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U.S. GOVERNMENT
INFORMATION
GPO

2-13-91
Vol. 56 No. 30

federal register

Wednesday
February 13, 1991

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SECOND CLASS NEWSPAPER

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

7

2-13-91
Vol. 56 No. 30
Pages 5739-5922

federal register

Wednesday
February 13, 1991

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For information on briefings in Washington, DC, Los Angeles and San Diego, CA, see announcement on the inside cover of this issue.

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

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The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: February 28, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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WHEN: March 4, at 9:00 a.m.
WHERE: Federal Building,
300 N. Los Angeles St.
Conference Room 8544
Los Angeles, CA
RESERVATIONS: 1–800–726–4995

SAN DIEGO, CA

WHEN: March 5, at 9:00 a.m.
WHERE: Federal Building,
880 Front St.
Conference Room 4S–13
San Diego, CA
RESERVATIONS: 1–800–726–4995

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

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Presidential Documents

Title 3—

The President

Proclamation 6249 of February 11, 1991

Save Your Vision Week, 1991

By the President of the United States of America

A Proclamation

During this "Decade of the Brain," which is dedicated to enhancing public awareness of the benefits of neuroscience research, our observance of Save Your Vision Week is particularly appropriate. Our senses—the precious gifts of sight, touch, hearing, taste, and smell—link the mind to the outside world, enabling us to enjoy all the wonders of creation. As a "window" for the brain, our eyesight merits special care and protection.

Tragically, thousands of Americans suffer vision loss each year—vision loss that might have easily been prevented. One simple and highly effective way to prevent vision loss is through periodic eye examinations by a licensed professional. A thorough examination by an eye care professional can lead to early detection of eye disease and allow time for successful treatment.

Glaucoma is one potentially blinding eye disease that can be controlled and treated effectively if detected early. Regrettably, however, glaucoma remains the leading cause of blindness in older Americans because many fail to have their eyes tested for the disease before it has permanently damaged their vision. Black Americans over age 40 need to be especially vigilant, since glaucoma has been shown to affect this group more frequently and at an earlier age than it does others.

Regular eye examinations are absolutely critical for persons with diabetes. Treatment is usually available that can help those with diabetic eye disease to avoid extreme vision loss. As in the case of glaucoma, these treatments are most effective when the condition is detected early.

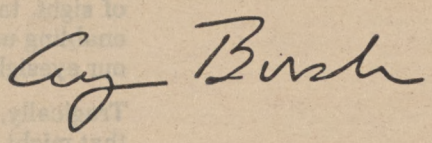
Children also need early and regular eye examinations. Even the healthiest of children may have an unsuspected visual problem that requires prompt attention. A routine checkup can identify such a disorder in time for effective treatment.

In addition to regular eye examinations, all of us can avoid vision loss by protecting ourselves against eye injuries. At home as well as in the workplace, one should wear a face mask, goggles, or safety glasses when working with potentially harmful chemicals or machinery. Whenever possible, athletes participating in contact sports or other potentially hazardous activities should also wear protective eyewear. Contact lens wearers should always handle and clean their lenses carefully, in accordance with the directions of their eye care professional. Finally, from an early age, children should be taught the fundamentals of eye safety—and one of the best ways we can teach them is by good example.

To encourage Americans to cherish and protect their vision, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629; 36 U.S.C. 169a), has authorized and requested the President to proclaim the first week of March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of March 3 through March 9, 1991, as Save Your Vision Week. I urge all Americans to participate in this observance by making eye care and eye safety an important part of their lives. I also encourage eye care professionals, the media, and all public and private organizations committed to the goal of sight conservation to join in activities that make Americans more aware of the steps they can take to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of February, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 91-3632
Filed 2-11-91; 1:59 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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 ADMINISTRATION

5 CFR Part 2502

Freedom of Information Act of 1986; Fee Schedule; Fee Waiver Policy; and Miscellaneous Amendments

AGENCY: Office of Administration, Executive Office of the President.

ACTION: Final rule.

SUMMARY: This final rule implements certain provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 100–570) regarding fees and fee waivers.

EFFECTIVE DATE: March 15, 1991.

FOR FURTHER INFORMATION CONTACT: Bruce L. Overton, General Counsel, (202) 395–2273.

SUPPLEMENTARY INFORMATION: Under the terms of the Freedom of Information Reform Act of 1986, and the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget (OMB), 52 FR 10012 (March 27, 1987), the Office of Administration (OA) promulgated for public notice and comment a proposed new schedule of fees to be charged in its processing of requests for records under the Freedom of Information Act. 55 FR 29219. In addition, certain minor amendments were made to the procedures for the internal handling of FOIA requests that conform to organizational and administrative changes within OA. Finally, a similar change was made, for administrative purposes, to subpart B.

On July 18, 1990, OA submitted a proposed rule and request for comments. 55 FR 29219. A total of five issues were addressed by commentators following the publication of its proposed regulation. These comments specifically addressed matters relating to charges for search, review, and duplication of records.

The purpose of establishing the uniform fee schedule for Freedom of Information Act (FOIA) requests pursuant to guidelines promulgated by OMB was to enable federal agencies to recover the expenses associated with search, review, and duplication of records released by the agency. It was also intended to distribute those costs more equitably between persons seeking information for the benefit of the public and persons seeking information to further their business interests.

Section-by-Section Analysis

Section 2502.12(a)

A commentator objected to computing the cost of manual searches for records based on the base pay of the individual conducting the search plus 16% for benefits. This method of computing search time to be charged to requesters is the method required under the OMB guidelines at 52 FR 11018, paragraph 7(b). As such, it is used uniformly throughout the executive branch.

Section 2502.12(c)

Another commentator objected to assessing charges for review of records. OA, following the language of OMB, intends to assess fees, where applicable, in the event that records withheld are subsequently reviewed [a second time] to determine the applicability of other exemptions.

This matter is addressed in the OMB guidelines at 52 FR 10018, paragraph 7(c). The OMB guidelines expressly prohibit charging for time spent resolving general legal or policy issues regarding the application of exemptions, as well as for time spent in the administrative appeal of an exemption already applied. However, when records or portions of records withheld under an exemption that is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, then charges may be assessed. Therefore, OA intends to assess fees for the review of records as stated in the proposed regulation.

Section 2502.12(d)

One commentator objected to OA's decision to charge $.15/page for duplication of records released. After conducting a survey of the FOIA regulations promulgated by other federal agencies, as well as by agencies within the Executive Office of the President, including OMB and the Office of the United States Trade Representative, OA concluded that $.15/page was not unreasonable and that the fee would not be reduced.

Section 2502.13(a)

A commentator objected to OA's intent to "recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records." OMB, in establishing the uniform guidelines for fee schedules, determined that costs for unsuccessful searches were recoverable with the knowledge and consent of the requester. 52 FR 10016. The language in the OMB regulation has been adapted for use by OA and includes the necessary clauses that enable the requester to modify his request knowing that he may be charged regardless of the outcome of the search.

Finally, a commentator addressed the matter of "third-party requests." In developing the Uniform Guidelines, OMB believed it was important to distinguish between the requester and the use to which the requested information would be put. 52 FR 10013. Use, then, becomes the exclusive criterion for determining whether a requester should be charged for a "commercial" or "non-commercial" request. Where this determination cannot be made from the request itself, or where the agency has cause to doubt the use to which a requester will put the records sought, the agency will seek additional clarification before assigning the request to a specific category. 52 FR 10017–10018, paragraph 6(g).

List of Subjects in 5 CFR Part 2502

Courts, Freedom of information.

Bruce L. Overton,
General Counsel.

PART 2502—AVAILABILITY OF RECORDS

1. The authority citation for part 2502 is revised to read as follows:

Authority: 5 U.S.C. 552, as amended by Pub. L. 93–502 and Pub. L. 99–570.

§§ 2502.3, 2502.4, and 2502.10 [Amended]

2. In 5 CFR part 2502 remove "726 Jackson Place NW." and add in its place "725 17th Street NW." in the following places:

a. Section 2502.3(b).

b. Section 2502.4(a).

c. Section 2502.10(a).

3 Section 2502.3(a) is revised to read as follows:

§ 2502.3 Organization and functions.

(a) The Office of Administration (OA) was created by Reorganization Plan No. 1 of 1977 and Executive Order 12028. Its primary function is to provide common administrative and support services for the various agencies and offices of the Executive Office of the President. It consists of:

(1) Office of the Director
(2) Office of the Deputy Director
(3) Office of the Executive Secretary
(4) Office of the General Counsel
(5) Six Directors and their staffs, who are responsible for the following divisions:
(i) Administrative Operations
(ii) Facilities Management
(iii) Financial Management
(iv) Information Resources Management
(v) Library and Information Services
(vi) Personnel Management

* * * * *

§ 2502.4 [Amended]

4. In § 2502.4(a) remove the words "Executive Office of the President Information Center," and add in their place the words "The Executive Office of the President Library".

5. Sections 2502.6 (a) and (e) are revised to read as follows:

§ 2502.6 How to request records—form and content.

(a) A request made under the FOIA must be submitted in writing, addressed to: FOIA Officer, Office of Administration, 725 17th Street NW., Washington, DC 20503. The words "FOIA REQUEST" should be clearly marked on both the letter and the envelope. Due to security measures at the Old and New Executive Office Buildings, requests made in person should be delivered to Room G–1, at the above address.

* * * * *

(e) Upon receipt of the FOIA request, the FOIA Officer will make an initial determination of which officials and offices may be involved in the search and reviewing procedures. The FOIA Officer will circulate the request to all offices so identified and any others the FOIA Officer later determines should be notified.

§ 2502.7 [Amended]

6. In § 2502.7 remove the words "Deputy Director" and add in their place the words "General Counsel".

7. Section 2502.9 is amended by redesignating paragraph (b)(4) as paragraph (b)(5) and by adding a new paragraph (b)(4). Newly redesignated paragraph (b)(5) is amended by removing the word "Director" and by adding in its place the words "Deputy Director".

