres located in Secs. 1, 2, and 3, T. 7 N., R. 8 E., W.M., in Skamania County, approximately 14 miles northwest of the town of Trout Lake.

Iron Creek Recreation Area, 331.03 acres located in Secs. 18 and 19, T. 11 N., R. 7 E., W.M., in Lewis County, approximately 8 miles south of Randle.

Walupt Lake Administrative Site and Recreation Area, 70 acres located in Sec. 20, T. 11 N., R. 11 E., W.M., in Lewis County, approximately 17 miles southeast of Packwood.

Packwood Lake Administrative Site and Recreation Area, 280 acres located in Sec. 21, T. 13 N., R. 10 E., W.M., in Lewis County, approximately 4 miles east of Packwood.

Mt. Baker National Forest

2. OR-22108 (WASH), Secretarial Order dated November 23, 1906. Clear Creek Campground (Station 37), 31.95 acres located in Sec. 31, T. 32 N., R. 10 E., W.M., in Snohomish County, approximately 3 miles southeast of Darrington.

The withdrawal currently segregates the lands from operation of the mining laws, and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination of the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: January 29, 1991.

Robert E. Mellohan,

Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 91-3279 Filed 2-11-91; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Wolf Hunting and Trapping Closure

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: By emergency order of the Federal Subsistence Board, wolf hunting and trapping on Federal public lands within Alaska State Game Management Unit 13A is closed to all individuals to ensure a healthy population of wolves in the area.

DATES: The emergency closure is effective January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Glennallen District Office, Box 147, Glennallen, Alaska 99588; telephone (907) 822–3217.

SUPPLEMENTARY INFORMATION: As empowered by 50 CFR 100.17(b), and 36 CFR 242.17(b), the Federal Subsistence Management Board has closed Federal public lands in Game Management Unit 13A to the hunting and trapping of wolves effective January 14, 1991. The closure is been enacted at the request of local biologists because the harvest Game Management Unit 13A has thus far exceeded the recommended harvest by 17%. This closure is enacted in order to ensure the biological integrity of the wolf population in the area.

Curtis V. McVee,

Chairman, Federal Subsistence Management Board.

[FR Doc. 91–3284 Filed 2–11–91; 8:45 am]

BILLING CODE 4310–55–M

Intent to Prepare an Environmental Assessment (EA) for the Proposed Pickaway Plains National Wildlife Refuge in Pickaway and Ross Counties, OH

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental assessment.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an EA to establish and operate the Pickaway Plains National Wildlife Refuge, Pickaway and Ross Counties, Ohio. A public meeting regarding this proposal and the preparation of the EA will also be held. This notice is being furnished consistent with the National Environmental Policy Act Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EA. Comments and participation in this scoping process are solicited.

Written comments should be received by March 21, 1991.

DATES: A public meeting will be held in Circleville, Ohio, on February 19, 1991. The public meeting will be held at 7 p.m. in the auditorium of McDowell Middle School, 9579 Tarlton Road, Circleville, Ohio 43113.

FOR FURTHER INFORMATION CONTACT: Jeannie Wagner-Greven, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, (612) 725–3306.

SUPPLEMENTARY INFORMATION: Ken Lammers is the primary author of this document. His address is: U.S. Fish and Wildlife Service, 6950–H Americana Parkway, Reynoldsburg, Ohio 43068–4115.

The Fish and Wildlife Service (FWS), Department of the Interior, proposes to prepare an EA regarding a proposal to establish the Pickaway Plains National Wilflife Refuge in Pickaway and Ross Counties, Ohio. The FWS would purchase land from willing sellers. Additional acreage adjacent to the refuge would be purchased by the Ohio Division of Wildlife. The area to be studied encompasses approximately 5,000 to 8,000 acres in Pickaway and Ross Counties.

Pickaway Plains is a large bottomland area along the Scioto River. It is an important staging and wintering area for a number of waterfowl, such as American black ducks, mallards, and Canada geese. Where food and cover exist, the bottomland provides good habitat for a variety of wetland wildlife. Wood ducks, white-tailed deer, great blue herons, ring-necked pheasants, furbearers, northern harriers, and other birds of prey, and a variety of songbirds live in the Pickaway Plains habitat.

The refuge study area is in the Lower Scioto Focus Area of the Lower Great Lakes—St. Lawrence Basin Joint Venture of the North American Waterfowl Management Plan. This area has been identified for habitat protection and restoration, because of its location in part of a major waterfowl flyway in Ohio. As such, thousands of ducks and geese migrate and/or winter in the Pickaway Plains area. By protecting the area's habitat, the FWS aspires to reverse the declining waterfowl populations.

Pickaway Plains would be restored and managed to provide essential migratory and wintering habitat. The area would offer hunting, wildlife observation, outdoor educational opportunities, and numerous other wildlife-related activities.

Several alternatives with varying levels of land acquisition will be formulated for consideration by the agencies and the public. One alternative will be a "no action" plan. It is anticipated that the FWS will pursue the alternatives which would meet habitat protection goals in a cost effective manner.

Significant issues to be addressed during the scoping and planning process include:

1. Alternative refuge plans.
2. Acquisition of land from willing sellers.
3. Wildlife management efforts to benefit migratory and wintering waterfowl.
4. Nongame and terrestrial wildlife management efforts.
5. Possible impacts of the action to Pickaway and Ross County airports.
6. Replacement of lost tax base to the local community.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the draft EA will be made available to the public by May 31, 1991.

Dated: February 5, 1991.

Marvin E. Moriarty,

Deputy Regional Director.

[FR Doc. 91–3325 Filed 2–11–91; 8:45 am]

BILLING CODE 4310–55–M

Alaska Federal Subsistence Board Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

TIME AND DATE: 8:30 a.m.; March 4–8, 1991, 8:30 a.m.; March 18–22, 1991, 8:30 a.m.; June 12, 1991, 8:30 a.m.; October 23–24, 1991, 8:30 a.m.; December 11–12, 1991.

PLACE: Anchorage, Alaska. Specific meeting places will be announced through the local media at a later date; one or more of the future meetings may be held in Fairbanks or Juneau.

STATUS: Parts of all meetings will be open to the public. The public is invited to attend and observe the proceedings. Public testimony will be accepted at these meetings. A portion of each meeting may be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public: The Board will discuss business relative to management of the Federal subsistence management program on Federal lands. The major categories to be discussed include:

March 4–8 and 18–22 (if needed)

a. Correspondence to the Board
b. Environmental Impact Statement Team Report
c. Subsistence seasons and bag limits for 1991

June 12

a. Correspondence to the Board
b. Environmental Impact Statement

Team Report
c. Subsistence seasons and bag limits for 1991
d. Advisory system review recommendations

October 23–24
a. Correspondence to the Board
b. Environmental Impact Statement Team Report
c. Final subsistence management regulations

December 11–12
a. Correspondence to the Board
b. Environmental Impact Statement Team Report
c. Record of Decision on final subsistence management regulations

Public testimony will be accepted on all items.

Portions Closed to the Public: If needed, the Board will discuss business relative to management of the Federal Subsistence Board activities.

CONTACT PERSON FOR MORE INFORMATION: Richard Pospahala, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, telephone (907) 267–1461.

Curtis V. McVee,

Chairman, Federal Subsistence Board, Department of the Interior.

[FR Doc. 91–3283 Filed 2–11–91; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 30, 199. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by February 27, 1991.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Duval County

Carling Hotel, 33 W. Adams St., Jacksonville, 91000225

GUAM

Guam County

Gongna Beach Gun Emplacement (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon, 88001897

Gongna Beach Gun Mount (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon vicinity, 88001898

Gongna Beach Mount Pillbox (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon vicinity, 88001894

Inalahan Pillbox (Japanese Coastal Defense Fortifications on Guam TR), Rt. 4, Inarajan vicinity, 88001890

Sanvitores Beach Japanese Fortification (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon vicinity, 88001891

Tomhum Cliffline Fortification I (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon vicinity, 88001895

Tomhum Cliffline Fortification II (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon vicinity, 88001896

Tomhum Pillbox I (Japanese Coastal Defense Fortifications on Guam TR), E. San Vitores Dr., Tumon, 88001893

LOUISIANA

Calcasieu Parish

Calcasieu Marine Bank, 840 Ryan St., Lake Charles, 91000221

MASSACHUSETTS

Suffolk County

Roxbury Presbyterian Church, 328 Warren St., Roxbury, 91000219

MICHIGAN

Arenac County

Michigan Central Railroad Standish Depot, 107 N. Main St., Standish, 91000215

Lenawee County

Lenawee County Courthouse, 309 N. Main St., Adrian, 91000212

Wayne County

Chateau Frontenac Apartments, 10410 E. Jefferson Ave., Detroit, 91000213

El Tovar Apartments, 210 E. Grand Blvd., Detroit, 91000214

MISSOURI

St. Charles County

Frenchtown Historic Disrict, Roughly bounded by N. Fifth, Clark and French Sts. and the Missouri R., St. Charles, 91000216

MONTANA

Gallatin County

Quaw, Thomas, House, 5 Central Ave., Belgrade, 91000217

NEW HAMPSHIRE

Carroll County

Abenaki Indian Shop and Camp, Intervale Crossroad, 1 mi. E of NH 16, Conway, 91000218

PENNSYLVANIA

Blair County

Leap-the-Dips, 700 Park Ave., Altoona, 91000229

Chester County

Hopewell Historic Disrict, Roughly, Hopewell Rd. from Lower Hopewell Rd. to Roneys Corner Rd. and area S. and Lower Hopewell Rd. N past Calvery Rd., Hopewell, 91000226

Huntingdon County

Spruce Creek Rod and Gun Club, PA 45 W of Graysville, Franklin Township, Franklinville Vicinity, 91000228

Montgomery County

Carson College for Orphan Girls, Between W. Mill and Wissahickon Rds., Springfield Township, Flourtown, 91000227

Westmoreland County

Fisher, Adam, Homestead, Brinkerton Rd. near jct. with Mt. Pleasant Rd., Mt. Pleasant Township, United, 91000230

SOUTH CAROLINA

Georgetown County

All Saints' Episcopal Church, Waccamaw, SC 255 .2 mi. N of jct. with SC 46, Pawleys Island vicinity, 91000232

Cedar Grove Plantation Chapel (Georgetown County Rice Culture MPS), SC 255 .2 mi. N of jct. with SC 46, Pawleys Island vicinity, 91000231

Hampton County

Hampton Colored School, W. Holly St. E. of jct. with Hoover St., Hampton, 91000233

TENNESSEE

Dyer County

Dyersburg Courthouse Square Historic District, Roughly bounded by Church, Main, Cedar & Court Sts., Dyersburg, 91000222

Haywood County

Dancyville United Methodist Church and Cemetery, Dancyville Methodist Church St., Dancyville, 91000224

Rutherford County

Rucker, Benjamin, House, 3978 Betty Ford Rd., Compton vicinity, 91000223

WASHINGTON

Lewis County

Ohanapecosh Comfort Station No. O–302 (Mt. Rainier National Park MPS), Mt. Rainier National Park, Ohanapecosh vicinity, 91000203

Ohanapecosh Comfort Station No. 0–303 (Mt. Rainier National Park MPS), Mt. Rainier National Park, Ohanapecosh vicinity, 91000204

Three Lakes Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Ohanapecosh vicinity, 91000169

Pierce County

Camp Muir (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000176

Chinook Pass Entrance Arch (Mt. Rainier National Park MPS), Mt. Rainier National Park, Chinook Pass Entrance, 91000202

Christine Falls Bridge (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000196
Edith Creek Chlorination House (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000201
Gobbler's Knob Fire Lookout (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance vicinity, 91000191
Huckleberry Creek Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Sunrise vicinity, 91000178
Indian Bar Trail Shelter (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000179
Indian Henry's Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire vicinity, 91000180
Ipsut Creek Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Carbon River Entrance vicinity, 91000181
Lake George Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire vicinity, 91000182
Longmire Campground Comfort Station No. L-302 (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire vicinity, 91000209
Longmire Campground Comfort Station No. L-303 (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire vicinity, 91000210
Longmire Campground Comfort Station No. L-304 (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire vicinity, 91000211
Longmire Historic District (Mt. Rainier National Park MPS), Mt. Rainier National Park, Longmire, 91000173
Mowich Lake Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Carbon River Entrance vicinity, 91000183
Mt. Fremont Fire Lookout (Mt. Rainier National Park MPS), Mt. Rainier National Park, Sunrise vicinity, 9100193
Narada Falls Bridge (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000197
Narada Falls Comfort Station (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise vicinity, 91000208
Nisqually Entrance Historic District (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance, 91000172
North Mowich Trail Shelter (Mt. Rainier National Park MPS), Mt. Rainier National Park, Mowich Lake Entrance vicinity, 91000184
Paradise Historic District (Mt. Rainier National Park MPS), Mt. Rainier National Park, Paradise, 91000174
Shriner Peak Fire Lookout (Mt. Rainier National Park MPS), Mt. Rainier National Park, Ohanapecosh vicinity, 91000194
South Puyallup River Bridge (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance vicinity, 91000198
St. Andrews Creek Bridge (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance vicinity, 91000199
St. Andrews Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance vicinity, 91000188
Summer Trail Shelter (Mt. Rainier National Park MPS), Mt. Rainier National Park, Sunrise vicinity, 91000185
Sunrise Comfort Station (Mt. Rainier National Park MPS), Mt. Rainier National Park, Sunrise vicinity, 91000207
Sunrise Historic District (Mt. Rainier National Park MPS), Mt. Rainier National Park, Sunrise, 91000175
Sunset Park Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, Mowich Lake Entrance vicinity, 91000186
Sunset Park Trail Shelter (Mt. Rainier National Park MPS), Mt. Rainier National Park, Mowich Lake Entrance vicinity, 91000187
Tahoma Vista Comfort Station (Mt. Rainier National Park MPS), Mt. Rainier National Park, Nisqually Entrance vicinity, 91000205
Tipsoo Lake Comfort Station (Mt. Rainier National Park MPS), Mt. Rainier National Park, Chinook Pass vicinity, 91000206
Tolmie Peak Fire Lookout (Mt. Rainier National Park MPS), Mt. Rainier National Park, Mowich Lake Entrance vicinity, 91000195
White River Bridge (Mt. Rainier National Park MPS), Mt. Rainier National Park, White River Entrance vicinity, 91000200
White River Entrance (Mt. Rainier National Park MPS), Mt. Rainier National Park, White River Entrance, 91000177
White River Patrol Cabin (Mt. Rainier National Park MPS), Mt. Rainier National Park, White River Entrance vicinity, 91000190

WISCONSIN

Ozaukee County

Payne Hotel, 310 E. Green Bay Ave., Saukville, 91000220

The following property was listed under Juniata County, Pennsylvania, in the list dated February 4, 1991:

MINNESOTA

Kandiyohi County

Broman, Andreas, Johanna, Anna and Frank E., Farmstead, Off Co. Rd. 8 between Swan Lake and Kasota Lake, Kandiyohi Township 91000098

[FR Doc. 91-3292 Filed 2-11-91; 8:45 am]

BILLING CODE 4360-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875-1573, MS/AS/ISS, Room 1209B, SA-14, Washington, DC 20523-1413.

Date Submitted: January 28, 1991
Submitting Agency: Agency for International Development
OMB Number: 0412-0019
Form Number: IAP 66A (2-83)
Type of Submission: Extension
Title: Certificate of Eligibility of Exchange Visitor (J-1) Status
Purpose: Applicants must apply for Certificate of Eligibility for Exchange Visitor (J-1) Status visas. J-1 Status visas are needed by A.I.D. sponsored participants (trainees) and are provided by means of the U.S. Exchange Visitor Program. Visas for these trainees are issued by the Immigration and Naturalization Service upon receipt of Form IAP-66, Certificate of Eligibility for Exchange Visitor (J-1) Status.
Annual Reporting Burden:
Respondents: 19,070; annual responses: 1; averge hours per response: .15; burden hours: 9517.
Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: January 29, 1991.

Elizabeth Baltimore,I04Communications and Program Management Division.

[FR Doc. 91-3282 Filed 2-11-91; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Passenger Carrier or Water Carrier Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers pursuant to 49 U.S.C. 11343-11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.-Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR part 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission. No. MC-F-19776, filed

December 18, 1990: William A. Renzenberger—Continuance in Control Exemption—Renzenberger, Inc. and Mid-American Van Pool, Inc. Petitioners' representative: Clyde N. Christey, 3601 SW 29th St., suite 202, Topeka, KS 66614. William A. Renzenberger (Mr. Renzenberger), a noncarrier, seeks to continue in control of Mid-American Van Pool, Inc. (MAVP). MAVP seeks its initial grant of operating authority in No. MC-238671, as a common carrier to transport passengers, in charter and special operations, (1) Between points in California, Nevada, Utah, Wyoming, Colorado, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, Louisiana, Illinois, and Tennessee; and (2) beginning and ending at points in the same 15 states and extending to points in the United States (except Alaska and Hawaii).

Mr. Renzenberger, owns all the stock of MAVP and Renzenberger, Inc. (RI) (No. MC-170517). Because Mr. Renzenberger, upon issuance of authority to MAVP, will be a noncarrier individual in control of two regulated motor carriers, his continuance in control of MAVP is subject to our jurisdiction.

Decided: February 6, 1991.

By the Commission, Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3324 Filed 2-11-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Extension of Announcement of Vacancies to March 8, 1991; Request for Nominations

Due to the appointment of a new Secretary of Labor, the announcement of vacancies to the ERISA Advisory Council is being extended. Earlier candidates whose nominations have been acknowledged need not reapply.

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (The Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of her functions under ERISA, and to submit to the Secretary, or their designee, recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expired on Wednesday, November 14, 1990. The groups or fields represented are as follows: Employee organizations, corporate trust, investment management, employers (multiemployer plans), and the general public.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to, Attention: William E. Morrow, Executive Secretary, ERISA Advisory Council, Frances Perking Building, U.S. Department of Labor, 200 Constitution Avenue, NW., suite N-5677, Washington, DC 20210. Recommendations must be delivered or mailed on or before March 8, 1991. Recommendations may be in the form of a letter, resolution or petition, signed by the person making the recommendation or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation should identify the candidate by name, occupation or position, telephone number and address. It should also include a brief description of the candidate's qualifications, the group or field which he or she would represent for the purposes of Section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, DC, this 6th day of February, 1991.

David George Ball,

Assistant Secretary of Labor for Pension and Welfare Benefit Programs.

[FR Doc. 91-3312 Filed 2-11-91; 8:45 am]

BILLING CODE 4510-29-M

Employment and Training Administration

[TA-W-25,035]

International Shoe Machine Corporation St. Charles, MO; Negative Determination Regarding Application for Reconsideration

By an application dated January 15, 1991, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 31, 1990 and it will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the certifying officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company's statement concerning its shoe-machinery production in New Hampshire for the declining domestic shoe industry would not provide a basis for certifying the St. Charles workers who provided a service. Also, the petition TA-W-25,203 for ISMC workers in Kingston, Pennsylvania, is still under a factfinding investigation.

The Department's denial for the St. Charles workers of the International Shoe Machine Corporation (ISMC) was based on the fact that the workers do not produce an article within the meaning of section 222(3) of the Trade Act. This was addressed in the Department's notice of negative determination.

Worker groups providing a service like ISMC in St. Charles may be certified eligible for trade adjustment assistance if their layoffs were cause importantly be a reduced demand for their services from a protection facility of a parent firm or a firm otherwise related by

ownership or control whose workers independently meet the statutory criteria for certification. These conditions were not met for workers of ISMC in St. Charles.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 2nd day of February 1991.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services.

[FR Doc. 91-3274 Filed 2-11-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,017]

Winter Wood Products, Incorporated Phillips, WI; Negative Determination Regarding Application for Reconsideration

By an application dated January 28, 1991, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 21, 1990 and published in the **Federal Register** on January 8, 1991 (56 FR 711).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Wheelbarrow handles constituted the major portion of production at Winter Wood Products. This production was integrated into the production of wheelbarrows with its parent company. In July 1990 the parent company of Winter Wood went out of the wheelbarrow business; consequently, there was no need for wheelbarrow handles. Winter Wood Products closed in October, 1990.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. Winter Wood's wheelbarrow handles were produced exclusively for its parent company which did not import wheelbarrow handles.

The issue of components (wheelbarrow handles) was addressed early in the administration of the worker adjustment assistance program. In *United Shoe Workers of America, AFL-CIO* v. *Bedell*, 506, F2d (D.C. Circ. 1974) the court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Accordingly, increased imports of wheelbarrows cannot be considered in determining import injury to workers producing wheelbarrow handles a component of wheelbarrows. Therefore, in determining import injury to workers at Winter Wood, the Department must consider the article produced at Winter Wood—wheelbarrow handles.

Further the statements that (1) Winter Wood was unable to procure other business because of imported handles and (2) the parent company could have imported wheelbarrow handles but chose not to would not provide a basis for a worker group certification for workers at Winter Wood.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 5th day of February, 1991.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services.

[FR Doc. 91-3275 Filed 2-11-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts in Education Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that renewal of the Arts in Education Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) polices and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdication over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endownment for the Arts.

[FR Doc. 91-3256 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Challenge/Advancement Advisory Panel; Establishment

In accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that establishment of the Challenge/Advancement Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

The function of this advisory committee cannot be performed by the

Arts Endowment, an existing advisory committee or other means, such as public hearing. Neither the agency nor any existing advisory committee possesses sufficient expertise or breadth of representation regarding this field to offer such advice. Other means, such as public hearings, are not suitable for obtaining the necessary advice. Therefore, the establishment and use of this advisory committee is in the public interest.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3261 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR Part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4), notice is hereby given that renewal of the Dance Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3257 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that renewal of the design Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3258 Filed 2-11-91; 8:45 am]

BILLING CODE 3710-01-M

Expansion Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that renewal of the Expansion Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3259 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Folk Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR Part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)], notice is hereby given that renewal of the Folk Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the

Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3260 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Inter-Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Inter-Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advise and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3253 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Literature Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Literature Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grants assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3254 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Media Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3255 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C 959 (a)(4)), notice is hereby given that renewal of the Museum Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3250 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965,

as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Music Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3251 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Opera-Musical Theater Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR Part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Opera-Musical Theater Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3247 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Office for Public Partnership Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Office for Public Partnership Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3252 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Theater Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3248 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and General Services Administration regulations issued pursuant thereto (41 CFR part 101-6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)), notice is hereby given that renewal of the Visual Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until February 1, 1993. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) Applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as

amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Dated: February 6, 1991.

Martha Y. Jones,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3249 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

President's Committee on Arts and Humanities; Meeting

Thursday, February 28 at nine o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXII. This meeting has been scheduled in the Council Room (M-09), Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., in Washington, DC. This is a regularly scheduled meeting.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which augment their operational costs and support projects and programs which have been initiated by the President's Committee.

Please call 202-682-5409 or 212-512-5957 if you expect to attend, as space is limited.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-3246 Filed 2-11-91; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Issued; Mary A. Olson

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On November 8, 1990, the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued to the following individual on February 6, 1991: Mary A. Olson.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 91-3320 Filed 2-11-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Correction Notice

On January 23, 1991, the **Federal Register** published the Bi-weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On pages 2547 and 2564 the date February 8, 1991, appeared. The correct date is February 22, 1991.

Dated at Rockville, Maryland, this 31st day of January, 1991.

For the Nuclear Regulatory Commission.

L.B. Marsh,

Director, Project Directorate III-1, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91-3334 Filed 2-11-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498 and 50-499]

Houston Lighting & Power Co., City Public Service Board of San Antonio, Central Power and Light Co., City of Austin, TX; South Texas Project, Units 1 and 2, Withdrawal of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Houston Lighting & Power Company (the licensee) to withdraw four of the requested changes to the Technical Specifications that were included in the February 1, 1990, application for proposed amendments to Facility Operating Licenses NPF-76 and NPF-80 for the South Texas Project, Units 1 and 2, located in Matagorda County, Texas.

The February 1, 1990, application for amendments requested 22 changes to the Technical Specifications (TSs) based on a probabilistic risk analysis. The four withdrawn requests concern the auxiliary feedwater system (TS section 3/4.7.1.2), essential cooling water (TS section 3.7.4), diesel generators (TS section 3/4.8.1.1), and DC electrical sources (TS section 3.8.2).

The Commission had previously issued a Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing published in the **Federal Register** on March 21, 1990 (55 FR 10535). However, by letter dated November 27, 1990, the licensee withdraw the aforementioned four changes.

For further details with respect to this action, see the application for amendments dated February 1, 1990, and the licensee's letter dated November 27, 1990, which withdrew four requested changes. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC; and the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 5th day of February 1991.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

Project Manager, Project Director IV-2, Director of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91-3335 Filed 2-11-91; 8:45 am]

BILLING CODE 7590-01-M

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

[Docket Nos. 50-280 and 50-281]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Units 1 and 2 located in Surry County, Virginia.