§ 2502.9 Responses—form and content.

* * * * *

(b) * * *

(4) A statement that no agency records are responsive to the request.

* * * * *

§ 2502.10 [Amended]

8. In 5 CFR 2502.10 remove the word "Director" wherever it appears and add in its place the words "Deputy Director".

9. A centered heading is added preceding § 2502.11 and §§ 2502.11–2502.13 are revised to read as follows:

Charges for Search and Reproduction

§ 2502.11 Definitions.

For the purpose of this part:

(a) All the terms defined in the Freedom of Information Act apply.

(b) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(vi)) means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of agencies in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services that are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return overdue revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

Statutes, such as the User Fee Statute, which only provide a general discussion of fees without explicitly requiring that an agency set and collect fees for particular documents do not supersede the Freedom of Information Act under section (a)(4)(A)(vi) of that statute.

(c) The term "direct costs" means those expenditures that OA incurs in searching for and duplicating (and in the case of commercial requestors, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(d) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. OA employees should ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requestor. For example, employees should not engage in a line-by-line search when merely duplicating an entire document would prove the least expensive and quicker method of complying with a request. "Search" should be distinguished, moreover, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section). Searches may be done manually or by computer using existing programming.

(e) The term "duplication" refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable (e.g. magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by the requestors.

(f) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use (see paragraph (g) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, (e.g., doing all that is necessary to excise them and otherwise prepare them for release). Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(g) The term " 'commerical use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requestor or the person on whose behalf the request is made. In determining whether the requestor properly belongs in this category, OA must determine the use to which a requestor will put the documents

requested. Moreover, where an OA employee has reasonable cause to doubt the use to which a requestor will put the records sought, or where that use is not clear from the request itself, the employee should seek additional clarification before assigning the request to a specific category.

(h) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, that operates a program or programs of scholarly research.

(i) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis (as that term is referenced in paragraph (g) of this section) and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(j) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase and subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "free lance" journalists, they may be regarded as working for a news organization, if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but OA may also look to the past publication record of a requestor in making this determination.

§ 2502.12 Fees to be charged—general.

OA should charge fees that recoup the full allowable direct costs it incurs. Moreover, it shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. When documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs (see definition in § 2502.11(b)), such as the NTIS, OA should inform requestors of the steps necessary to obtain records from those sources.

(a) *Manual searches for records.* OA will charge at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the search.

(b) *Computer searches for records.* OA will charge at the actual direct cost of providing this service. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search.

(c) *Review of records.* Only requestors who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time OA analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review are assessable.

(d) *Duplication of records.* Records will be duplicated at a rate of $.15 per page. For copies prepared by computer such as tapes or printouts, OA shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, OA will charge the actual direct costs of producing the document(s). If OA estimates that duplication charges are likely to exceed $25.00, it shall notify the requestor of the estimated amount of fees, unless the requestor has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requestor the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(e) *Other charges.* OA will recover the full costs of providing services such as those enumerated below when it elects to provide them:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(f) Remittances shall be in the form of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the FOIA Officer, Office of Administration, 725 17th Street, NW., Washington, DC 20503.

(g) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(h) *Restrictions on assessing fees.* With the exception of requestors seeking documents for a commercial use, OA will provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, OA will not charge fees to any requestor, including commercial use requestors, if the cost of collecting a fee would be equal to or greater than the fee itself.

(1) The elements to be considered in determining whether the "cost of collecting a fee" are the administrative costs of receiving and recording a requestor's remittance, and processing the fee for deposit in the Treasury Department's special account.

(2) For purposes of these restrictions on assessment of fees, the word "pages" refers to copies of "8½ × 11" or "11 × 14." Thus, requestors are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout does meet the terms of the restriction.

(3) Similarly, the term "search time" in this context has as its basis, manual search. To apply this term to searches made by computer, OA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of a search (including the operator time and the cost of operating the computer to process the request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, OA will begin assessing charges for a computer search.

§ 2502.13 Fees to be charged—categories of requestors.

There are four categories of FOIA requestors: commercial use requestors educational and non-commercial scientific institutions; representatives of the news media; and all other requestors. The specific levels of fees for each of these categories are:

(a) *Commercial use requestors.* When OA receives a request for documents for commercial use, it will assess charges that recover the full direct costs of searching for, reviewing for release, and

duplicating the record sought. Requestors must reasonably describe the records sought. Commercial use requestors are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. OA may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see § 2502.14).

(b) *Educational and non-commercial scientific institution requestors.* OA shall provide documents to requestors in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requestors must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly if the request is from an education institution) or scientific (if the request is from a non-commercial scientific institution) research. Requestors must reasonably describe the records sought.

(c) *Requestors who are representatives of the news media.* OA shall provide documents to requestors in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requestor must meet the criteria in § 2502.11(j), and his or her request must not be made for commercial use. In reference to this class of requestors a request for records supporting the news dissemination function of the requestor shall not be considered to be a request that is for a commercial use. Requestors must reasonably describe the records sought.

(d) *All other requestors.* OA shall charge requestors who do not fit into any of the categories above fees that recover the full, reasonable, direct cost of searching for and reproducing the records that are responsive to the request, except that the first 100 pages and the first two hours of search time shall be furnished without charge. Moreover, requests for records about the requestors filed in OA's system of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requestors must reasonably describe the records sought.

§§ 2502.14–2502.17 [Redesignated §§ 2502.16–2502.19]

10. Sections 2502.14 through 2502.17 are redesignated as §§ 2502.16 through 2502.19, respectively.

11. New sections 2502.14 and 2502.15 are added to read as follows:

§ 2502.14 Miscellaneous fee provisions.

(a) *Charging interest—notice and rate.* OA may begin assessing interest on an unpaid bill starting on the 31st day of the month following the date on which billing was sent. The fact that the fee has been received by OA within the thirty day grace period, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of title 31 of the United States Code and will accrue from the date of billing.

(b) *Charges for an unsuccessful search.* OA may assess charges for time spent searching, even if it fails to locate the records or if records located are determined to be exempt from disclosure. If OA estimates that search charges are likely to exceed $25.00, it shall notify the requestor of the estimated amount of fees, unless the requestor has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requestor the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(c) *Aggregation results.* A requestor may not file multiple requests at the same time, each seeking portions of a document or documents solely in order to avoid payment of fees. When OA reasonably believes that a requestor, or on rare occasions, a group of requestors acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, OA may aggregate any such request and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(d) *Advance payments.* OA may not require a requestor to make an advance payment, i.e., payment before work is commenced or continued on a request unless:

(1) OA estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed $250.00. Then, OA will notify the requestor of the likely cost and obtain satisfactory assurance of full payment where the requestor has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requestors with no history of payment; or

(2) A requestor has previously failed to pay a fee charged in a timely fashion (i.e., within thirty days of the date of the billing). OA may require the requestor to pay the full amount owed plus any applicable interest as provided above or demonstate that he or she has in fact paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request, or a pending request from that requestor.

When OA acts under paragraph (d) (1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (i.e., ten working days from receipt of initial request and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after OA has received fee payments described above.

(e) *Effect of the Debt Collection Act of 1982 (Pub. L. 97–365).* OA should comply with the provisions of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

§ 2502.15 Waiver or reduction of charges.

Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requestor.

12. Newly redesignated § 2502.16 is amended by revising paragraph (b)(2)(i)(C) to read as follows:

§ 2502.16 Information to be disclosed.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) OA will withhold all cost data submitted except the total estimated cost for each year of the contract. Where appropriate, OA will release unit pricing data except where that information would disclose confidential information such as profit margins. It will release these total estimated costs and ordinarily release explanatory material and headings associated with the cost data, withholding only the figures themselves. If a contractor believes some of the explanatory material should be withheld, that material must be identified and a justification be presented as to why it should not be released.

§§ 2502.31, 2502.32, and 2502.33 [Amended]

13. In §§ 2502.31, 2502.32, and 2502.33 remove the word "Director" wherever it

appears and in its place add the words "Deputy Director".

[FR Doc. 91-3356 Filed 2-12-91; 8:45 am]

BILLING CODE 3115-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Grain and Similarly Handled Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR part 1421 with respect to the Farmer Owned Reserve (FOR) program which is conducted by the Commodity Credit Corporation (CCC) in accordance with section 110 of the Agriculture Act of 1949, as amended (the 1949 Act). This rule is necessary in order to implement the changes made to section 110 by the Food, Agriculture, Conservation and Trade Act of 1990 (the 1990 Act). The amendment made by this rule simply codifies the determination made by the Secretary of Agriculture that up to 300 million bushels of 1990 crop wheat may be pledged as collateral for FOR loans.

EFFECTIVE DATE: This final rule shall become effective on February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Bradley Karmen, Group Leader, Food Grains Group, Commodity Analysis Division (CAD), USDA-ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 447-7923.

SUPPLEMENTARY INFORMATION: This amendment has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and it has been designated as "major". A Final Regulatory Impact Analysis has been prepared and is available from Craig Jagger, Agriculture Economist, CAD, USDA-ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 447-7923.

The title and number of the federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this notice applies is Grain Reserve—10.067.

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

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

Background

Section 110 of the 1949 Act sets forth the statutory authority for the FOR program which was added to the 1949 Act by the Food and Agriculture Act of 1977. The FOR was originally intended to encourage producers to store wheat and feed grains during times of surplus for orderly marketing at a later time. As noted in the Conference Report to the 1990 Act, however, experience has shown that the FOR has not operated in an efficient manner:

The Managers feel that the FOR has not been operated in an efficient manner in the recent past. The changes made in this section are intended to provide for a more moderate transition of grain into and out of the reserve. The Managers note that the program has, in the past, had the effect of completely isolating the reserve from the market—some wheat from the 1978 crop remains in the reserve at the time this Act is being completed. The Managers intend that the changes made in the Act will allow for a more orderly flow of grain into and out of the FOR. Accordingly, the amendments adopted in the conference substitute become effective December 1, 1990, to govern the administration of the FOR as of that date.

In order to ensure that unreasonably large quantities of grain are not placed in the FOR, the 1990 Act amended section 110 to provide that the maximum quantity of wheat in the FOR cannot exceed 450 million bushels and the maximum quantity of feed grains cannot exceed 900 million bushels; there are no minimum quantities which must be maintained in the FOR. The maximum quantity of wheat in the FOR may be established within the range of 300-450 million bushels and the maximum quantity of feed grains within a range of 600-900 million bushels.

Entry into the FOR is triggered based upon price and stocks-to-use ratios. Section 110 provides:

(2) *Discretionary Entry*—The Secretary may make extended loans available to producers of wheat or feed grains if:

(A) The Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to December 15 for wheat or March 15 for feed grains is less than 120 percent or the current loan rate for wheat or corn, respectively;

(B) As of the appropriate date specified above the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be:

(i) In the case of wheat, more than 37.5 percent; and

(ii) In the case of corn, more than 22.5 percent.

(3) *Mandatory Entry*—The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) or paragraph (2) are met for wheat and feed grains, respectively.

Section 110 provides that whether or not there will be entry of wheat into the FOR will be announced by December 15 of the year in which the crop of wheat was harvested and in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested. Thus, the determination of whether a crop of grain sorghum, oats or barley will be allowed entry into the FOR will also be announced by March 15 or the year following the year in which such crop was harvested.

If entry into the FOR is allowed, as noted in the Conference Report, the terms and conditions of the FOR loans are designed to allow greater flexibility to producers than was previously allowed under section 110:

The current statutory restrictions on access to FOR grain severely restrict usefulness of the FOR. The amendments adopted in the Conference substitute will allow producers to gain access to FOR-held grain to encourage producers to redeem grain from the FOR as market conditions and individual marketing plans warrant. The amendments allow all producers to redeem FOR loans at any time without imposition of penalties, as exist in current law. The amendments also provide that once market prices reach 95 percent of the current established price for the commodity, storage payments will end, and loans extended for FOR grain will begin accruing interest once market prices each [sic] 105 percent of the established target price for the commodity.

Storage payments will be paid with respect to FOR grain after the fact on a quarterly basis. Section 110 also provides:

The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then

current established price for the commodities.

Although the FOR program was intended to ensure that grain would come out of the FOR when prices were high, producers have shown a reluctance to repay FOR loans. In large part, this is due to the storage payments which they could earn under the FOR and due to special Internal Revenue Code tax provisions which allow producers the option to defer the declaration of the proceeds of CCC price support loans as income until the maturity of the loan.

In order to ensure orderly management of the FOR, section 110 provides that producers may, if entry is allowed, only enter the FOR after the maturity of the regular 9-month price support loan expired unless, at the discretion of the Secretary, the loan has been extended for one 6-month period. Also, in order to provide for equitable treatment of producers, section 110 provides that the Secretary shall take regional differences into consideration when administering the FOR.

As discussed above the determination as to whether there will be entry into the FOR is based upon a review of the market prices for the 90 days immediately preceding the determination, as well as upon a projection of the estimated stocks-to-use ratio which is projected to exist at the end of the marketing year for wheat and corn, respectively. Due to the fact that this determination for the 1990 crop of wheat was required to be made by December 15, 1990, which was 17 days after the date of the enactment of the 1990 Act, it was not practicable to issue a proposed or interim rule regarding the 90-day price formula prior to the 1990 crop determination. Accordingly, on December 14, 1990, the Secretary announced that the 1990 "stocks-to-use" ratio was in excess of 37.5 percent and that the 90-day market price was in excess of 120 percent of the 1990 price support level.

Based on a review of existing and projected market conditions, the Secretary exercised his discretionary authority to allow up to 300 million bushels of the 1990 crop wheat into the FOR. This final rule amends 7 CFR part 1421 to set forth this determination. Pursuant to a separate rulemaking exercise, 7 CFR part 1421 will be amended to set forth the terms and conditions of the FOR which will be in effect for the 1990 and subsequent crops of wheat and feed grains.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/Agriculture, Price support programs, Warehouses.

Final Rule

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—[AMENDED]

1. The authority citation for 7 CFR part 1421 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425 and 1445e; 15 U.S.C. 715b and 714c.

2. Section 1421.740 is amended by adding a new paragraph (c) to read as follows:

§ 1421.740 General statement.

* * * * *

(c) The regulations in this subpart are not applicable to the 1990 and subsequent crops of wheat and feed grains except as provided in § 1421.742.

3. Section 1421.742 is revised to read as follows:

§ 1421.742 Reserve quantity.

The maximum quantity of 1990 crop wheat which may be stored under the provisions of section 110 of the Agriculture Act of 1949, as amended, is 300 million bushels.

Signed at Washington, DC on February 5, 1991.

Thomas A. Von Garlem,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–3458 Filed 2–12–91; 8:45 am]

BILLING CODE 3410–05–M

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Reg. C; Docket No. R–0719]

Home Mortgage Disclosure; Final Order Granting an Exemption From HMDA for State-Chartered Financial Institutions in Connecticut

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final order.

SUMMARY: Financial institutions subject to the federal Home Mortgage Disclosure Act (HMDA) and its implementing rule, Regulation C (12 CFR part 203), may receive an exemption from these federal provisions if the Board determines that the institutions are subject to substantially similar state mortgage disclosure requirements and the state law also contains adequate provisions for enforcement. The Connecticut Banking Commissioner has applied for an exemption from HMDA and Regulation C for state-chartered financial institutions in Connecticut. Based on recent changes in that state's law, the Board has found that there is substantial similarity between the federal and state laws and adequate provisions for state enforcement. It is therefore issuing a final order granting an exemption from the federal HMDA requirements for state-chartered financial institutions in Connecticut. The exemption will allow Connecticut-chartered financial institutions to file their annual home mortgage disclosure reports (beginning with the report for calendar year 1990, due on or before March 1, 1991) with the state agency, and not with their federal regulator.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: W. Kurt Schumacher, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412; for the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

(1) Introduction

The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*). The regulation and the act require financial institutions that have over $10 million in assets and have offices in metropolitan statistical areas (MSAs) to annually disclose to their federal supervisory agencies certain information regarding their home purchase and home improvement loans. However, the Board may grant financial institutions an exemption from compliance with the federal law if it determines that they are subject to state provisions that are substantially similar to the federal requirements and contain adequate provisions for enforcement. Conversely, exemptions are subject to termination if the Board determines that a state law no longer imposes requirements substantially similar to the federal law or does not adequately ensure enforcement.

In 1978 state-chartered institutions in Connecticut were granted an exemption by the Board based on its finding that substantial similarity of laws and adequate provisions for enforcement existed at that time. This exemption was continued by the Board in 1989 based on amendments to the state law that conformed with revisions made to the federal provisions. Later in 1989, the Financial Institutions Reform, Recovery, and Enforcement Act made major revisions to HMDA. (FIRREA, Pub. L. No. 101–73, section 1211, 103 Stat. 183 (1989).) The Board subsequently revised

Regulation C to implement these statutory changes (54 FR 51356, December 15, 1989). Based on the Board's determination that substantial similarity no longer existed as a result of the FIRREA amendments, the Board published an order terminating the exemption for state-chartered financial institutions in Connecticut, effective on January 1, 1990 (55 FR 5433, February 15, 1990). (Exemptions were also terminated for certain institutions in Massachusetts and New Jersey.)

Connecticut has applied for a new exemption for state-chartered financial institutions from the revised HMDA and Regulation C, based on statutory and regulatory changes that Connecticut has made to the applicable state provisions. These amended provisions are found in title 36 (chapter 661), section 36–443 *et seq.* of the Connecticut General Statutes and section 36–455–1 *et seq.* of the Regulations of Connecticut State Agencies. Based on these revisions, the Board published a notice of intent to grant an exemption from the federal HMDA law for Connecticut-chartered financial institutions and their majority owned subsidiaries (55 FR 53163, December 27, 1990).

The Board has determined that the revised Connecticut home mortgage disclosure law is substantially similar to the federal requirements. Like revised Regulation C, the Connecticut law requires financial institutions to report the applications for home purchase and home improvement loans they receive, as well as the institutions' originations and purchases of these types of loans. Institutions will report information on the location of the properties to which the covered loans or applications relate, and information concerning the race or national origin, sex, and income of applicants and borrowers. The institutions are also required to disclose the type of purchaser for loans that they sell. The Connecticut provisions are to be carried out on report formats conforming to the loan application register prescribed by Regulation C. Finally, adequate provisions for enforcement continue to exist: violators of the Connecticut law are subject to the issuance of a cease and desist order by the Commissioner, in addition to other penalties and sanctions.

The Connecticut home mortgage disclosure law covers the majority-owned subsidiaries of state-chartered depository institutions, in addition to the depository institutions themselves. Pursuant to the revised regulatory requirements, these subsidiaries will file reports separately from those of their parents institutions. Additionally, the state regulation specifies that majority-owned non-depository subsidiaries are deemed to have a home or a branch office in an MSA if they take applications for, originate, or purchase five or more home purchase or home improvement loans in that MSA during the previous calendar year. The incorporation of these provisions further ensures conformity with existing federal requirements.

During the comment period, one comment was received requesting clarification about the confidentiality of certain data recorded on the loan application registers that will be submitted to the Connecticut Banking Commissioner. The Board has ascertained that the Commissioner's office will act in accordance with federal policy regarding the release of the raw data, in order to protect the privacy of individual applicants and borrowers, and that it will release the data only in the edited format prescribed by the Federal Financial Institutions Examination Council (FFIEC; see 55 FR 27886, July 6, 1990).