The amendments would revise the Surry Units 1 and 2 Technical Specifications (TS) by requiring that Type A, B, and C testing be performed at 45 psig (containment design pressure) rather than the currently specified minimum value of 39.2 psig. This change is necessary to ensure that the containment is tested at a pressure equal to or greater than the calculated peak accident pressure. The proposed amendments would also change the pressure at which the escape hatch would be tested 72 hours after use from a minimum pressure of 39.2 psig to 10 psig, since the test objective is to verify

leak tightness of the hatch seal and not the structural integrity of the hatch. The required 6-month surveillance test of the escape hatch will continue to be performed at containment design pressure (45 psig). Finally, the Bases section of the TS would also be updated to reflect the new test pressures, and a typographical error in Bases section 3.8 regarding the operational range of the service water temperature would be corrected.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 15, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated November 14, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 4th day of February 1991.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director Project Directorate 11-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-3336 Filed 2-11-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Supplementary Information on Imports During First 10 Months of 1990 and Invitation of Comments

SUMMARY: This notice provides information supplementing that contained in a recent Federal Register notice (56 FR 3509) regarding GSP import statistics. Interested parties are invited to submit written comments on the additional information being provided below, in accordance with procedures described in the prior notice. These comments must be submitted to

the Office of the United States Trade Representative, in twelve copies, by 5 p.m. March 6, 1991.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 414, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: As described in a prior **Federal Register** (56 FR 3509), the GSP program's competitive need limits, as defined in the GSP statute, require annual modification to the list of products and beneficiaries eligible for GSP duty-free treatment. Due to changes in the list of GSP beneficiary developing countries proclaimed by the President on February 4, 1991 (Proclamations 6244 and 6245; 56 FR 4707 and 4921) the preliminary list of products which may have their GSP status modified is being expanded to include the products and beneficiary listed below.

It should be emphasized that the statistics set forth below cover only the first 10 months of 1990 and are being provided for information purposes only. Decisions regarding GSP status will be made based on full year 1990 data. Partial year data is being published now to provide the maximum possible advance indication of adjustments that may be made to meet the requirements of section 504(c) of the Trade Act and to afford the opportunity for comment on potential discretionary decisions.

List I shows a specific GSP-eligible article for a recently redesignated beneficary which has already exceeded estimated competitive need limitations (i.e. the beneficiary supplied over $93,104,970 during January-October 1990).

List II shows those products for which a beneficiary is approaching the competitive need limitations (i.e. a beneficiary accounted for over 47 percent of the value of total U.S. imports and/or over $70 million during January-October 1990).

List III shows a beneficiary which, despite accounting for more than 50 percent of the value of total U.S. imports of an article, may be eligible to receive GSP benefits through the *de minimis* waiver pursuant to the President's discretionary authority (i.e. where a beneficiary accounted for more than the applicable percentage limit and the value of total U.S. imports of the item was less than $10,934,136 during January-October 1990).

List IV shows a beneficiary which is currently ineligible for GSP duty-free treatment but which may be eligible for redesignation to GSP status pursuant to the President's discretionary authority (i.e. a beneficiary accounted for less than 50 percent of the value of U.S. imports and the value of total U.S. imports was less than the applicable dollar limit during January-October 1990).

All written comments with regard to these decisions should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representatives, 600 17th Street, NW., room 414, Washington, DC 20506. All submissions should conform to the information requirements of 15 CFR 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2) and 2007.1(a)(3). Furthermore, each party providing comments should indicate on the first page of the submission its name, HTS subheading(s), beneficiary country or territory of interest, and the type of action (e.g. the use of the President's *de minimis* waiver authority, etc * * *) in which the party is interested.

These statements must be accompanied by twelve copies, in English, of all comments and must be received by the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m., Wednesay, March 6. Until further notice, no packages will be accepted for delivery at the USTR building. All such packages should be delivered to the New Executive Office Building, 725 17th Street, NW., room G–1. Comments received after the deadline will not be accepted. If the comments contain business confidential information, twelve copies of a nonconfidential version of the comments along with twelve copies of the confidential version must be submitted. Further instructions on procedures for submitting confidential information and reviewing submitted comments are provided in the prior notice (56 FR 3509).

David A. Weiss,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

GSP IMPORTS DURING THE FIRST 10 MONTHS OF 1990
SUPPLEMENTAL LIST

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	7403.11.00	Chile.....	94,763,892	18.0%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
* D	0708.20.10	Chile.....	63,392	55.4%
* D	0709.20.10	Chile.....	1,482,166	66.1%
* D	0713.33.10	Chile.....	794,237	78.4%
* D	0713.39.10	Chile.....	323,206	78.1%
* D	0713.39.20	Chile.....	2,315,321	60.3%
* D	0811.20.00	Chile.....	1,646,963	48.0%
* D	1604.15.00	Chile.....	4,768,324	72.3%
* D	2007.99.48	Chile.....	114,049	49.8%
* D	2208.20.10	Chile.....	17,917	68.3%
* D	2825.70.00	Chile.....	1,773,822	60.5%
* D	2836.91.00	Chile.....	6,577,163	99.2%
*	7403.19.00	Chile.....	30,613,701	88.4%
* D	8112.91.50	Chile.....	4,039,350	68.2%

LIST III : POSSIBLE de MINIMIS ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
* D	0708.20.10	Chile.....	63,392	55.4%
* D	0709.20.10	Chile.....	1,482,166	66.1%
* D	0713.33.10	Chile.....	794,237	78.4%
* D	0713.39.10	Chile.....	323,206	78.1%
* D	0713.39.20	Chile.....	2,315,321	60.3%
* D	0811.20.00	Chile.....	1,646,963	48.0%
* D	1604.15.00	Chile.....	4,768,324	72.3%
* D	2007.99.48	Chile.....	114,049	49.8%
* D	2208.20.10	Chile.....	17,917	68.3%
* D	2825.70.00	Chile.....	1,773,822	60.5%
* D	2836.91.00	Chile.....	6,577,163	99.2%
* D	8112.91.50	Chile.....	4,039,350	68.2%

LIST IV : POSSIBLE REDESIGNATION ITEMS
1990 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	1005.90.20	Chile.....	430,553	23.9%
*	7402.00.00	Chile.....	27,752,397	24.6%
*	7403.12.00	Chile.....	0	0.0%
*	7403.13.00	Chile.....	1,867,649	22.6%
*	7403.21.00	Chile.....	0	0.0%
*	7403.22.00	Chile.....	0	0.0%
*	7403.23.00	Chile.....	4,160	0.3%
*	7403.29.00	Chile.....	69,596	7.1%

FLAGS: G = Graduated by Petition * = Excluded full year 1990
1 = Excluded January-June 1990 2 = Excluded July-December 1990
R = Reduced Competitive Need Limits Apply D = Imports currently below de minimis limit X = Waiver of Reduced Limit Granted

[FR Doc. 91-3297 Filed 2-11-91; 8:45 am]
BILLING CODE 3190-01-C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28859; File No. SR-CBOE-91-02]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc. Relating to Transaction Fees for Equity Securities Products

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE has established transaction fees for customer, market-maker and member firm proprietary trading of stocks, bonds, rights, warrants and equity hybrid products (collectively, "equity securities products") as follows:[1]

	Per share (bond) transaction fee	Per share (bond) value fee
Customer	$.003	$.0001
Member Firm	.001	none
Market-maker	.0005	none

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange is establishing transaction fees for customer, market-maker and member firm proprietary accounts in equity securities products. The fees shall apply to all transactions effected after trading in each product begins.

In addition, the CBOE wishes to clarify that the transaction fees to be imposed on the trading of stocks, warrants and rights which were set forth in File No. SR-CBOE-90-34 apply to customer transactions only.[2]

Statutory Basis

The statutory basis for the proposed rule change is section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among CBOE members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not ncessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-91-02 and should be submitted by March 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 5, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3310 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[1] The fee will be equal to the number of shares times the per share (bond) transaction fee plus the transaction value times the per share (bond) value fee

[2] *See* Securities Exchange Act Release No. 28725 (December 28, 1990), 56 FR 539 (Notice of Filing and Immediate Effectiveness of File No. SR-CBOE-90-34).

[Release No. 34-28855; File No. SR-MCC-91-01]

Self-Regulatory Organizations; Midwest Clearing Corp.; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Liability Notice Procedures for Book-Entry Deliverable Instruments With an Exercise Privilege

February 5, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 14, 1991, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-MCC-91-01) as described in Items I, II, and III below, which items have been prepared by MCC. The proposed rule change relates to liability notice procedures for book-entry deliverable instruments with an exercise privilege. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. The Commission also is granting approval, on an accelerated basis, for the reasons discussed below.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC filed the proposed rule change to amend its procedures to establish a liability notice procedure for book-entry deliverable instruments with an exercise privilege.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified Item IV below. MCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

MCC filed the proposed rule change to establish a liability notice procedure for book-entry deliverable instruments with an exercise privilege, such as the Financial Times Stock Exchange Index Warrants ("FT–SE 100 Index") trading on the Midwest Stock Exchange. Under the proposed rule change, a participant with a long index warrant position who fails to receive the warrant and is unable to exercise will be able to hold a participant with a short position [1] or short settling trade position [2] liable for the value of the exercise.

Under the proposed rule change, participants who have sold book-entry deliverable index warrants and similar securities would be advised of their potential liability based on their short positions on the MCC Net Position Report starting on T+1. This report would put participants with short positions on notice that they may be held liable for damages by a participant with a long position who is prevented from exercising because of failure to receive the warrant or similar security. Thus, any participant with a short position on this report would be on notice that it may be liable for damages if it fails to deliver securities on T+5 and MCC allocates an exercise liability notice to that participant thereafter.

Under the proposal, participants with long positions or long settling trade positions [3] who want to exercise must file a Notice of Intention to Exercise ("Notice") with MCC specifying the number of securities they want to exercise ("Exercise Position"). The day the Notice is filed is referred to as "N." [4] If a participant's exercise position remains unfilled after the allocation on N, MCC will remove the long position from the CNS system before N+1, and will match it with a corresponding short position based on a random allocation method.

On the morning of N+1, based on the results of matching long positions to corresponding short positions, MCC will issue receive and deliver instructions naming a failing to receive and a failing to deliver participant. This ticket will allow a participant who failed to receive securities to claim damages from the participant who failed to deliver the security. Those damages would be for losses that result from the receiving participant's inability to exercise the security on N.[5] If exercises of the securities are suspended according to the terms of the prospectus, the participant who failed to deliver would continue to be liable for damages, but the amount of damages would be established once the suspension was lifted, or the liability could be satisfied by delivery of the warrants before exercises resume.

B. Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burden will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Executive Committee of the Reorganization Division of the SIA and SIA Sub-Committee on Index Warrants endorse the proposal. MCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

MCC requested the Commission to find good cause for approving the proposed rule change on an accelerated basis. For the reasons discussed below, the Commission finds that "good cause" exists under section 19(b)(2) of the Act for approving the proposal prior to the thirtieth day after publication of notice in the **Federal Register**.

The Commission believes that MCC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F).[6] Sections 17A(b)(3) (A) and (F) of the Act require a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

The proposed rule change will enable participants who are unable to exercise a long index warrant position because of another participant's failure to deliver securities, to hold the other participant liable for the value of the exercise. Unlike other instruments for which MCC has liability notice procedures (*e.g.*, convertible securities or securities subject to a tender or exchange offer at a time certain), American style index warrants can be exercised at any time until their expiration and the exercising holder can obtain value before the expiration date.[7] Under MCC's current rules, a participant with a long index warrant position who fails to receive the warrant and is unable to exercise the warrant cannot hold anyone liable for the value of the exercise because MCC's existing liability notice procedures hinge on the expiration of, not the exercise of, a warrant. Thus, the proposal would adapt MCC's rules to new securities for

[1] A short position represents a participant's obligation to deliver securities to MCC or another participant against payment.

[2] A short settling trade position is a participant's obligation to deliver securities to MCC against payment by MCC that day.

[3] A long settling trade position is a member's right to receive securities from MCC against payment that day as recorded in MCC's CNS system.

[4] MCC will notify participants of the specific date, through an "Administrative Bulletin," for submission of Notices after consultation with tender agents.

[5] If a participant files a notice with MCC on exercise date, T+5 or thereafter, the failing to deliver participant will be liable for the cash amount the member would have received if the participant was able to exercise the warrant on the exercise date, which is the difference between the strike price of the index warrant, established at the time the warrant was purchased, and the cash value of the index on the exercise date as established in the prospectus. Because of the time differences, the cash value on exercise date of some foreign index warrants, *e.g.*, Nikkei 225 Index Warrants, is established based on the close of the stock market in that particular country on the day following the exercise date.

[6] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[7] The exercise provisions for most index warrants also require delivery of the warrants to the warrant agent on the day of exercise. In many exchange or tender offers for which MCC's liability notice rules were originally designed, it is possible to accept the offer and deliver the securities to the tender agent after the offer expires.

which MCC provides clearance and settlement functions.

The Commission believes the proposed rule change is well designed to protect the interests of both parties to a trade in these securities. A participant with a long position in a security with an exercise privilege will be protected against the risk that a customer will exercise the warrant on settlement date before the participant has received the warrant from MCC (or another MCC participant) to enable that exercise. Similarly, participants with short positions in these securities should benefit from the proposal because MCC will remind them, through reports on T+4, that they face potential liability for exercises if they fail to deliver securities on T+5.