As set forth in the order below, the Board is granting an exemption to state-chartered depository institutions in Connecticut and their majority-owned subsidiaries from the federal law. Beginning with the reports for the 1990 calendar year, on or before the following March 1 these institutions shall file their annual mortgage disclosure reports with the Connecticut Banking Commissioner, and not with their federal supervisory agency. The exemption thus allows the institutions covered by the exemption to avoid the duplicative filing of similar reports with two separate authorities.

(2) Order of Exemption

The Board finds that the Connecticut home mortgage disclosure act requirements, contained in title 36 (chapter 661), section 36–443 *et seq.* of the Connecticut General Statutes and section 36–455–1 *et seq.* of the Regulations of Connecticut State Agencies, are substantially similar to the federal Home Mortgage Disclosure Act and Regulation C. Additionally, adequate provision exists for the enforcement of the state requirements by the Connecticut Banking Commissioner. The Board hereby grants an exemption applicable to Connecticut-chartered depository institutions and their majority-owned subsidiaries from the federal HMDA requirements, effective January 1, 1990. Exempt institutions shall comply with the mortgage disclosure data collection requirements of Connecticut as of that date.

The Connecticut Banking Commissioner shall submit the institutions' annual home mortgage disclosure reports to the FFIEC or its designee for compilation and aggregation at such time and in such manner as determined by the FFIEC. The Commissioner shall also advise the Board within 30 days of the occurrence of any change in the relevant home mortgage disclosure laws of Connecticut.

By order of the Board of Governors of the Federal Reserve System, February 7, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–3401 Filed 2–12–91; 8:45 am]

BILLING CODE 6210–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standard for the Surety Bond Guaranty Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is adopting as final the interim final rule for the Surety Bond Guaranty (SBG) Program, published on April 25, 1990 (55 FR 17419). The interim rule reestablished a three-part size standard for this program. On December 21, 1989, SBA had simplified its previous three-part provision into a single size standard of $3.5 million in annual receipts for all SBG applicants. Due to this consolidation, a few manufacturing companies which had previously received Surety Bond Guaranty assistance under a deleted section of the three-part provision became ineligible. In order to avoid unintended injury to such firms and to create no new size standards for this program, SBA is restoring the three-part rule which existed between March 12, 1984 and December 31, 1989.

EFFECTIVE DATE: February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Alan Odendahl, Economist, Size Standards Staff, (202) 653–6373.

SUPPLEMENTARY INFORMATION: An extensive revision of the language of SBA's size regulation was published in the **Federal Register** as a final rule on December 21, 1989 (54 FR 52634); it became effective on January 1, 1990.

The purpose of the December 21, 1989, Final Rule was to reorganize the conceptual framework of the size regulations, and to simplify and clarify

the procedural rules governing SBA's size determination program. As explicitly stated in the preamble to the proposed revision, a major objective of this reorganization was that, "This proposal would not, however, change the specific size standards which apply to particular industries and Standard Industrial Classification codes" (August 31, 1987; 52 FR 32870).

In accordance with the general principle of simplification, the previous three-part size standard governing the Surety Bond Guaranty Program was shortened to the following language:

§ 121.802—Establishment of Size Standard

(a)(3) An applicant, including its affiliates, for Surety Bond Guaranty assistance must not have average annual receipts for its preceding three completed fiscal years in excess of $3.5 million.

The great majority of SBG recipients are either construction concerns or are performing a contract for services, and accordingly, their size standard remained unchanged at $3.5 million annual receipts.

However, a few manufacturing firms had been receiving (predominantly) performance bond guarantees by qualifying as small under a deleted part of the previous three-part standard. Under it manufacturers with up to 500 employees (in some industries, as many as 1,500 employees) were classified as small concerns. The change to $3.5 million average annual receipts (corresponding roughtly to 60–80 employees in most manufacturing industries) inadvertently excluded a few manufacturers with receipts over $3.5 million from receiving SBA's surety bond guarantee assistance.

Since SBA's intention was merely to simplify the regulations, no harm was intended to the few manufacturing concerns, former surety bond recipients, who no longer qualified as small. Accordingly, SBA reinstated the substance of the previous regulation on this matter (which had prevailed from March 12, 1984 through December 31, 1989) in an interim final rule published in the **Federal Register** on April 25, 1990 (55 FR 17419). To accomplish this SBA can not, however, merely restore the reference to § 121.4 (a) and (b), now renumbered as § 121.802(a)(1) and § 121.802(b), because § 121.802(a)(1) now includes a two-fold test: Meeting the size standard for the primary industry of the applicant concern, including its affiliates, and the primary industry of the concern, not including its affiliates. Accordingly, reference is made only to the size standards table (§ 121.601), the definition of a primary industry (§ 121.802(b)), and to a single size standard for the primary industry of the applicant, including its affiliates. Without this modification to the regulatory language, surety bond applicants would be subject to a new requirement not previously imposed by § 121.802, or the former regulation's § 121.4(h), and the rule would not fully restore the previous treatment of surety bond applicants.

No comments were received from any source concerning the interim final rule published on April 25, 1990. The current action makes final, without change, the April 25, 1990 interim final rule.

Compliance with Regulatory Flexibility Act, Executive Orders 12291 and 12612 and the Paperwork Reduction Act

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Two manufacturing concerns (or two firms in all other industry categories than construction and services) sought surety bond guarantees, and were denied them by the simplified size standard (§ 121.802) in effect between January 1, 1990 and April 19, 1990 (when the substance of the old rule was restored by an interim final rule). Two surety bonds for a total coverage of less than $500,000 were denied (or postponed) during the period January 1 through April 19, 1990 because of the short-lived change in regulation.

The maximum number of small entities affected during the January 1 through April 19 period was, therefore, four. Two firms were adversely affected by denial or postponement of surety bonds, as indicated above. Possibly two other concerns may have been favorably affected, by receiving a contract because of failure of the lowest bidder to secure bonding.

The present action returns SBA to the regulation in effect prior to January 1, 1990, which allowed manufacturing firms with more than $3.5 million annual receipts but less than 500 employees to obtain SBGs. It can be expected that a very small number of manufacturers will be affected by the return to the pre-1990 size standard.

SBA certifies that this rule imposes no new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

SBA certifies that this rule would not have Federalism implications warranting the preparation of a Federalism assessment in accordance with Executive Order 12612.

SBA certifies that this rule is not a major rule for purposes of Executive Order 12291, because it is unlikely to have an annual economic impact of over $100 million. The overall impact will be small because only a very few firms are affected by restoring surety bond eligibility to the level prevailing on December 31, 1989. Based on a current survey of SBA's regional offices, less than one half of 1 percent of all guarantees ever issued went to manufacturing firms. The total value of additional surety bonds guaranteed in a year can be estimated at only $2 to $4 million.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Title 13, part 121 of the Code of Federal Regulations is amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 of 13 CFR continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6) of the Small Business Act, as amended, 15 U.S.C., 632(a) and 634(b)(6), and Pub. L. 100–656 (102 Stat. 3853 (1988)).

2. In § 121.802(a)(3), Establishment of the size standard, paragraph (a)(3) is revised to read as follows:

§ 121.802 Establishment of the size standard.

* * * * *

(a) * * *

(3) For purposes of surety bond guarantee assistance,

(i) Any construction concern (general or special trade) is small if its annual receipts average for its preceding 3 fiscal years does not exceed $3.5 million.

(ii) Any concern performing a contract for services (including, but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) is small if its annual receipts average for its preceding three fiscal years does not exceed $3.5 million.

(iii) For other surety bond guarantee assistance, an applicant must meet the size standard set forth in § 121.601 for the primary industry (as defined in § 121.802(b)) in which the applicant, including its affiliates, is engaged.

* * * * *

Dated: February 4, 1991.

June M. Nichols,

Acting Administrator, U.S. Small Business Administration.

[FR Doc. 91–3263 Filed 2–12–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-226-Ad; Amdt. 39-6898]

Airworthiness Directives; Aerospatiale Model ATR42-300 and ATR42-320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which requires modification of the cockpit voice recorder (CVR). This amendment is prompted by reports that the CVR, in its present configuration, may continue to record and possibly lose information following an accident. This condition, if not corrected, could affect air safety if important information provided by the CVR is not available following an accident to facilitate the determination of probable cause and the subsequent development of necessary corrective action or design changes to prevent future accidents.

EFFECTIVE DATE: March 22, 1991.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Aerospatiale Model ATR42-300 and ATR42-320 series airplanes, which requires modification of the cockpit voice recorder (CVR), was published in the **Federal Register** on November 6, 1990 (55 FR 46671).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The required parts will be supplied to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $320.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Aerospatiale: Applies to Model ATR42-300 and ATR42-320 series airplanes, Serial Numbers 123 through 142, which have been fitted with Modification 1848 and have not incorporated Modification 2311, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of cockpit voice recorder (CVR) information, accomplish the following:

A. Within 30 days after the effective date of this AD, restore the automatic shut-off feature to the CVR by rewiring relay 9RK, in accordance with Aerospatiale Service Bulletin ATR42-23-0018, dated July 13, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 22, 1991.

Issued in Renton, Washington, on February 4, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-3433 Filed 2-12-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-232-AD; Amdt. 39-6896]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model ATP series airplanes, which requires repetitive visual inspections to detect damaged wires in the primary flight control cables in the fuselage and the wings, and repair or replacement, if necessary. This amendment is prompted by reports of increased wear in the primary flight control cables. This condition, if not corrected, could result in failure of the primary control cables

and reduced controllability of the airplane.

EFFECTIVE DATE: March 22, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 227–2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Model ATP series airplanes, which requires repetitive visual inspections to detect damaged wires in the primary flight control cables in the fuselage and the wings, and repair or replacement, if necessary, was published in the **Federal Register** on November 16, 1990 (55 FR 47885).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 200 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $120,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to all Model ATP series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect damaged wires in the primary flight control cables, accomplish the following:

A. For airplanes in Pre-Modification 10060A configuration:

1. Within 250 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 125 hours time-in-service, perform a visual inspection of the aileron primary control cable in the wings for wear and broken wires, in accordance with the Accomplishment Instructions in British Aerospace Service Bulletin ATP–27–26, dated April 5, 1990.

2. Prior to the accumulation of 2,500 hours time-in-service or within 200 hours time-in-service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 2,500 hours time-in-service, perform a visual inspection of the fuselage primary control cables for wear and broken wires, in accordance with the Accomplishment Instructions in British Aerospace Service Bulletin ATP–27–26, dated April 5, 1990.

Note: The repetitive inspection intervals shown herein should not be interpreted as extending the published life limits of any control cables being inspected.

B. For airplanes in Post-Modification 10060A configuration: Within 125 hours time-in-service after the effective date of this AD, or within 750 hours time-in-service following accomplishment of Modification 10060A, whichever occurs later, and thereafter at intervals not to exceed 250 hours time-in-service, perform a visual inspection of the aileron primary control cables in the wings for wear and broken wires, in accordance with the Accomplishment Instructions in British Aerospace Service Bulletin ATP–27–26, dated April 5, 1990.

C. If defective wires are found as a result of the inspections required by this AD, prior to further flight, accomplish the following in accordance with the Accomplishment Instructions in British Aerospace Service Bulletin ATP–27–26, dated April 5, 1990.

1. In the event of a single wire break, the ends must be trimmed to lie flush with the cable assembly and a full and free check of control travel must be carried out to ensure that the wire ends do not "snag". If cables do "snag", the cable must be replaced prior to further flight, in accordance with the service bulletin.

2. If two or more wires are found to be broken, prior to further flight, replace the damaged cable and replace any associated damaged fairlead rollers, in accordance with the service bulletin.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 22, 1991.

Issued in Renton, Washington on February 4, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–3432 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90-NM-230-AD; Amdt. 39-6889]

Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, which requires replacement of a certain remote controlled circuit breaker (RCCB). This amendment is prompted by a report of an in-service incident where an adjustment nut came loose within an RCCB in the AC powered hydraulic pump electric power circuit, which disabled the electrical power over-current protection. This condition, if not corrected, could result in loss of all AC electrical power.

EFFECTIVE DATE: March 22, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, which requires replacement of a certain remote controlled circuit breaker (RCCB), was published in the **Federal Register** on November 9, 1990 (55 FR 47067).

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

The commenters supported the rule, but one commenter requested an extension to the proposed 90-day compliance time for replacement. The commenter stated that the proposed compliance time may be difficult to meet due to the slow turn-around time demonstrated by the parts vendor. The FAA does not concur with this request. The FAA has received no information relating to a parts availability problem. Furthermore, the FAA has determined that the specified interval is the maximum permissible time allowed for affected airplanes to continue to operate without compromising air safety. However, if an individual operator can provide substantiating data and/or alternate inspection procedures to the FAA that will justify a change in the compliance time specified in the AD, and still maintain an acceptable level of safety, that request will be considered in accordance with the provisions of paragraph B. of the final rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 74 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The modified RCCB's will be provided to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,960.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to Model BAe 146-100A, -200A, and -300A series airplanes, as listed in British Aerospace Service Bulletin 24-69-70484A, Revision 1, dated July 25, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of all AC electrical power, accomplish the following:

A. Within 90 days after the effective date of this AD, in the AC powered hydraulic pump electric power circuit, remove the remote controlled circuit breaker (RCCB), Part Number SM601BA40A12 or SM601BA40A13, and replace it with a modified RCCB, Part Number SM601BA40A14, in accordance with British Aerospace Service Bulletin 24-69-70484A, Revision 1, dated July 25, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 22, 1991.

Issued in Renton, Washington, on February 4, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-3435 Filed 2-12-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-118-AD; Amdt. 39-6897]

Airworthiness Directives; Short Brothers, PLC, Model SD3-30 and SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers, PLC, Model SD3-30 series airplanes and certain Model SD3-60 series airplanes, which requires changing the power source for the pitot/static heaters from the shedding busbars to the associated main busbars. This amendment is prompted by recent reports of loss of electrical power to the pitot/static heaters due to a generator failure. This condition, if not corrected, could result in incorrect airspeed and altitude information being provided to the pilot and/or co-pilot in the event of a generator or engine failure.

EFFECTIVE DATE: March 22, 1991.

ADDRESSES: The applicable service information may be obtained from Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3719. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all Short Brothers, PLC, Model SD3-30 series airplanes and certain Model SD3-60 series airplanes, which requires changing the power source for the pitot/static heaters from the shedding busbars to the associated main busbars, was published in the Federal Register on November 19, 1990 (55 FR 48133).

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

The commenter requested that the compliance time be extended from the proposed 60 days to 6 months so that it can be accomplished at a main maintenance base during a "C" check. The FAA concurs. The FAA has reassessed the seriousness of the unsafe condition relative to the burden imposed on the operators to comply within 60 days. While the FAA continues to consider that the originally proposed compliance time of 4,800 hours time-in-service is excessive, the FAA has determined that an acceptable level of safety can be maintained during an extended compliance time of 6 months. In the event of a generator or engine failure, the existing amber pitot/static warning light on the crew warning panel would advise crew members that a pitot heater is not powered, and the pilot would be able to manually restore electric power to an automatically shed busbar. Therefore, the compliance time in paragraphs A., B., and C. of the final rule has been extended to 180 days (6 months).

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

It is estimated that 120 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The required modification kit will be provided to the operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $31,200.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Short Brothers, PLC: Applies to all Model SD3-30 series airplanes; and Model SD3-60 series airplanes, Serial Numbers SH3601 through SH3762, certificated in any category. Compliance is required within 180 days after the effective date of this AD, unless previously accomplished.

To prevent loss of power to the pitot/static heaters and subsequent incorrect airspeed and altitude information being provided to the pilot and/or co-pilot in the event of a generator or engine failure, accomplish the following:

A. For Model SD3-30 series airplanes: Revise the power source for the pitot/static heaters, in accordance with the Accomplishment Instructions in Short Brothers Service Bulletin SD330-24-25, Revision 1, dated September 14, 1990.

B. For Model SD3-60 series airplanes, Serial Numbers SH3601 through SH3661, inclusive, and SH3663 through SH3665, inclusive: Revise the power source for the pitot/static heaters, in accordance with part A of the Accomplishment Instructions of Short Brothers Service Bulletin SD360-24-18, Revision 2, dated September 14, 1990.

C. For Model SD3-60 series airplanes, Serial Numbers SH3662 and SH3666 through SH3762, inclusive: Revise the power source for the pitot/static heaters, in accordance with Part B of the Accomplishment Instructions of Short Brothers Service Bulletin SD360-24-18, Revision 2, dated September 14, 1990.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 22, 1991.

Issued in Renton, Washington, on February 4, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–3434 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Anabolic Steroids

AGENCY: Drug Enforcement Administration (DEA), DOJ.

ACTION: Final rule.

SUMMARY: The DEA is amending its regulations to place anabolic steroids into Schedule III of the Controlled Substances Act, as required by the Anabolic Steroids Control Act of 1990. Such placement requires any handler of these anabolic steroids to comply with the requirements of the Controlled Substances Act.

EFFECTIVE DATE: February 27, 1991.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: The Anabolic Steroids Control Act of 1990 (Pub. L. 101–647) requires the placement of anabolic steroids into Schedule III of the Controlled Substances Act (21 U.S.C. 801, et seq.) and provides a definition for such steroids. This placement into Schedule III, therefore, classifies these anabolic steroids as controlled substances. The Controlled Substances Act (CSA) requires that any person who manufactures, distributes or dispenses any controlled substance, or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance, must obtain a registration with the DEA, meet certain security requirements, take an inventory of the stocks of controlled substances on hand, and maintain retrievable records for a specified period of time. Persons interested in conducting activities allowed for Schedule III substances must comply with the following:

1. *Registration.* Any person not currently registered for Schedule III activities who manufacturers, distributes, dispenses, imports, exports, conducts chemical analysis, engages in research, or conducts instructional activities with respect to anabolic steroids, or who proposes to engage in such activities, shall submit an application for Schedule III registration to conduct such activities in accordance with 21 CFR parts 1301 and 1311.

2. *Disposal of stock.* Any person who elects not to obtain a Schedule III registration or is not entitled to such registration must surrender all quantities of currently held anabolic steroids in accordance with procedures outlined in 21 CFR 1307.21 on or before February 27, 1991, or may transfer all quantities of currently held anabolic steroids to a person registered under the CSA and authorized to possess Schedule III controlled substances on or before February 27, 1991. Anabolic steroids to be surrendered to DEA must be listed on a DEA Form 41, "Inventory of Controlled Substances Surrendered for Destruction." DEA Form 41 and instructions can be obtained from the nearest DEA office.

3. *Security.* Anabolic steroids must be manufactured, distributed and stored in accordance with 21 CFR 1301.71–1301.76.

4. *Labeling and packaging.* All labels and labeling for commercial containers of anabolic steroids, packaged on or after August 27, 1991, shall comply with the requirements of 21 CFR 1302.03–1302.08. Any commercial containers of anabolic steroids packaged prior to August 27, 1991 and not meeting the requirements specified in 21 CFR 1302.03–1302.05 shall not be distributed on or after November 27, 1991. In the event the effective date imposes special hardships on any "manufacturer", as defined in section 102(15) of the CSA (21 U.S.C. 802(15)), the DEA will entertain any justified requests for extensions of time submitted to it on or before the required date of compliance.

5. *Inventory.* Every registrant required to keep records, who possesses any quantity of anabolic steroids, shall maintain an inventory, pursuant to 21 CFR 1304.11–1304.19, of all stocks of anabolic steroids. Every registrant who desires registration in Schedule III or is currently registered in Schedule III shall conduct an inventory of all stocks of anabolic steroids on February 27, 1991 or on the date thereafter the registrant begins handling anabolic steroids.

6. *Records.* All registrants required to keep records pursuant to 21 CFR 1304.21–1304.27 shall maintain such records on anabolic steroids commencing on February 27, 1991.