MCC has requested that this proposal be approved on an accelerated basis because a number of index warrants are already approved for trading on national securities exchanges, including the Midwest Stock Exchange and the Chicago Board Options Exchange. Without a mechanism to provide for damages when a receiving participant is unable to exercise a warrant because of a delivering participant's failure to deliver the securities, the receiving participant and its customers could sustain a loss. The Commission recently published notice of an identical proposal from the National Securities Clearing Corporation ("NSCC"). That notice appeared in the **Federal Register** on January 10, 1991.[8] No comments were received regarding NSCC's proposal and the Commission approved the proposal on February 1, 1991.[9] Thus, the Commission believes "good cause" exists under section 19(b)(2) of the Act for approving MCC's proposed rule change prior to the thirtieth day after publication of notice.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of MCC. All submissions should refer to File No. SR-MCC-91-01 and should be submitted by March 5, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR-MCC-91-01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3303 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[8] See Securities Exchange Act Release No. 28730 (January 2, 1991), 56 FR 1037.

[9] See Securities Exchange Act Release No. 28845 (February 1, 1991).

[Release No. 34-28857; File No. SR-NASD-90-28, Amdt. 1]

Self-Regulatory Organizations; Amendment to Proposed Rule Change by National Association of Securities Dealers, Inc., Relating To Use and Disclosure of Member Names

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 28, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), filed with the Securities and Exchange Commission ("SEC" or "Commission") Amendment No. 1 to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed amendment. The proposed new language is italicized; proposed deletions to SR-NASD-90-28 are bracketed.[1]

[1] The proposed rule change was originally published at 55 FR 21994, May 30, 1990. The original publication did not include certain conforming changes to Article III, Section 35(d) of the NASD's Rules of Fair Practice ("Rules") that are included in this notice. All other changes contained in this notice reflect changes that have been made to the rule as initially published for comment.

Communications With the Public

Sec. 35.

*

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*

(d) Standards Applicable to Communications with the Public

(1) General Standards

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*

(C) When sponsoring or participating in a seminar, forum, radio or television interview, or when otherwise engaged in public appearances or speaking activities which may not constitute advertisements, members and persons associated with members shall nevertheless follow the standards of [paragraph] *subsections* (d) *and (g)* of this [s]*Section*

(2) Specific Standards

In addition to the foregoing general standards, the following specific standards apply:

(A) Necessary Data: Advertisements and sales literature shall contain the name of the member, *unless such advertisements and sales literature comply with subsection (g) of this Section. Sales literature shall contain the name of* the person or firm preparing the material, if other than the member, and the date on which it is first published, circulated or distributed [(except that, in advertisements, only the name of the member need be stated and except also that, in any so-called "blind" advertisement used for recruiting personnel, the name of the member may be omitted)]. If the information in the material is not current, this fact should be stated.

*

*

(g) Standards Applicable to the Use and Disclosure of the NASD Member's Name

(1) In addition to the provisions of subsection (d) of this Section, members' public communications shall conform to the following provisions concerning the use and disclosure of member names. The term "communication" as used herein shall include any item defined as either "advertising" or "sales literature" in subsection (a) of this Section. The term "communication" shall also include, among other things, business cards and letterhead.

(2) General Standards

(A) Any communication used in the promotion of a member's securities business [(except those forms of advertising excluded under subsection (d)(2)(A) of this Section) shall] *must* clearly and prominently set forth the name of the NASD member. *This*

requirement shall not apply to so-called "blind" advertisements used for recruiting personnel or to those communications meeting the provisions of subsection (g)(3) of this Section.

(B) If a nonmember entity is named in a communication in addition to the member, the relationship, or lack of relationship, between the member and the entity shall be clear.

(C) If a nonmember entity is named in a communication in addition to the member and products or services are identified, no confusion shall be created as to which entity is offering which products and services. Securities products and services shall be clearly identified as being offered by the member.

(D) If an individual is named in a communication containing the names of the member and a nonmember entity, the nature of the affiliation or relationship of the individual with the member shall be clear.

(E) Communications that refer to individuals may not include, with respect to such individuals, references to nonexistent or self-conferred degrees or designations, nor may such communications make reference to bona fide degrees or designations in a misleading manner.

(F) If a communication identifies a single company, the communication shall not be used in a manner which implies the offering of a product or service not available from the company named.

(G) The positioning of disclosure can create confusion even if the disclosures or references are entirely accurate. To avoid confusion, a reference to an affiliation (e.g., registered representative) shall not be placed in proximity to the wrong entity.

(H) Any reference to memberships (e.g., NASD, SIPC, etc.) shall be clearly identified as belonging to the entity that is the actual member of the organization.

(3) Specific Standards

[In addition to the foregoing general standards, the following specific standards apply:]

The foregoing standards set forth in subsections (g)(1) and (g)(2) shall apply to all communications unless at least one of the following special circumstances exists, in which case the standards set forth herein would supersede the standards in subsections (g)(1) and (g)(2).

(A) Doing Business As: An NASD member may use a fictional name in communications provided that the following conditions are met:

(i) Non-Required Fictional Name: A member may voluntarily use a fictional name provided that the name has been filed with the NASD and the SEC, all business is conducted under that name and it is the only name by which the firm is recognized.

(ii) Required Fictional Name: If a state or other regulatory authority requires a member to use a fictional name, the following conditions shall be met:

(1) the fictional name shall be used to conduct business only within the state or jurisdiction requiring its use.

(2) If more than one state or jurisdicition requires a firm to use a fictional name, the same name shall be used in each, wherever possible.

(3) Any communication shall disclose the name of the member and the fact that the firm is doing business in that state or jurisdiction under the fictional name, unless the regulatory authority prohibits such disclosure.

(B) Generic Names: An NASD member may use an "umbrella" designation to promote name recognition [or use altered versions of the firm name to promote certain areas of the firm's business], provided *that* the following conditions are met:

(i) The name of the member shall be clearly and prominently disclosed[.];

(ii) The relationship between the generic name and the member shall be clear[.]; and

(iii) There shall be no implication that the generic name is the name of a registered broker/dealer.

(C) Derivative Names: An NASD member may use a derivative of the firm name to promote certain areas of the firm's business, provided that the name of the member is clearly and prominently disclosed. Absent such disclosure, the following conditions must be met:

(i) The name used to promote a specific area of the firm's business shall be a derivative of the member name; and

(ii) The derivative name shall not be misleading in the context in which it is being used.

(D)[(C)] Divsion of"; An NASD member firm may designate an aspect of its business as a division of the firm, provided that the following conditions are met:

(i) The designation shall only be used by a bona fide division of the member. This shall include:

(1) a division resulting from a merger or acquisition that will continue the previous firm's business; or

(2) a functional division that conducts or will conduct one specialized aspect of the firm's business.

(ii) The name of the member shall be clearly and prominently disclosed.

(iii) The division shall be clearly identified as a division of the member firm.

(E) [(D)] "Service of/Securities Offered Through": An NASD member firm may identify its brokerage service being offered through other institutions as a service of the member, provided that the following conditions are met:

(i) The name of the member shall be clearly and prominently disclosed.

(ii) The service shall be clearly identified as a service of the number firm.

(E) [(E)] Telephone Directory Line Listings, Business Cards and Letterhead: All such listings, cards or letter head shall conform to the provisions of Article III, Section 27(g)(2) of the Rules of Fair Practice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The Commission published a notice of proposed rule change and received three comment letters. The NASD Board of Governors reviewed the comment letters received by the SEC and determined to create a narrow exception to the general requirements that the full name of a broker/dealer appear in all advertising and sales literature. Under this exception, a member would be permitted to use a "derivative" of its name, without also including the member's full name, if: (1) The derivative name was used to promote a specific area of the firm's business; and (2) the use of a derivative name would not be misleading in context.

(b) The NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act in that it will provide the NASD with the means of ensuring that the public will not be confused or misled by public communications that fall clearly to

identify the name of any NASD member, and thus promote just and equitable principles of trade and remove impediments to, and perfect the mechanisms of, a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does jot believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Court, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

b. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, securities, and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 5, 1991.

For the Commission, by the Division of Market regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: February 5, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3308 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28860; File No. SR-NYSE-91-04]

Self-Regulatory Organizations; Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Addition of Rule 123A.23—Floor Stationery Requirement—to Rule 476A List of Amending Minor Rule Violation Enforcement and Reporting Plan

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would revise the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" (the "List") for the imposition of fines for minor violations of certain, specified rules and/or policies [1] by adding to the List the failure to comply by members and member organizations with the requirement, as mandated by Exchange Rule 123A.23, to use standardized order and report forms on the Exchange trading floor.[2] Exchange Rule 123A.23 was amended in 1990 to require the use of standardized floor stationery,[3] and the Exchange believes it is appropriate to make the failure to comply with this provision subject to the possible imposition of a fine under NYSE Rule 476A procedures.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

Exchange Rule 476A [5] provides that the Exchange may impose a fine, not to

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[1] The List is contained under the Supplementary Material to Exchange Rule 476A.

[2] The NYSE also has requested approval, under Rule 19d-1(c)(2), 17 CFR 240.19d-1(c)(2), to amend its Rule 19d-1 minor rule violation enforcement and reporting plan ("Plan") to include NYSE Rule 123A.23. *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated January 29, 1991.

[3] *See* Securities Exchange Act Release No. 27742 (February 27, 1990), 55 FR 7861 (order approving File No. SR-NYSE-89-42).

[4] As background information, the Commission notes that an NYSE Plan for the abbreviated reporting of minor rule violations pursuant to Rule 19d-1(c) under the Act was approved in Securities Exchange Act Release No. 22415 (September 17, 1985), 50 FR 38600. The Plan relieves the NYSE of the current reporting requirements imposed under section 19(d)(1) for violations listed in NYSE Rule 476A. The NYSE Plan, as embodied in NYSE Rule 476A, provides that the Exchange may designate violations of certain rules as minor violations. The Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a violation of the delineated rules by issuing a citation with the specified penalty. Such person can either accept the penalty or force a full disciplinary hearing on the matter. Fines assessed pursuant to NYSE Rule 476A in excess of $2,500 are not considered pursuant to the Plan and must be reported in a manner consistent with the current reporting requirements of section 19(d)(1) of the Act. Furthermore, the Exchange retains the option of bringing violations of rules included under NYSE Rule 476A to full disciplinary proceedings.

[5] Exchange Rule 476A originally was approved by the Commission on January 25, 1985 [*see* Securities Exchange Act Release No. 21688 (January 25, 1985)]. The Commission also has approved subsequent additions of rules to the Rule 476A Violations List [*see* Securities Exchange Act Release Nos. 22037 (May 14, 1985); 22415 (September 17, 1985); 22496 (October 2, 1985); 23104 (April 11, 1986); 24985 (October 5, 1987); 25763 (May 27, 1988); 27878 (April 4, 1990); 28003 (May 8, 1990); and 28505 (October 2, 1990)].

exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.

The purpose of the Rule 476A procedure is to provide for a response to a rule violation when a meaningful sanction is appropriate but when initiation of a full disciplinary proceeding under Rule 476A is not suitable because such proceeding would be more costly and onerous than would be warranted given the minor nature of the violation. Exchange Rule 476A provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

In the Exchange's proposed rule change which initially set forth the provisions and procedures of Rule 476A,[6] the Exchange indicated that it periodically would amend the list of rules subject to Rule 476A, as it considered appropriate, in order to phase-in the implementation of the Rule as the NYSE gained experience with it. The Exchange's regulatory divisions have amended the List since its initial implementation to include either existing rules or newly approved ones, which are appropriate for inclusion in this particular disciplinary process when violations occur.[7]

The Exchange presently seeks approval to add the failure to comply with the use of standardized order and report forms by members and member organizations on the floor, as required by Exchange Rule 123A.23, to the list of rules subject to possible imposition of fines under Rule 476A procedures.

The purpose of the proposed rule change is to facilitate compliance with Exchange Rule 132 requirements concerning the capture of accurate audit trail data. The use of a consistent reporting format is intended to improve the quality of data processed by member organizations to trade comparison facilities, thereby enhancing audit trail accuracy.

The Exchange believes failure to comply with this requirement should be addressed with an appropriate sanction and seeks Commission approval to add violations of this requirement to the Rule 476A list.

Statutory Basis

The proposed rule change will advance the objectives of section 6(b)(6) of the Act in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of sections 6(b)(7) and 6(d)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve te proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and alll written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-91-04 and should be submitted by March 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 5, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3309 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[6] *See* File No. SR-NYSE-84-27.

[7] *See* note 5, *supra*.