7. *Prescriptions.* All prescriptions for products containing anabolic steroids shall comply with 21 CFR 1306.02–1306.06 and 1306.21–1306.26 commencing on February 27, 1991. All prescriptions for products containing such substances issued on or before February 27, 1991, if authorized for refilling, shall as of that date be limited to five refills and shall not be refilled after August 27, 1991.

8. *Importation and exportation.* All importation and exportation of anabolic steroids shall be in compliance with 21 CFR part 1312.

9. *Criminal liability.* Any activity with respect to anabolic steroids, not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act, shall be unlawful on and after February 27, 1991 and subject to the penalties set forth in these acts. On or after February 27, 1991, any activity with respect to human growth hormones not authorized by, or in violation of, 21 U.S.C. 333(e)(1) of the Food, Drug, and Cosmetic Act is punishable by not more than five years in prison, and such fines as are authorized by title 18 U.S.C., or both. Title 21 U.S.C. 333(e)(2) provides that whoever commits an offense set forth in (e)(1) above and such offense involves an individual under 18 years of age, is guilty of an offense punishable by not more than ten years in prison, and such fines as are authorized by title 18 U.S.C., or both.

The Anabolic Steroids Control Act provides that certain anabolic steroids, those that are expressly intended for administration through implants to cattle or other nonhuman species and which have been approved by the Secretary of Health and Human Services for such administration, are excluded from the definition of an anabolic steroid. In that the Secretary of Health and Human Services approves pharmaceutical products and not raw chemicals, only those approved products which are manufactured, distributed and administered as implants to nonhuman species will be excluded.

In addition, the Attorney General may exempt certain anabolic steroid products, upon the recommendation of the Secretary of Health and Human Services, if, because of their concentration, preparation, mixture or delivery system, they have no significant potential for abuse.

The DEA will be publishing regulations on how one may apply for these exclusions and exemptions and provide separate lists of these excluded veterinary implant products and exempt anabolic steroid products in a proposed Federal Register notice. Thereafter, the DEA will republish updated lists on an annual basis.

The list of anabolic steroids under 21 CFR 1308.02(b) shows certain anabolic steroids with an additional name in parenthesis. These names reflect the correct spelling for these anabolic steroids.

The Administrator of the Drug Enforcement Administration hereby certifies that this final rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The final rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981.

This scheduling action is a formal rulemaking that is required by Public Law 101–647, and as such, is exempt from the consultation requirements of E.O. 12291.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by Public Law 100–647 and delegated to the Administrator of the DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby orders that 21 CFR part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, and 871(b), unless otherwise noted.

2. Section 1308.02 is amended by redesignating the current paragraphs (b) through (g) as paragraphs (c) through (h) and adding a new paragraph (b) to read as follows:

§ 1308.02 Definitions.

* * * * *

(b) The term *anabolic steroid* means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(1) Boldenone;
(2) Chlorotestosterone (4-chlortestosterone);
(3) Clostebol;
(4) Dehydrochlormethyltestosterone;
(5) Dihydrotestosterone (4-dihydrotestosterone);
(6) Drostanolone;
(7) Ethylestrenol;
(8) Fluoxymesterone;
(9) Formebulone (formebolone);
(10) Mesterolone;
(11) Methandienone;
(12) Methandranone;
(13) Methandriol;
(14) Methandrostenolone;
(15) Methenolone;
(16) Methyltestosterone;
(17) Mibolerone;
(18) Nandrolone;
(19) Norethandrolone;
(20) Oxandrolone;
(21) Oxymesterone;
(22) Oxymetholone;
(23) Stanolone;
(24) Stanozolol;
(25) Testolactone;
(26) Testosterone;
(27) Trenbolone; and
(28) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

* * * * *

3. Section 1308.13 is amended by adding a new paragraph (f) to read as follows:

§ 1308.13 Schedule III.

* * * * *

(f) *Anabolic steroids.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(1) Anabolic Steroids.....4000

Dated: February 4, 1991.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 91–3402 Filed 2–12–91; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami, Florida Regulation CCGD7–91–06]

Security Zone Regulations: U.S. Coast Guard Base Miami Beach, Miami Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone around U.S. Coast Guard Base Miami Beach, Miami Beach, Florida. This zone is needed to protect U.S. Coast Guard Base Miami Beach and the vessels moored thereto from potential subversive acts by any unknown person or persons hostile to the United States. The zone is established at a one hundred yard radius upon and under the waters of Biscayne Bay off Coast Guard Base Miami Beach, centered in approximate position latitude 25–46.25N, longitude 080–08.8W. Entry into this zone is prohibited unless authorized by the Captain of the Port, Miami, Florida, or his designated representative.

FOR FURTHER INFORMATION CONTACT: Lt. Jones, Project Officer, USCG Marine Safety Office, 155 S. Miami Ave., Miami, Florida 33130, (305) 536–5693.

EFFECTIVE DATES: This regulation becomes effective on 14 January 1991 at 4:00 p.m. local time and will remain in effect until further notice. A notice will be published in the Federal Register announcing termination of the rule.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to national security interests since immediate action is needed to protect U.S. Coast Guard Base Miami Beach and vessels moored thereto.

Drafting Information

The drafters of this regulation are BM1 K.A. Richter, project officer for the Captain of the Port, and LT G.G. Tanos, Project Attorney, Seventh Coast Guard District Legal Office

Discussion of Regulation

The evolution requiring this regulation is the increasing possibility of acts of terrorism or sabotage by any unknown person or persons against United States Coast Guard facilities. This threat stems from the United States' support of the United Nations Resolutions calling for the removal of Iraqi military forces from Kuwait. This regulation is pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation of part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 33 CFR 160.5.

2. A new § 165.T0706 is added to read as follows:

§ 165.T0706 Security Zone: U.S. Coast Guard Base Miami Beach, Miami Beach, Florida.

(a) *Location.* The following area is a Security Zone: A one hundred yard radius upon and under the waters of Biscayne Bay, off Coast Guard Base Miami Beach, centered in approximate position latitude 25–46.25N, longitude 080–08.8W.

(b) *Effective date.* This regulation becomes effective on 14 January 1991, at 4:00 p.m. local time. This regulation will remain in effect until further notice from the Captain of the Port, Miami, Florida. A notice will be published in the **Federal Register** announcing termination of the rule.

(c) *Regulations.* In accordance with the general regulation in subpart 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Miami, Florida, or a Coast Guard commissioned, warrant, or petty officer designated by him. Subpart 165.33 also contains other general requirements.

Dated: January 14, 1991, 4 p.m. local.

G.M. Williams,

Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 91–3459 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AE97

Active Military Service Certified as Such Under Section 401 of Public Law 95–202

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulations concerning persons who are included as having served on active duty. The need for this action results from recent decisions of the Secretary of the Air Force that the service of members of three additional civilian or contractual groups constitutes active military service in the Armed Forces of the United States for purposes of all laws administered by VA. The effect of this action is to confer veteran status for VA benefit purposes on former members of those groups who were discharged under honorable conditions.

EFFECTIVE DATE: The effective dates are August 30, 1990 (§ 3.7(x) (17) and (18)), for the U.S. Civilians of the American Field Service, and October 5, 1990 (§ 3.7(x)(19)), for the U.S. Civilian Employees of American Airlines.

FOR FURTHER INFORMATION CONTACT: Joel Drembus, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration (202) 233–3005.

SUPPLEMENTARY INFORMATION: Public Law 95–202 authorized the Secretary of Defense to certify whether the service of members of civilian or contractual groups shall be considered active duty for the purposes of all laws administered by VA.

Notices of such certification of the following groups by the Secretary of the Air Force appeared in the **Federal Register** of November 6, 1990, pages 46706–07: U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War I During the Period August 31, 1917 to January 1, 1918; U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II During the Period December 7, 1941 through May 8, 1945; and U.S. Civilian Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command During the Period December 14, 1941 through August 14, 1945.

Pursuant to 38 CFR 1.12(b), VA finds that prior publication of these changes for public notice and comment is impracticable and unnecessary. VA has no discretion in this matter. The decisions of the Secretary of the Air Force concerning active duty status are binding on VA. Consequently, a proposed notice will not be published. For the same reason, the effective dates are retroactive to the dates on which the Secretary of the Air Force held that such service constitutes active duty.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these regulation changes are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterpri ses in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

There is no affected catalog of federal domestic assistance program number.

Approved January 16, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 3, Adjudication, is amended as follows:

PART 3—[AMENDED]

In § 3.7, the authority citations following paragraphs (x)(11) through (x)(14), and (x)(16) are removed and paragraphs (x)(17) through (x)(19) and an authority citation are added to read as follows:

§ 3.7 Persons included.

* * * * *

(x) *Active military service certified as such under section 401 of Public Law 95–202.*

* * * * *

(17) U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War I during the Period August 31, 1917 to January 1, 1918.

(18) U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II during the Period December 7, 1941 through May 8, 1945.

(19) U.S. Civilian Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command During the Period December 14, 1941 through August 14, 1945.

(Authority: Pub. L. 95–202, Sec. 401.)

[FR Doc. 91–3407 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 3

RIN 2900–AE88

Clothing Allowance and Marriage Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations on clothing allowances and the period of marriage required for eligibility for certain survivor benefits. These amendments are based on recently enacted legislation. The intended effect of these amendments is to expand and extend benefit eligibility.

EFFECTIVE DATE: The amendments are to be effective December 18, 1989, the date the legislation was signed into law.