[Release No. 34-28858; SR-PTC-90-05 and SR-PTC-90-06]

Self-Regulatory Organizations; Participants Trust Co.; Filing of a Proposed Rule Change Relating to the Computation of the Cash Balance, and Procedures for Cash Settlement for Limited Purpose Accounts

February 5, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 15, 1990, and October 19, 1990, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR-PTC-90-05 and SR-PTC-90-06) as described in Items I, II and III below.[1] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

A. Computation of the Cash Balance for a Limited Purpose Account

In its proposed rule change (SR-PTC-90-05) PTC proposes to revise the text of Article II, Rule 2, section 2(d) to clarify the computation of the cash balance for a Limited Purpose Account ("LPA"). Currently, Article II, Rule 2, section 2(d), sets forth the types of credits and charges that shall be included in PTC's computation of the cash balance for each LPA maintained by PTC. Trustees for Collateralized Mortgage Obligations ("CMOs") and rating agencies, however, require a clearer statement in PTC's rules that the cash balance for a LPA shall be chargeable only for certain specified charges.

[1] The proposed rule change relating to the computation of the cash balance for limited purpose accounts, SR-PTC-90-05 was filed on October 15, 1990, and SR-PTC-90-06, relating to the clarification of the procedures for cash settlement was filed on October 19, 1990.

Those charges which the proposed rule change enumerates as chargeable against the cash balance currently are authorized pursuant to section 2(d) of Article II, Rule 2, as "any other amount" specified elsewhere in the rules as payable by the Limited Purpose Participant ("LPP") to PTC with respect to the LPA. Specifically, the proposed rule change expressly permits PTC to include in its computation of the cash balance for each LPA reversals of errors and charges provided under Article III, Rule 2, in connection with principal and interest advances to LPPs.

This proposed rule change also amends the second paragraph of section 3 of this rule in order to eliminate any ambiguity concerning the netting of LPA debit balances with other debit balances. A LPP will be required to satisfy a LPA debit balance completely, without netting, according to the provisions of PTC's Rules, when the payment becomes due. PTC also proposes to add additional text to Article II, Rule 2, section 3, and Article II, Rule 4, to confrom those rules to the proposed new text of Article II, Rule 2, section 2(d). The proposed rule change will add clarifying language to Rule 2 that an LPP cannot claim a defense, set-off or counterclaim against the LPA debit balance. PTC will not have a lien on the LPA cash balance or any right of set-off, subject to PTC's authority to charge or set-off an LPA with periodic fees billed to the participant by PTC (these fees may be waived if other payment arrangements, such as pre-funding, have been made) financing charges that are passed on to the participant, repayment of principal and interest advances, and the payment of the lender's security interest in the principal and interest payment.[2]

B. Clarification of Procedures for Cash Settlement

In its proposed rule change (SR–PTC–90–06) PTC proposes to revise its Cash Settlement Procedures, Rule 2, section 2(d), by adding procedures for cash settlement with respect to LPAs.[3] PTC proposes to amend Article II, Rule 2, section 3 of its rules as follows:

(a) The third paragraph of section 2(d) is amended by adding "Limited Purpose Participants," a technical correction.

(ii) A new final paragraph is added to clarify that a participant or LPP may not set off any debit balance of the participant or LPP against any external obligations owed by PTC to the participant or LPP.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filings with the Commission, the self-regulatory organizatioin included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Computation of the Cash Balance for a Limited Purpose Account.

(a) *Purpose*—Because LPAs are intended for only limited transactions, specific procedures for calculating the cash balance will allow PTC to closely monitor the status of LPAs.

(b) *Basis*—The basis under the Act for this proposed rule change is the requirement under section 17A(b)(3)(F) of the Act that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

2. Clarification of Procedures for Cash Settlement

(a) *Purpose*—The purpose of the proposed rule change is to clarify the payment procedure provided in Article II, Rule 2, section 3(d) to effect net settlement among participants and LPPs. A technical correction is made to the third paragraph to include LPPs previously omitted by error. The additional paragraph clarifies that this section and the rules generally contemplate that net settlement shall be effected through a closed system—one that is unimpaired by any external obligations of PTC. The proposed rule change clarifies this point by expressly stating the implicit premise of the net settlement system, that participants and LPPs are precluded from setting off obligations which arise out of a different relationship to PTC than that of a participant or a LPP.

(b) *Basis*—The basis under the Act is the requirement under section 17A(b)(3)(F) that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not perceive that the proposed rule changes imose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received from Members, Participants or Others

PTC has not solicited, and does not intend to solicit comments on these proposed rule changes. PTC has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5

[2] In certain instances, PTC wil obtain a third party loan in order to advance to its participant or LPP a principal and interest payment. As security for the repayment of the loan, the lender is granted a security interest in the principal and interest payment. In such a case, PTC, as agent for the third party lender, is entitled to retain the principal and interest payment, to the extent of the principal and interest advance, when it is received from the issuer or paying agent. PTC Rules, Article III, Rule 2, section 2(b).

[3] PTC's proposed rule change, File No. SR–PTC–90–05, was filed to add the proposed language to PTC's procedures regarding the LPA. In that proposal, however, PTC did not include any such reference to procedures for cash settlement in a LPA. The purpose of the second proposed rule change, File No. SR–PTC–90–06, is to provide procedures for cash settlement with respect to LPAs.

U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to the File Nos. SR–PTC–90–05 and SR–PTC–90–06 and should be submitted by March 5, 1991.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–3304 Filed 2–11–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28861; File No. SR–NSCC–91–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Establishing Fee for Apportionment of Line of Credit Costs

February 6, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on January 28, 1991, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC hereby submits as a proposed rule change, pursuant to Rule 19b–4 of the Act, an amendment to NSCC's fee structure establishing a fee for the apportionment of the line of credit costs among Letter of Credit ("LC") users. The proposed rule change amends Addendum A (NSCC Fee Structure) to NSCC Rules and Procedures by adding to section V (Pass-Through and Other Fees) the following:

F. Line of credit commitment fee

Current month's cost—pro rata monthly among Letter of Credit users based upon previous month's utilization

II. Self-Regulatory Organization'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 purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish a fee in order to apportion the cost of a line of credit among LC users. NSCC has entered into a $200 million line of credit agreement with Bankers Trust Company in order to provide NSCC with greater liquidity in the event of a major member default or other catastrophic occurrence.[1]

The cost of the commitment fee for the line of credit is ⅛% on the first $150 million and 1/16% on the final $50 million (with a 1/16% clawback fee on the final $50 million if used).

The fee is to be paid to the bank on a monthly basis. NSCC will apportion the costs for each month based on a member's previous month's LC use as determined on the last day of the previous month. The amount of the line of credit may be decreased in the discretion of NSCC, and if this occurs, the fees will be reduced accordingly.

The following example illustrates how the fees will be apportioned. If, on the last day of the previous month, a member had on deposit an LC of $10 million which was applied against its required clearing fund deposit and if aggregate LCs for all required clearing deposits totalled $100 million, that member will be charged 1/10 or 10% of the monthly cost of the line of credit.

NSCC believes that the proposed rule change provides for the equitable allocation of reasonable fees among NSCC members because it apportions the cost of maintaining the line of credit among those members who potentially could cause a liquidity problem for NSCC (*i.e.*, LC users). It is, therefore, consistent with the requirements of section 17A(b)(3)(D) of the Act and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Securities Exchange Act Rule 19b–4(e) because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be

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[1] Currently, NSCC permits part of a member's clearing fund deposit to be evidenced by an open account indebtedness secured by U.S. Treasury securities or irrevocable LCs, provided that only 70% of a member's required clearing fund deposit may be collateralized with LCs. The Commission and others had expressed concerns about liquidity because of NSCC's reliance on LCs at a time when there was not a limit upon members' use of LCs, beyond the cash requirement. For a description of the amount of a member's required clearing fund deposit that may be collateralized by LCs, see Securities Exchange Act Release No. 28727 (January 8, 1991), 56 FR 716.

available for inspection and copying at the principal office of NSCC. All submissions should refer to file number SR-NSCC-91-02 and should be submitted by March 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3300 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 17985; International Series Rel. No. 228; 812-7676]

The American Capital World Portfolio Series, Inc.; Application

February 6, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: The American Capital World Portfolio Series, Inc.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 12d3-1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity securities, warrants, 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 January 31, 1991.

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 March 6, 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, 2800 Post Oak Blvd., Houston, Texas 77056.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272-2190, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company registered under the Act. American Capital Asset Management, Inc. acts as investment adviser and Lombard Odier International Portfolio Management Ltd. acts as subadviser to applicant.

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 ("Proposed Amendments"). *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). The Proposed Amendments would, among other things, facilitiate the acquisition by applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of the Proposed Amendments.

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 speaking, available only to securities traded in United States markets.[1] Accordingly, applicant seeks an exemption from the "margin security" requirement of rule 12d3-1.

2. The Proposed Amendments provide 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. Applicant will comply with all provisions of the Proposed Amendments. Applicant believes that the equity standards set forth in the Proposed Amendments are comparable and in many ways superior to those applicable to equity securities of U.S. issuers.

Applicant's Condition

Applicant agrees to the following condition in connection with the relief requested:

Applicant will comply with the Proposed Amendments as they are currently proposed, and as they 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. 91-3301 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17964; 812-7549]

Benham Equity Funds, et al.; Application

February 6, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Benham Equity Funds, Capital Preservation Fund II, Inc., and Benham Management Corporation ("BMC").

RELEVANT 1940 ACT SECTIONS: Order requested under section 17(d) of the 1940 Act and Rule 17d-1 thereunder.

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[1] Applicant notes that the Board of Governors of the Federal Reserve System recently amended Regulation T to include "foreign margin stock[s]." However, because of the restrictive requirements for inclusion on the Board's "List of Foreign Margin Stocks," securities issued by many foreign securities firms are not included in the definition of "foreign margin stocks" under Regulation T.

SUMMARY OF APPLICATION: Applicants seek an order permitting Benham Equity Funds and Capital Preservation Fund II, Inc., as well as certain future investment companies for which BMC serves as investment adviser (collectively, the "Funds"), to deposit their daily univested cash balances into a single joint account to be used to enter into repurchase agreements.

FILING DATES: The application was filed on June 28, 1990, and amendments to the application were filed on September 21 and December 14, 1990, and January 30, 1991.

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 March 8, 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 Douglas A. Paul, Esq., Benham Capital Management Group, 1665 Charleston Road, Mountain View, California 94043.

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. Both of the existing Funds are registered investment companies and are authorized by their investment policies to invest in repurchase agreements. BMC, a registered investment adviser, serves as investment adviser to all of the investment companies that comprise the "Benham Capital Management Group," including the Funds.

2. Currently, the daily univested cash balances of the two existing Funds are separately invested in federal securities or individual repurchase agreements with a bank or major brokerage house in order to earn additional income for each Fund. Each morning the repurchase desk operated by BMC, on behalf of the existing Funds, begins negotiating the interest rate for repurchase agreements for that day and lining up the United States Government obligations required as collateral. Generally, some portion of the assets in the respective account of each Fund is received too late, or is too small to be effectively invested.

3. Presently each Fund must separately pursue, secure and implement such investments. This has resulted in certain inefficiencies, and may limit the turn which some or all Funds acheive. With the intent of maximizing return and minimizing economic and administrative inefficiencies, the Funds seek permission to pool, where appropriate, their remaining univested cash balances into a single joint account, the daily balance of which would be used to enter into one or more overnight (or weekend or holiday) larger repurchase agreements in a total amount equal to the aggregate daily balance in the account.

4. Each repurchase agreement would be made by calling a government securities dealer and indicating the rate of interest and size of the desired repurchase agreement. Particular United States Government obligations to be held as collateral would then be identified and the Funds' custodian bank (currently State Street Bank and Trust Company) would be notified. The securities would either be wired to the account of the custodian bank at the proper Federal Reserve Bank, transferred to a sub-custodian account of the Funds at another qualified bank, or redesignated and segregated on the records of the custodian bank if the custodian bank is already the record holder of the collateral for the repurchase agreement. The Funds do not enter into repurchase agreements with the custodian bank.

5. Each of the existing Funds has established the same systems and standards, including credit-worthiness standards for issuers of repurchase agreements and for collateral, and requirements that the repurchase agreements will be at least 102% collateralized at all times. It is intended that all future Funds for which BMC acts as investment adviser will adopt identical systems and standards. These uniform systems and standards will apply to all transactions contemplated by Applicants' proposed joint account.

Applicants' Legal Analysis

1. Section 17(d) of the 1940 Act and Rule 17d-1 thereunder make it unlawful for any affiliated person of a registered investment company, acting as principal, or effect any transaction in which such registered investment company is a joint or a joint and several participant with such person unless an application regarding such joint arrangement has been filed with and approved by the SEC. In passing on such applications, the SEC must consider whether the participation of the registered investment company in the joint arrangement, as proposed, is consistent with the provisions, policies, and purposes of the 1940 Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. Each Fund, by participating in the proposed account, and BMC, by managing the proposed account, could be deemed to be "a joint participant" in a "transaction" within the meaning of section 17(d) of the 1940 Act, and the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of Rule 17d-1 under the 1940 Act. Each Fund also might be deemed to be an "affiliated person" of each other Fund under the definition set forth in section 2(a)(3) of the 1940 Act. Accordingly, the Applicants seek an order under section 17(d) and Rule 17d-1 thereunder before implementing the proposed joint account.

3. The proposed account would not be distinguishable from any other account maintained by a Fund with its custodian bank except that monies from the Fund could be deposited in it on a commingled basis. Each Fund would transfer its uninvested cash remaining after the conclusion of its daily trading activity into the account. The sole function of this account would be to provide a convenient way of aggregating what otherwise would be the individual daily transactions for each Fund necessary to manage the daily uninvested cash balances of each Fund. Each Fund would participate in the account on the same basis as every other Fund, and future Funds will be required to participate in the account on the same terms and conditions as the existing Funds. Each Fund's decision to invest in the account shall be solely at the Fund's option and no Fund shall be obligated to invest in or to maintain any minimum amount in the account. The proposed method of operating the account will not result in any conflicts of interest between any of the Funds or between a Fund and BMC. BMC will have no monetary participation in the account, but will be responsible for

investing amounts in the account, establishing control procedures and ensuring the equal treatment of each Fund.

4. All joint repurchase agreements to be entered into in reliance on any order granted on the application will be effected in accordance with Investment Company Act Release No. 13005 (Feb. 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release proposing, reproposing, or adopting any new rule, or any release proposing, reproposing, or adopting any amendments to any existing rule.

5. The Funds will benefit from the proposed arrangement because, on any given day and under most market conditions, it is possible to negotiate a rate of return on large repurchase agreements which is greater than the rate of return available for smaller repurchase agreements. In addition, by reducing the number of trade tickets, repurchase transactions will be simplified and the opportunity for errors will be reduced.

6. The Board of Directors of each of the Funds has considered the proposed account and determined that the use of such an account would be beneficial to each Fund which engages in repurchase transactions. The Directors have determined that the operation of the account will be free of any inherent bias favoring one Fund over another and the qualitative benefits to the Funds of the account outweigh the inevitable quantitative disparities in the allocation of economic benefits among such Funds. In considering the establishment of the account, the Directors have sought and received advice from the Funds' legal counsel. It is submitted that the criteria of Rule 17d-1 for issuance of an order are met by the trading account as proposed.

Applicants' Conditions

As express conditions to obtaining an order granting the relief requested, Applicants agree that the proposed joint account will operate as follows:

(a) A separate custodian cash account will be established into which each Fund will cause its uninvested net cash balances to be deposited daily.

(b) Cash in the account will be invested in repurchase agreements with a duration not to exceed one business day collateralized by suitable United States Government obligations, i.e., obligations issued or guaranteed as to principal and interest by the government of the United States or by any of its agencies or instrumentalities, and satisfying the uniform standards set by the Funds for such investments.

(c) All investments held by the account will be valued on an amortized cost basis.

(d) Each Fund relying upon Rule 2a-7 under the 1940 Act for valuation of its net assets on the basis of amortized cost will use the average maturity of the repurchase agreements purchased by the funds participating in the account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such account on that day.

(e) In order to assure that there will be no opportunity for one Fund to use any part of a balance of the account credited to another Fund, no Fund will be allowed to create a negative balance in the account for any reason, although a Fund will be permitted to draw down its entire balance at any time.

(f) Each Fund will participate in the net income earned or accrued in the account on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

(g) BMC will administer the investment of the cash balance in and operation of the account as part of its duties under its existing or any future investment advisory contract with each Fund and will not collect any additional fee for the management of the account. BMC will collect its fees based upon the assets of each separate Fund as provided in each respective investment advisory agreement.

(h) The Funds will enter into an agreement with each other to govern the arrangements in accordance with the foregoing principles.

(i) The administration of the account will be within the fidelity bond coverage required by section 17(g) of the 1940 Act and Rule 17g-1 thereunder.

(j) The Board of Directors/Trustees of the existing Funds and of future Funds participating in the account shall evaluate the account arrangements annually, and shall continue the account only if they determine that there is a reasonable likelihood that the account will benefit the Funds and their shareholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3302 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6711]

Issuer Delisting; Application To Withdraw From Listing and Registration; OEA, Inc., Common Stock, $0.10 Par Value

February 6, 1991.

OEA, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs of expenses attendant on maintaining the dual listing of its common stock on the New York Stock Exchange, Inc. and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before February 27, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-3306 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Terminal Acquisitions, Inc.; Order of Suspension of Trading

February 7, 1991.

Due to the Securities and Exchange Commission's concern that there is a lack of adequate and accurate current information concerning the securities of

Terminal Acquisitions, Inc., the Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company, over-the-counter or otherwise, is suspended for the period from 9:30 a.m. (est) February 7, 1991, through 11:59 p.m. (est), on February 21, 1991.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-3305 Filed 2-11-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before March 4, 1991. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (SF 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 409 3d Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Semi-Annual Report on Representatives and Compensation Paid for Services in Connection with Obtaining Federal Contracts.

Form No.: SBA Form 1790.

Frequency: Semi-Annual.

Description of Respondents: 8(a) Program participants.

Annual Responses: 8,000.

Annual Burden: 8,000.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 91-3264 Filed 2-11-91; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06/06-0303]

Catalyst Fund, Ltd.; Filing of an Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1991)) by the Catalyst Fund, Ltd., Three Riverway, suite 770, Houston, Texas 77056, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. *et seq.*), and the rules and regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the regulations.

The initial investors and their percent of ownership of the Application are as follows:

Name	Title	Percentage of ownership
RDR Management, Three Riverway, suite 770., Houston, TX 77056	General Partner and Investment Adviser	1
Heritage Trust Co., Trustee of Pat H. Foley, Funeral Plans, Inc. Trust, 333 Clay Street, suite 1660, Houston, TX 77002.	Limited Partner	12.4
Sun Bank, N.A., Trustee, Trustee of Guardian, Plans/1982 Trust, P.O. Box 3838, Orlando, FL 32802.	Limited Partner	12.4
Sun Bank, N.A., Trustee of Guardian Plans/1983 Trust, P.O. Box 3838, Orlando, FL 32802.	Limited Partner	12.3
Sun Bank, N.A., Trustee of Annual Prearranged Direct Disposal or Funeral Service Trust Agreement/1985, P.O. Box 3838, Orlando, FL 32802.	Limited Partner	12.3
Southwest Guaranty Trust Company, Trustee Preneed Funeral Service Trust #1, Sunset Memorial Park, 2121 Sage Road, Ste 150, Houston, TX 77058.	Limited Partner	12.3
Sun Bank, N.A., Trustee of Annual Prearranged Direct Disposal or Funeral Service Trust Agreement/1987, P.O. Box 3838, Orlando, FL 32802.	Limited Partner	12.3
Sun Bank, N.A., Trustee of Annual Prearranged Direct Disposal or Funeral Service Trust Agreement/1988, P.O. Box 3838, Orlando, FL 32802.	Limited Partner	24.7
		100.0
RDR Management's Shareholders are:		
Richard L. Herrman, 2615 Whitney, Houston, TX 77006		33⅓
Daryl A. Hays, 111 Marrakech Ct., Bellaire, TX 77041		33⅓
Ronald T. Nixon, 13919 Emerald Forest, Sugarland, TX 77478		33⅓

Rick Herrman will be President and CEO, of RDR Management, Inc., Ron T. Nixon and Daryl A. Hays, and Rick Herrman will be General Partners.

The Applicant, The Catalyst Fund, Inc., a Texas limited partnership, will begin operations with $4,050,000 in private capital. Catalyst will conduct its activities primarily in Houston, Texas and the surrounding Texas Gulf Coast Region.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: February 5, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-3265 Filed 2-11-91; 8:45 am]

BILLING CODE 8025-01-M

Montgomery Capital Corp.; Filing of an Application for a License to operate as a Small Business Investment Company

[Application No. 02/02-5541]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1990)) by Montgomery Capital Corp. 1170 Broadway, suite 902, New York, New York 10001, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et seq.), and the rules and regulations promulgated thereunder.

The proposed officers, directors and shareholders are:

Name	Title	Percentage of ownership
Sarfraz Tariq, 1170 Broadway, suite 902, New York, New York 10001	President/Director	20.0
Ishtiaq Javaid, 1170 Broadway, suite 902, New York, New York 10001	Secretary/Director	20.0
Dr. Tariq Javaid, 1170 Broadway, suite 902, New York, New York 10001	Director	20.0
Hafiz Mahboob Elahi, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	7.5
Talib H. Saleemi, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	7.5
Tariq Shaikh, MD, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	7.5
Babar Sheikh, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	7.5
Shafqat Tanvir, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	7.5
Ghulam Mohammad, 1170 Broadway, suite 902, New York, New York 10001	Shareholder	2.5

The applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long term funds for qualified small business concerns.

As a section 301(d) Licensee it will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: February 5, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-3266 Filed 2-11-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 5, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0188.

Form Number: 4868.

Type of Review: Revision.

Title: Automatic Extension of Time to File U.S. Individual Income Tax Return.

Description: Form 4868 is used by taxpayers to pay an additional tax necessary to obtain any automatic 4 or 6 month extension of time to file Form 1040A, Form 1040-EZ, or Form 1040. Extension approval is based on satisfaction of tax liability by the return due date, and is determined through a post-filing analysis.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,320,000.

Estimated Burden Hours Per Response/Recordkeeping:

	Form 4868	Worksheet 1	Worksheet 2
Recordkeeping	7 minutes	7 minutes	7 minutes.
Learning about the law or the form	2 minutes	1 minute	1 minute.
Preparing the form	3 minutes	13 minutes	8 minutes.
Copying, assembling, and sending the form to IRS	10 minutes	7 minutes	7 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 1,063,920 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–3243 Filed 2–11–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 5, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0166.

Form Number: 4255.

Type of Review: Revision.

Title: Recapture of Investment Credit.

Description: Internal Revenue Code section 50(a) and Regs. section 1.47 require that taxpayers attach a statement to their return showing the computation of the recapture tax when investment credit property is disposed or before the end of the recapture period used in the original computation of the investment credit.

Respondents: Individuals or households, Farms Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 80,000.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping—7 hours, 53 minutes

Learning about the law or the form—2 hours, 23 minutes

Preparing and sending the form to IRS—2 hours, 37 minutes

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting Burden: 1,031,200 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–3244 Filed 2–11–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 4, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0187.

Form Number: None.

Type of Review: Revision.

Title: OCC Former Employee Questionnaire.

Description: The OCC needs the information generated in the former employee questionnaire to evaluate the reasons for employee attrition. The goal of the program is to reduce attrition. The affected public consists of former OCC employee.

Respondents: Individuals or households.

Estimated Number of Respondents: 225.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 113 hours.

Clearance Officer: John Ference, (202) 447–1177, Comptroller of the Currency, 5th floor, L'Enfant Plaza, Washington, DC 20219..

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Deparmental Reports, Management Officer.

[FR Doc. 91–3245 Filed 2–11–91; 8:45 am]

BILLING CODE 4810–33–M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will meet in room 600, 301 4th Street, SW.,on February 13 from 10:30 a.m. to 12:15 p.m.

The meeting will be closed to the public from 10:30 a.m.–11:45 a.m. because it will involve discussion of classified information relating to USIA's activities in connection with operation Desert Storm. (5 U.S.C. app. 2, Sec. 10(d), 5 U.S.C. 552b(c)(1)).

From 11:45 a.m.–12:15 a.m. the Commission will meet in open session with Mr. Stephen Murphy, Director, Television and Film Service, USIA to discuss the Agency's worldwide television operations.

Please call Gloria Kalamets, (202) 619–4468 for further information.

Dated: February 5, 1991.

Bruce S. Gelb,

Director.