FOR FURTHER INFORMATION CONTACT: Phyllis Barber, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 19, 1990 (55 FR 38564), VA published proposed regulatory amendments based on the recently enacted Veterans' Benefits Amendments of 1989 (Pub. L. 101–237, 103 Stat. 2062) which amended 38 U.S.C. 362 to expand the category of veterans entitled to receive a clothing allowance and amended 38 U.S.C. 418(c)(1) to reduce the time a surviving spouse must have been married to a veteran in order to be eligible for certain survivor benefits. Interested persons were invited to submit written comments, suggestions or objections on or before October 19, 1990. Since no comments, suggestions or objections were received, the regulations have been adopted as proposed without change.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(The Catalog of Federal Domestic Assistance program numbers are 64.105, 64.109 and 64.110).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: January 8, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is amended as follows:

§ 3.54 [Amended]

1. In § 3.54(c)(2) remove the words "2 years" where they appear and add, in their place, the words "1 year".

2. In § 3.810 the authority citation at the end of paragraph (a)(2) is removed and a new authority citation for all of § 3.810 is added. The introductory texts of paragraph (a) and paragraph (a)(2) are revised to read as follows:

§ 3.810 Clothing allowance.

(a) A veteran who has a service-connected disability, or a disability compensable under 38 U.S.C. 351 as if it were service-connected, is entitled, upon application therefor, to an annual clothing allowance as specified in 38 U.S.C. 362. The annual clothing allowance is payable in a lump sum, and the following eligibility criteria must also be satisfied:

* * * * *

(2) The Chief Medical Director or designee certifies that because of such disability a prosthetic or orthopedic appliance is worn or used which tends to ware or tear the veteran's clothing, or that because of the use of a physician-prescribed medication for a skin condition which is due to the service-connected disability irreparable damage is done to the veteran's outergarments. For the purposes of this paragraph "appliance" includes a wheelchair.

* * * * *

(Authority: 38 U.S.C. 362)

[FR Doc. 91–3406 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 17

RIN 2900–AD46

Increasing the Domiciliary Income Limitation

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern the provision of domiciliary care to veterans. Title 38 U.S.C. 610(b) was amended to provide eligibility for domiciliary care to any veteran whose annual income does not exceed the maximum annual rate of pension

payable to a veteran in need of aid and attendance or to any veteran whom the Secretary determines has no adequate means of support.

EFFECTIVE DATE: This amendment is effective March 15, 1991.

FOR FURTHER INFORMATION CONTACT: Paul C. Tryhus, Chief, Policies and Procedures Division (161B2), Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2504.

SUPPLEMENTARY INFORMATION: These regulations were proposed in the **Federal Register** of July 31, 1990, on pages 31082 and 31083. Interested persons were given 30 days in which to submit comments, however, no comments were received. Therefore, the regulations are hereby adopted as final in their original form.

The Veteran's Benefits and Services Act of 1988, Public Law 100–322, amended 38 U.S.C. 610(b) to change the criteria governing eligibility for domiciliary care. As amended, the law provides that the Secretary may furnish domiciliary care to: (1) Any veteran whose annual income does not exceed the maximum annual rate of pension payable to a veteran in need of aid and attendance, or (2) any veteran whom the Secretary determines has no adequate means of support. The law also provided that veterans who were patients or residents in a State home facility or VA domiciliary during the period January 1, 1987, through April 1, 1988, would not be affected by these changes. Under the regulation (38 CFR 17.48(b)(2)) an applicant for domiciliary care is considered as having "no adequate means of support" if annual income does not exceed the annual rate of pension for a veteran in receipt of aid and attendance as defined in 38 U.S.C. 503. The veteran must also be able to demonstrate, on the basis of objective evidence, that deficits in health and/or functional status render the veteran incapable of pursuing substantially gainful employment, and the veteran must otherwise be without the means to provide adequately for self, or be provided for in the community.

These final regulatory amendments do not meet the criteria for a major rule as that term is defined by Executive Order 12291, Federal Regulation. These regulatory amendments will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary hereby certifies that these regulations will not have a significant economic impact on the substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 United States Code 601–612.

These regulatory amendments concern eligibility for domiciliary care. Any economic impact on small entities would be small because of the minimal part of their overall operation and income which this activity represents.

The Catalog of Federal Domestic Assistance Number is 63.008.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

Approved: January 25, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 17, Medical, is amended as follows:

PART 17—[AMENDED]

1. In § 17.47 paragraph (e) and its authority citation are revised to read as follows:

§ 17.47 Eligibility for hospital, domiciliary or nursing home care of persons discharged or released from active military, naval, or air service.

* * * * *

(e) Domiciliary care may be furnished when needed to:

(1) Any veteran whose annual income does not exceed the maximum annual rate of pension payable to a veteran in need of regular aid and attendance, or

(2) Any veteran who the Secretary determines had no adequate means of support. An additional requirement for eligibility for domiciliary care is the ability of the veteran to perform the following:

(i) Perform without assistance daily ablutions, such as brushing teeth; bathing; combing hair; body eliminations.

(ii) Dress self, with a minimum of assistance.

(iii) Proceed to and return from the dining hall without aid.

(iv) Feed Self.

(v) Secure medical attention on an ambulatory basis or by use of personally propelled wheelchair.

(vi) Have voluntary control over body eliminations or control by use of an appropriate prosthesis.

(vii) Share in some measure, however slight, in the maintenance and operation of the facility.

(viii) Make rational and competent decisions as to his or her desire to remain or leave the facility.

(Authority: 38 U.S.C. 610(b), sec. 102, Pub. L. 100–322.)

* * * * *

2. In § 17.48, paragraph (b)(2) is revised as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(b) * * *

(2) For purposes of eligibility for domiciliary care, the phrase "no adequate means of support" refers to an applicant for domiciliary care whose annual income exceeds the annual rate of pension for a veteran in receipt of regular aid and attendance, as defined in 38 U.S.C. 503, but who is able to demonstrate to competent VA medical authority, on the basis of objective evidence, that deficits in health and/or functional status render the applicant incapable of pursuing substantially gainful employment, as determined by the Chief of Staff, and who is otherwise without the means to provide adequately for self, or be provided for in the community.

* * * * *

[FR Doc. 91–3408 Filed 2–12–91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3903–5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Iowa Department of Natural Resources (IDNR) has submitted revised regulations to incorporate by reference the EPA revisions to 40 CFR 52.21 at (53 FR 40656), August 17, 1988, pertaining to PSD NO_x increments. EPA is taking final action to approve this revision to the Iowa State Implementation Plan (SIP).

DATES: This action will be effective April 15, 1991, unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is

delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the state submittal for this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Environmental Protection Division, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603 (FTS 276–7603).

SUPPLEMENTARY INFORMATION: On October 17, 1988, EPA revised the prevention of significant deterioration (PSD) regulations at 40 CFR 52.21 (see 53 FR 40656) for nitrogen oxides. These regulations establish the maximum increase in ambient nitrogen dioxide concentrations allowed in an area above the baseline concentration; these maximum allowable increases are called increments. The intended effect of these regulations is to require all applicants for major new stationary sources and major modifications emitting nitrogen oxides to account for and, if necessary, restrict emissions so as not to cause or contribute to exceedances of the increment.

On November 20, 1990, the IDNR submitted an amendment to chapter 22.4(455B), "Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Unclassified (PSD)," which incorporates by reference the revisions to 40 CFR part 52.21, effective October 17, 1988. The state rule was effective November 21, 1990. The state also provided a demonstration that it meets the conditions for approval of adoption of the NO_2 increment program as detailed in the EPA guidance memorandum on the subject dated August 17, 1990.

The above memorandum described specific conditions for EPA approval of a state's adoption of the NO_x increment rule. Those conditions pertained to regulatory language, increment consumption analysis, increment consumption for the transition period, and legal authority. EPA has evaluated the state's submittal in accordance with the August 17, 1990, guidance and finds that the state submittal is acceptable. 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.

EPA Action: EPA is taking final action to approve a revision to Iowa rule 567–22.4(455B) which adopts by reference the PSD NO_x requirements of 40 CFR 52.21 at 53 FR 40656 (October 17, 1988). 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), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 until April 1991.

Under section 307(b)(1) of the Act, 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 adoption of the revision by the state preceded the date of enactment.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: January 28, 1991.

Morris Kay,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.820 is amended by adding paragraph (c)(53) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(53) Revised chapter 22, rule 22.4(455B), submitted on November 8, 1990, incorporates by reference revised EPA PSD rules pertaining to NO_x increments.

(i) Incorporation by reference

(A) Amendment to chapter 22, "Controlling Pollution," Iowa Administrative Code, subrule 22.4, adopted by the Environmental Protection Commission on October 17, 1990, effective November 21, 1990.

(ii) Additional material

(A) Letter from the state dated November 8, 1990, pertaining to NO_x rules and analysis which certifies the material was adopted by the state on October 17, 1990.

[FR Doc. 91–3451 Filed 2–12–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[AD–FRL–3867–1]

Standards of Performance for New Stationary Sources; Addition of Methods for Measurement of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Hydrogen Chloride Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this action is to add Method 23, "Determination to Polychlorinated Dibenzo-p-Dioxins (PCDD's) and Polychlorinated Dibenzofurans (PCDF's) from Stationary Sources," and Method 26, "Determination of Hydrogen Chloride Emissions from Stationary Sources" to appendix A of 40 CFR part 60. These methods are being promulgated to determine compliance with subparts Ca and Ea of part 60.

DATES: *Effective Date:* February 13, 1991.

Judicial Review: Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The Background Information Document for the promulgated test methods may be obtained from Gary McAlister or Roger Shigehara, MD–19, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1062. Please refer to "Summary of Comments and Responses for Methods 23 and 26."

Docket. Docket Number A–89–11, containing material relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m. Monday through Friday, at EPA's Air Docket Section, room M–1500, 1st Floor, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Gary McAlister or Roger Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1062.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

Under Subparts Ca and Ea, the EPA is regulating emissions from municipal waste combustors (MWC's) including setting emission limits for polychlorinated dibenzo-p-dioxins (PCDD's), polychlorinated dibenzofurans (PCDF's), and hydrochloric acid (HCl). There are presently no methods published in 40 CFR part 60, appendix A, to measure any of these pollutants. This action would promulgate one method to measure the PCDD's and PCDF's and another method to measure the HCl.