[FR Doc. 91–3267 Filed 2–11–91; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 29
Tuesday, February 12, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Tuesday, February 19, 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. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. 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. to two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–3491 Filed 2–8–91; 2:57 pm]

BILLING CODE 6210–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 11, 18, 25, and March 4, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 11

Tuesday, February 12

1:30 p.m.
Annual Briefing on Medical Use of Byproduct Material (Public Meeting)

Friday, February 15

10:00 a.m.
Briefing on Reactor Operator Requalification Program (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 18—Tentative

Friday, February 22

10:00 a.m.
Briefing on Committee on Review Generic Requirements (CRGR) Process (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 25—Tentative

Wednesday, February 27

10:00 a.m
Briefing by NARUC on Economic Performance Incentives (Public Meeting)

Thursday, February 28

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 4—Tentative

Thursday, March 7

10:00 a.m.
Briefing on Status of Fitness for Duty Programs (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: February 7, 1991.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 91–3490 Filed 2–8–91; 2:57 pm]

BILLING CODE 7590–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

USITC SE–91–06

TIME AND DATE: Wednesday, February 20, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW. Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain scanning multiple-beam equalization systems for chest radiography and components thereof (Docket Number 1608).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: February 7, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–3417 Filed 2–8–81; 11:54 am]

BILLING CODE 7020–02–M

Corrections

Federal Register
Vol. 56, No. 29
Tuesday, February 12, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 135

[Docket No. 88P-0251]

Frozen Desserts; Filing of Petitions to Amend Standards for Ice Cream and Ice Milk and to Establish Standards for Reduced Fat, Lowfat, and Nonfat Ice Creams

Correction

In proposed rule document 91-1359 beginning on page 2149, in the issue of Tuesday, January 22, 1991, make the following corrections:

1. On page 2151, in the first column, in the eighth line from the bottom of the page, "crem" should read "cream".
2. On the same page, in the second column, in the second complete paragraph, in the next to last line, "strating" should read "starting".
3. On the same page, in the third column, in the eighth line, "reprot" should read "report".
4. On page 2152, in the second column, in the second complete paragraph, in the ninth line, "nonfact" should read "nonfat".
5. On the same page, in the same column, in the last complete paragraph, in the third line, "genertic" should read "generic"; and in the 10th line, "factural" should read "factual".
6. On the same page, in the 3rd column, in the 1st complete paragraph, in the 18th line, "casue" should read "cause".
7. On the same page, in the same column, in the second complete paragraph, in the next to last line, "petitioner's" should read "petitioners'".
8. On page 2153, in the 1st column, in the 11th line from the top, "include" should read "included".
9. On the same page, in the same column, in the 1st complete paragraph, in the 11th and 15th lines, "0.45 pound" should read "0.45 pounds".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 89P-0314]

Exemption From Preemption of State and Local Hearing Aid Requirements; Vermont; Extension of Comment Period

Correction

In proposed rule document 91-1899 appearing on page 3061 in the issue of Monday, January 28, 1991, in the second column under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the second line from the bottom of the paragraph, "or" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

State Offices of Rural Health Grant Program

Correction

In notice document 91-2311 beginning on page 3835, in the issue of Thursday, January 31, 1991, make the following correction:

On page 3835, in the third column, under **FOR FURTHER INFORMATION CONTACT:**, in the last line, the phone number should read "(301) 443-0835.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6826

[G-940-G-1-0405-10;NMNM 55234]

Modification of Public Land Order No. 6403; New Mexico

Corrections

In rule document 91-1844, beginning on page 3038, in the issue of Monday, January 28, 1991, make the following corrections:

1. On page 3038, in the subject heading, the Public Land Order number should read as set forth above.
2. On the same page, in the third column, in the eighteenth line from the bottom of the page, "1,580.51;" should read "1,580.51 ft.;".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55(Sub-No. 369X)]

CSX Transportation, Inc.—Abandonment Exemption in Pike County, KY

Correction

In notice document 91-932 appearing on page 1652 in the issue of Wednesday, January 16, 1991, in the heading, the document number was incorrect and should appear as set forth above.

BILLING CODE 1505-01-D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1254

RIN 3095-AA19

Research Room Procedures

Correction

In rule document 91-1371 beginning on page 2134 in the issue of Tuesday, January 22, 1991, make the following corrections:

§ 1254.71 [Corrected]

On page 2136:

a. In the first column, in § 1254.71(b(1), in the fifth line, insert "the" after "of".

b. In the second column, in § 1254.71(c)(1), in the fifth line, "researcher" should read "research".

c. In the same column, in § 1254.71(c)(2), in the fourth line, "schedule" should read "scheduled".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-81-86]

RIN 1545-AJ31

Bad Debt Reserves of Banks

Correction

In proposed rule document 90-29011 beginning on page 51124 in the issue of Wednesday, December 12, 1990, make the following corrections:

§ 1.585-5 [Corrected]

1. On page 51127, in the second column, in § 1.585-5(b)(4), in Example 5, in the seventh line insert "§ 1.585-5(b)(1) or" before "§ 1.585-5(b)(2)".

§ 1.585-5 [Corrected]

2. On page 51128, in the first column, in § 1.585-5(c)(4), in the first line "adjustment" should read "adjusted".

§ 1.585-5 [Corrected]

3. On the same page, in the second column, in § 1.585-5(d), in the third line insert "1.585-6," before "1.585-7"

§ 1.585-6 [Corrected]

4. On page 51128, in the third column:

a. In § 1.585-6(b)(1), in the seventh line insert "net" before "section".

b. In § 1.585-6(b)(2), in the seventh line "large" should read "larger".

c. In § 1.585-6(b)(3), in the first line "481(1)" should read "481(a)".

§ 1.585-6 [Corrected]

5. On page 51129, in the first column, in § 1.585-6(c)(3), in the first line "310" should read "381".

§ 1.585-7 [Corrected]

6. On page 51130, in § 1.585-7(a), in the third column, in the sixth line "1.585.8" should read "1.585-8".

§ 1.585-7 [Corrected]

7. On page 51131, in § 1.585-7(e), in the third column, in Example 3, in the 10th line "$ million" should read "$4 million".

BILLING CODE 1505-01-D

federal register

Tuesday
February 12, 1991

Part II

Small Business Administration

13 CFR Parts 121 and 125

Procurement Assistance; Small Business Size Regulations; Program To Plant Trees on Land Owned or Controlled by State or Local Government; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

Procurement Assistance; Small Business Size Regulations; Program To Plant Trees on Land Owned or Controlled by State or Local Government

AGENCY: Small Business Administration (SBA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 4 of Public Law 101-515, The Commerce, State, Justice, The Judiciary and Related Agencies Appropriation Act of 1990, requires, among other things, that SBA make grants to, or enter into contracts with, any state for the purpose of contracting with small businesses to plant trees on land owned or controlled by State or local Government.

The act further directs the Administrator of SBA, as a means of encouraging and developing the capacity of small business concerns to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, to direct grant or contract recipients to utilize small business contractors or concerns in connection with the program to plant trees and, to the extent practicable, to divide the project to allow more than one small business concern to perform work under the project.

This proposed rule sets forth the proposed procedures to implement the law.

Further, this proposed rule adds language to 13 CFR part 121 to establish the small business size standard for tree planting activities at 100 employees.

DATES: Comments submitted on or before March 14, 1991.

ADDRESSES: Comments may be mailed to Robert J. Moffitt, Associate Administrator for Procurement Assistance, Small Business Administration, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: William F. Berry, Director, Office of Natural Resources Sales Assistance, Small Business Administration, Washington, DC 20416, 202-205-6468.

SUPPLEMENTARY INFORMATION: On November 5, 1990, President Bush signed Public Law 101-515 (the Commerce, State, Justice, the Judiciary and Related Agencies Appropriation Act of 1990) which, among other things, authorizes the Administrator to make grants to, or to enter into contracts with, any state for the purpose of contracting with small businesses to plant trees on land owned or controlled by the state or local Government. Section 4 (Natural Resources Development) of Public Law 101-515 amends the Small Business Act, 15 U.S.C. 631, *et seq.*, by adding Section 24 to accomplish this purpose.

This amendment further directs the Administrator of SBA, as a means of encouraging and developing the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, to direct grant or contract recipients to utilize small business contractors or concerns in connection with the program to plant trees and, to the extent practicable to divide the project to allow more than one small business concern to perform work under the project.

The law further requires the Administrator to formulate a national small business tree planting program in consultation with appropriate Federal agencies. This program would provide the basis for a state to submit a proposal for tree planting by contracting with small businesses.

This proposed rule would implement the Natural Resources Development Program by adding two new sections to title 13, Code of Federal Regulations. Section 125.12 would set forth the guidelines and procedures for implementing the program, while § 121.1013 would establish the size standard for small businesses seeking to participate in the Natural Resources Development Program.

Section 125.12(e) establishes a formula for determining grant amounts. Not less than half of the total amount available shall be allocated to each state, the District of Columbia and the Commonwealth of Puerto Rico on the basis of population in each area as compared to the total population in all areas. The standard would be the Bureau of the Census annual population estimate or the decennial census, whichever is most current. The applicant must contribute to the project a sum equal to at least 25% of the project cost from sources other than the Federal Government. Such non-Federal money may include in-kind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees. Non-Federal money, or in-kind contributions, must not include any value attributable to the land on which the trees are to be planted.

No part of the grant shall be used to pay for land or land charges.

The Administrator may give priority in awarding the remaining half of the available amounts to applicants who agree to contribute more than the requisite 25% in non-Federal funds.

Agencies of the Federal Government are authorized to cooperate with all Grantees, State Foresters, and other appropriate officials by providing, without charge, technical services on planting and growing of trees.

Section 24(a) defines appropriate terms. The term "local government" includes political subdivision of a state such as counties, parishes, cities, towns and municipalities; the term "planting" includes watering, application of fertilizer and herbicides, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and the term "State" means any states, the District of Columbia, or the Commonwealth of Puerto Rico or any Agency or instrumentality of a state exclusive of local governments.

Size Standard

SBA has identified Standard Industrial Classification (SIC) Codes and their size standards from at least 5 distinct industries that could participate to some extent in this program. These industries are:

SIC Code No.	Title	Size standard
0783	Ornamental Shrub and Tree Services.	$3.5 million.
0851	Forestry Services—Reforestation.	$3.5 million.
0181	Ornamental Floriculture and Nursery Products.	$0.5 million.
5193	Flowers, Nursery Stock and Florists Supplies.	100 employees.
5261	Retail Nurseries, Lawn and Garden Supply Stores.	$3.5 million.

Within these 5 industries there are three different size standards. The existing size standard of the industries most likely to be major participants in the program is $3.5 million in gross annual receipts (SIC Codes 0783 and 0851).

The SBA believes a standard based on number of employees is easier and more economical to administer for purpose of this program. In order to equate gross annual receipts to number of employees the SBA used 1986 USEEM data (United States Establishment and Enterprise Micro Data) to identify a gross sales per employee relationship to gross annual receipts. Gross sales/employee for SIC Code 0783 was $34,000; for SIC Code 0851 gross sales/employees was $58,000. An average gross sales/employee was determined to be $46,000. This relationship would give

an indicated size standard, based on number of employees, of 76 ($3.5 million divided by $46,000).

SBA proposes to establish the size standard at 100 employees, this size standard would include all, or nearly all, of the firms that are considered small for the five SIC Codes used to make our proposed size determination. Further, it is near the average number of employees—76—for the size standard in the stated five industries. The 100 employee size standard is the lowest size standard for any labor-based SIC Code in SBA's current regulations. SBA generally conforms size standard computations to a common size standard.

SBA specifically invites comment on the appropriateness of this standard and on alternative standards (either higher or lower). Comments suggesting other standards should address the questions of: The purpose this program should serve and how such purpose relates to the size standard; relative levels of participation at different size standards; the efffect of a 100 employee or other size standard on businesses within the identified SIC Codes; and the prospect of significant new entries into these businesses in response to this program. SBA is also seeking comment on the effect of a 100 employee or alternative size standard on the ability of firms to hire additional employees to meet the program's objectives. Additionally, if there is a basis for selecting a size standard lower than 100 employees for this program, SBA solicits comments on whether there is benefit in adopting a 100 employee standard nonetheless due to the fact that the agency's current regulations do not contain a lower size standard for any labor-based SIC Code.

Compliance with Executive Orders 12291 or 12612. The Regulatory Flexibility Act 5 U.S.C. 601 et. seq. and the Paperwork Reduction Act 44 U.S.C. Ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities because the direct effect of the rule will be on the states and not on small businesses.

The SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since the proposed changes are not likely to result in an annual effect on the economy of $100 million or more.

Proposed paragraph (f) of § 125.12 would, if promulgated in final form, require each state to make application for a grant to plant trees using standard forms: 424, 424A and 424B and SBA Forms 1222, 1223, and 1224. These forms are subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35, and have been approved by the Office of Management and Budget under OMB Approval Nos. 0348–0043, 0348–004, and 0348–0040 (Standard Forms) and 3245–0140 (SBA Forms).

This proposed rule would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Handicapped, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Research, Small businesses, Technical assistance.

As set forth in the preamble, SBA proposes to amend parts 121 and 125 of title 13, Code of Federal Regulations, as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: Sections 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6), 644(a)), and Public Law 100–656, 102 Stat. 3853 (1988).

2. Part 121 would be amended by adding § 121.1013 to read as follows:

§ 121.1013 Natural Resources Development Program.

Any concern or contractor participating in the Natural Resources Development Program described in 13 CFR 125.12 is a small business when, together with its affiliates, it does not have over 100 employees (rules for determining "number of employees" are set forth in 13 CFR 121.407).

PART 125—PROCUREMENT ASSISTANCE

1. The authority citation for part 125 is revised to read as follows:

Authority: Section 4 of Public Law 101–515 (104 Stat. 2140), Section 610(a) of Public Law 100–202 (101 Stat. 329–39), Sections 5(b)(6), 8 and 15 of the Small Business Act, 72 Stat 384, as amended (15 U.S.C. 631, et seq.), 31 U.S.C. 9701, 9702.

2. Part 125 would be amended by adding § 125.12 to read as follows:

§ 125.12 Natural Resources Development Program.

(a) The Natural Resources Development Program is authorized under section 24 of the Small Business Act (15 U.S.C. 651). Pursuant to the statutory requirements of the Small Business Act the Small Business Administration is authorized to make grants to, or to enter into contracts with, any state for the purpose of contracting with small businesses to plant trees on land owned or controlled by such state or local government.

(b) The purposes of the program include:

(1) To plant trees on land owned or controlled by state or local government;

(2) To utilize small business contractors or concerns in connection with tree planting projects;

(3) To encourage and develop the capacity of small business concerns to utilize this important segment of the economy; and

(4) To permit rapid increases in employment opportunities in local communities.

(c) *Definitions.* (1) *Administrator* as used herein means the Administrator of the United States Small Business Administration, or any representative lawfully delegated the authority to act for such Administrator.

(2) *Fiscal Year* means the 12-month period starting October 1 and ending September 30.

(3) *Grant* means a grant as defined by 13 CFR 143.3 and authorized under section 24 of the Small Business Act, 15 U.S.C. 631 *et seq.*

(4) *Grantee* means grantee as defined in 13 CFR 143.3.

(5) *Grant Agreement* means the agreement contained in SBA Form 1222 and any other written conditions of the grant.

(6) *Grants Management Officer* as used herein means the SBA official responsible for the financial management and administration of a Natural Resources Development Program grant for the Federal Government.

(7) *Local Government* means a political subdivision of a state which includes, but is not limited to, such entities as counties, parishes, cities, towns and municipalities.

(8) *Non-Federal Money* means funds acquired from other than the Federal Government and may include in-kind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting

of the trees; but shall not include any value attributable to the land or land charges on which the trees are to be planted.

(9) *Planting* means to set trees in the ground for growth and includes watering, application of fertilizer, herbicides, pruning and shaping and other subsequent care and maintenance for a period of three years after the trees are set in the ground.

(10) *Proposal* means an application and support materials for a grant for tree-planting on lands owned or controlled by State or local governments.

(11) *SBA* or *Grantor* as used herein means the United States Small Business Administration.

(12) *Small Business* as used herein means a business concern that has, including its affiliates, a number of employees not exceeding 100, and meets the other regulatory requirements found in 13 CFR part 121. The term "affiliates" is defined in 13 CFR 121.401. The term "number of employees" is defined in 13 CFR 121.404.

(13) *State* as used herein means any state, the District of Columbia, or the Commonwealth of Puerto Rico or any Agency or instrumentality of a state designated by such state to apply for a grant under this program exclusive of local governments.

(14) *Tree* means a perennial plant having a permanent woody, self supporting main stem or trunk, ordinarily growing to considerable height and usually developing branches at some distance from the ground.

(d) *Eligibility*. Any state is eligible to apply for a grant to plant trees on state or local government land; provided such state agrees to contribute to the tree-planting project a sum equal to at least 25 percent of the project cost from sources other than the Federal Government and agrees:

(1) To utilize small business contractors or concerns in connection with all aspects of the tree-planting project; and

(2) To the extent possible, to divide the planting project to allow more than one small business concern to perform the work under the project.

(e) *Amount of a grant*. (1) Not less than one-half the total amount available shall be allocated to each eligible state, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas. The Bureau of the Census, of the Department of Commerce, annual population estimate or the decennial census, whichever is most current, will be the basis for that determination.

(2) SBA may give priority in awarding the remaining one-half of the total amounts available to applicants who agree to contribute more than the requisite 25 percent of the project cost from non-Federal sources. The formula for determining how the remaining one-half of these funds will be allocated to applicants contributing more than the requisite amount will be as follows:

(i) The maximum allowable additional amount will be limited to the amount computed based on the applicant State's population compared to the total population of all states, the District of Columbia and the Commonwealth of Puerto Rico; and

(ii) Of the maximum additional amounts, the total amount available will be prorated based on the amount the applicant's percentage of contributed non-federal funds exceeds 25%:

Percent over 25 percent	Percent additional available funds allowable
Less than one-percent	None.
1–5.0	20.
5.1–10.0	30.
10.1–15.0	40.
20.1–25.0	100.

(f) *Application for a grant*. (1) A proposal may be initiated by any state Agency designated by the state to apply for such grant as described in § 125.12(c)(4). For any fiscal year each state may submit only one application for a grant under this program.

(2) Since only one grant may be authorized per state per fiscal year, the application must designate a single state agency responsible for receiving and administering the grant.

(3) The proposal shall consist of two separate sections.

(i) Section I—COST PROPOSAL—This section is to be comprised of: The Application; The Project Approval Information; The Budget Information; and Assurances, Certifications, and Attachments.

(ii) Section II—TECHNICAL PROPOSAL—This section is comprised of the Program Narrative. A complete proposal shall contain a table of contents and shall be responsive to the technical requirements of the Program Announcement.

(4) Necessary application forms will be mailed to prospective grantees as part of an official program announcement.

(5) The complete proposal shall be submitted in original and two copies to such location as designated in the program announcement.

(6) The applicant shall make its best effort to deliver the complete proposal to the designated location by the due date and time specified. Late proposals may be accepted at the discretion of the Director.

(g) *Method of proposal/application technical criteria*. To be technically acceptable each applicant's proposal must:

(1) Clearly state the objective of the project.

(2) Describe the location(s) where the tree-planting project will take place; how many trees will be planted; and the species, and size and age of the trees to be planted. The proposal should include vicinity maps showing location of planting sites.

(3) Certify to the state's contribution, both amount and type.

(4) Certify that the non-Federal contribution to the project does not include:

(i) any value attributable to the land on which the trees are to be planted, and

(ii) that no part of the grant will be used to pay for land or land charges.

(5) Meet the objectives of section 24(c) of the Small Business Act.

(i) The proposal must state that all contracts for planting services will be awarded only to contractors who would qualify as small business concerns as defined in 13 CFR 121.1013.

(ii) The proposal must state that all planting stock and supplies will be purchased from businesses which would qualify as small business as defined in 13 CFR 121.1013.

(iii) The applicant's proposal must permit increased employment opportunity in local communities.

(iv) The proposal must, to the extent possible, divide the project to allow more than one small business concern to perform work under the project.

(6) Specify standards for site selection, site preparation, planting stock care and selection. The proposal must also certify that planting methods and overall care and maintenance conform to standards that are reasonable and customary. The minimum standard for this evaluation is hereby established as those criteria, instructions and examples contained in the *Forestry Handbook* 2nd Edition, Karl Wenger, Editor, for the Society of American Foresters. Sections 8 and 16. 1984. John Wiley and Sons, New York, New York. Copies may be obtained from the Society of American Foresters, 5400 Grosvenor Lane, Bethesda, MD 20814.

(7) Specify the personnel, their qualifications and experience, and who will be responsible for supervising the project.

(8) Articulate a cost-effective approach toward accomplishing the objectives of the project.

(9) Accommodate periodic inspection and post-audit by SBA.

(h) *Administration of the grant.* The grant will be awarded and administered according to the term found in 13 CFR part 143, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, except as provided for in this part.

Dated: January 16, 1991.

Susan Engeleiter,

Administrator.

[FR Doc. 91-3262 Filed 2-7-91; 3:55 pm]

BILLING CODE 8025-01-M

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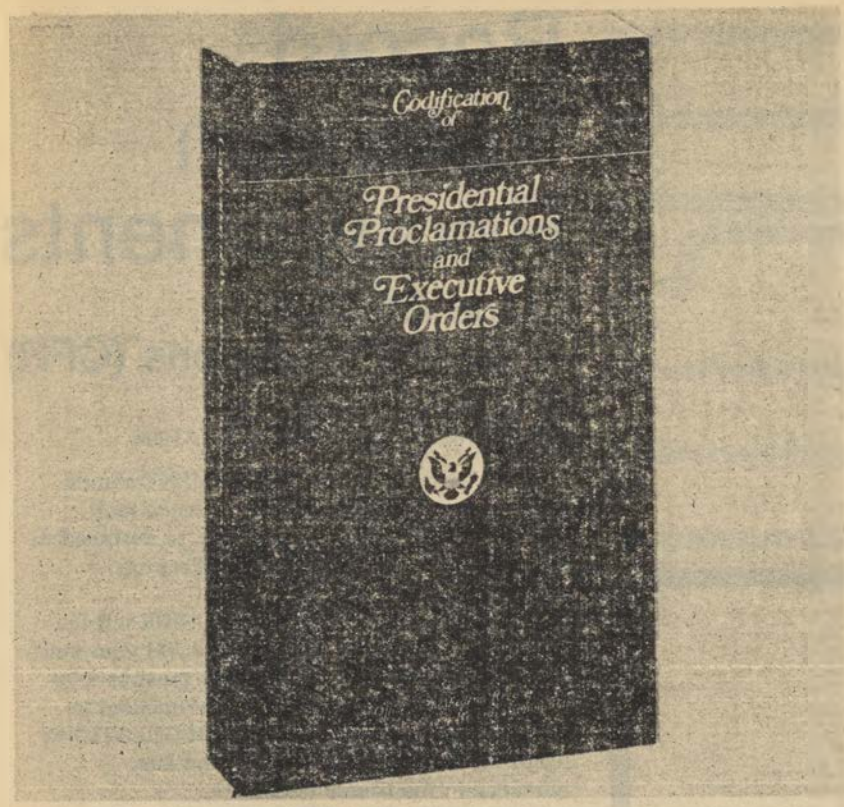

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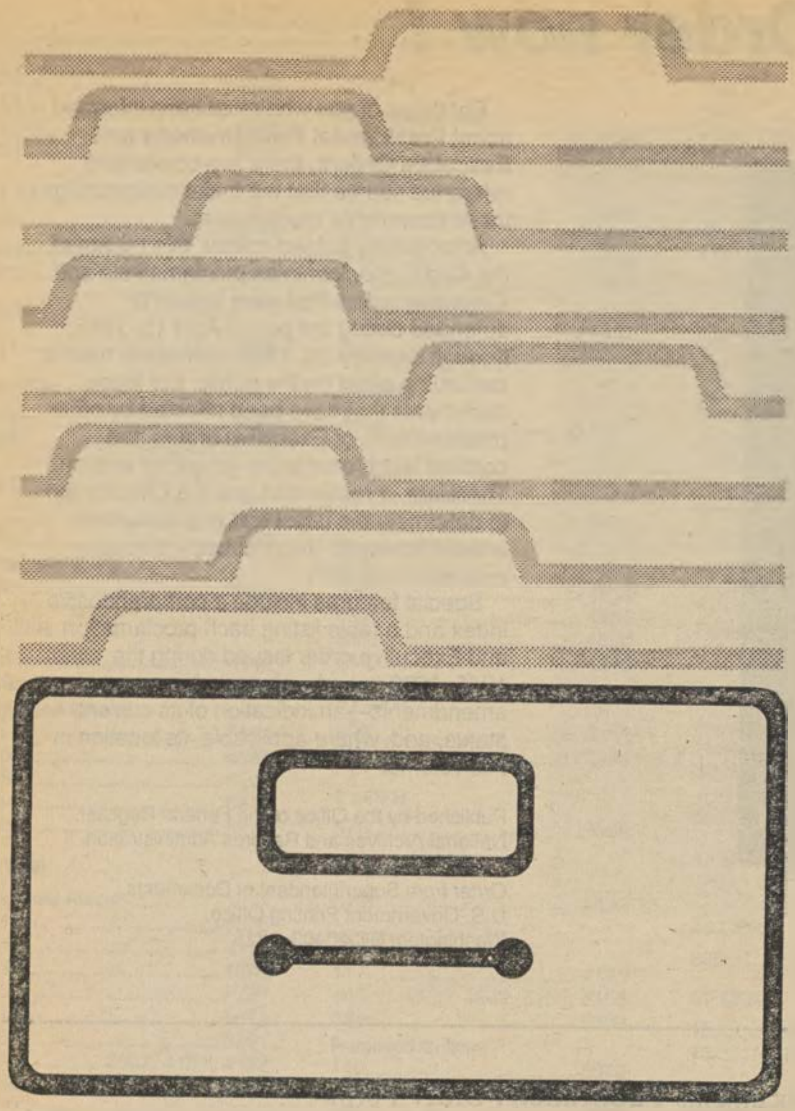

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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
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