Summary of Reference Methods

Method 23 is used to measure the emission of PCDD's and PCDF's from MWC's. A sample is withdrawn isokinetically from the stack through a probe, a filter, and a trap packed with a solid adsorbent. The PCDD's and PCDF's are collected in the probe, on the filter, and on the solid adsorbent. The PCDD's and PCDF's are extracted from the particulate matter and the adsorbent with a hot organic solvent. The extracted PCDD's and PCDF's are separated by capillary gas chromatography, and then, each isomer is identified and measured with mass spectrometry (GC/MS). The total PCDD's and PCDF's are the sum of the individual isomers. Toxicity factors are not used in the calculation.

Method 26 is used to measure the emission of HCl from MWC's. A sample is withdrawn at a constant rate from the stack through a probe and impingers filled with a dilute acid. The HCl is collected in the implinger solution. The chloride ion is separated by ion chromatography and measured by a conductivity detector.

Background

In 1983, the American Society of Mechanical Engineers (ASME) recognized that the testing for PCDD's and PCDF's needed to be standardized. In February of 1984, the ASME convened a committee of government representatives, testing consultants, equipment manufacturers, and incinerator operators to write a standard test procedure for PCDD's and PCDF's. This was eventually distributed as a draft ASME protocol in December of 1934. The procedure that we are promulgating was derived from this draft ASME protocol. There are some changes in the quality assurance (QA) requirements and the solvents used to recover the sample in the promulgated method. Because more labeled compounds are available, the method will require additional labeled internal standards and surrogate compounds which will provide better representation of the entire range of PCDD's and PCDF's. The filter and solid adsorbent are extracted in the laboratory with toluene to assure a high PCDD and PCDF recovery efficiency. Additionally the proposed sample recovery solvents used for rinsing the sample train glassware in the field would be acetone followed by methylene chloride with a final quality assurance rinse using toluene. However, the results from the toluene rinse are not used in calculating the total PCDD and PCDF emissions. EPA will continue to review the toluene field rinse quality assurance results and continue to evaluate the desirability of replacing methylene chloride with toluene for field rinsing sample glassware.

II. Public Participation

The opportunity to hold a public hearing at 10 a.m. on February 7, 1990 was presented, but no one requested a hearing. The public comment period was from December 20, 1989 to March 5, 1990.

III. Significant Comments and Changes to the Proposed Rulemaking

Thirteen comment letters were received on the proposed test methods. These comments have been carefully considered and, where deemed appropriate by the Administrator, changes have been made in the proposed test methods. A detailed discussion of these comments is contained in the background document entitled, "Summary of Comments and Responses for Methods 23 and 26" which is referred to in the **ADDRESSES** section of this preamble.

Several commenters thought that there were not enough stack sampling organizations that were experienced with Method 23 to avoid major delays in securing sampling and analysis contractors. Many of these commenters also thought that there would not be an adequate supply of calibration standards and audit samples. We believe that the number of tests required immediately after promulgation of the regulation will not exceed the capabilities of the available sampling and analytical laboratories and that there will be an adequate supply of labeled standards and audit samples. The full effect of the testing requirements for the new and existing sources will not be felt for about five years. We believe that this is adequate time to allow for the necessary expansion of testing capabilities.

Some commenters requested alternative procedures or methods to Method 23. While testers always have the option of requesting alternative methods, requests should be submitted after the method becomes final. Any request should be in writing and should be accompanied by any supporting data.

Many commenters thought that the gas chromatography columns specified in Method 23 were not the most appropriate choice. The column requirements in the method have been revised to allow the tester to use any column system provided that the tester can demonstrate through calibration and performance checks that the columns provide the necessary isomer separation.

One commenter thought that Method 26 should be modified to allow isokinetic sampling so that it could be

applied to sources where hydrochloric acid aerosols are present. We agree that isokinetic sampling may be important at sources other than MWC's. We have compared Method 26 and an isokinetic sampling train and found that they generally give similar results at stack concentrations above 20 PPM. At lower concentrations the isokinetic sampling train seems to have a negative bias. We are continuing to investigate this problem, and may be able to approve an alternative method using isokinetic sampling for future use.

Another commenter wanted EPA to develop a QA audit sample for Method 26. An audit sample is being developed and will be available for validating the results of compliance tests.

IV. Administrative

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A)).

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. The Agency has determined that this rulemaking would not result in any of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a "major rule." The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of an RFA analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, an analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this promulgated rule will not have an economic impact on small entities because no additional costs will be incurred from this action.

This rule does not contain any information collection requirements currently approved by OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Municipal waste combustors, Polychlorinated dibenzo-p-dioxins, Polychlorinated dibenzofurans, Hydrogen chloride.

Dated: January 11, 1991.

F. Henry Habicht,

Acting Administrator.

Title 40, part 60 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. By adding in numerical order Methods 23 and 26 to appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources

1. Applicability and Principle

1.1 Applicability. This method is applicable to the determination of polychlorinated dibenzo-p-dioxins (PCDD's) and polychlorinated dibenzofurans (PCDF's) from stationary sources.

1.2 Principle. A sample is withdrawn from the gas stream isokinetically and collected in the sample probe, on a glass fiber filter, and on a packed column of adsorbent material. The sample cannot be separated into a particle vapor fraction. The PCDD's and PCDF's are extracted from the sample, separated by high resolution gas chromatography, and measured by high resolution mass spectrometry.

2. Apparatus

2.1 Sampling. A schematic of the sampling train used in this method is shown in Figure 23–1. Sealing greases may not be used in assembling the train. The train is identical to that described in section 2.1 of Method 5 of this appendix with the following additions:

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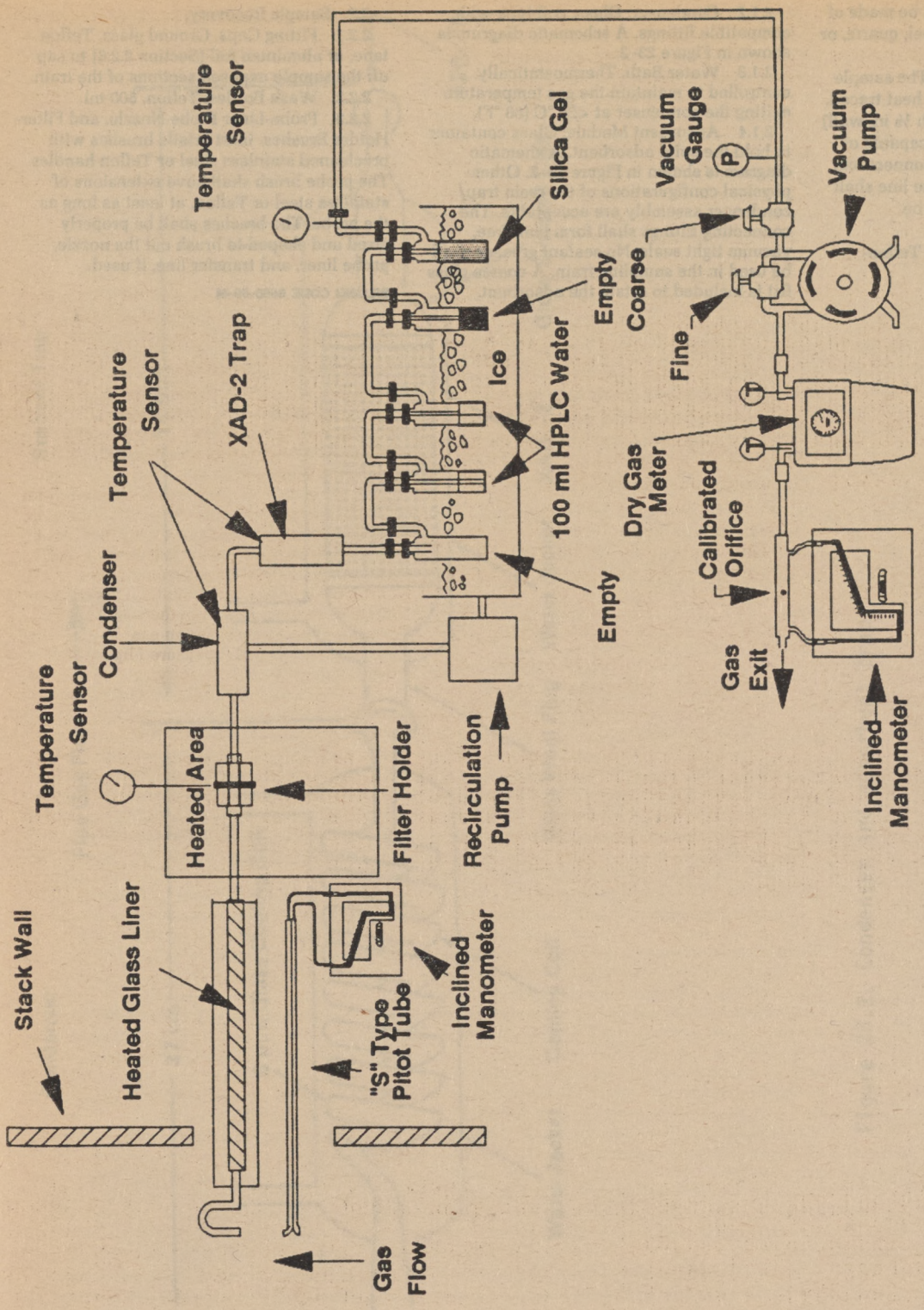

Figure 23.1 Sampling train

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2.1.1 Nozzle. The nozzle shall be made of nickel, nickel-plated stainless steel, quartz, or borosilicate glass.

2.1.2 Sample Transfer Lines. The sample transfer lines, if needed, shall be heat traced, heavy walled TFE (½ in. OD with ⅛ in. wall) with connecting fittings that are capable of forming leak-free, vacuum-tight connections without using sealing greases. The line shall be as short as possible and must be maintained at 120 °C.

2.1.1 Filter Support. Teflon or Teflon-coated wire.

2.1.2 Condenser. Glass, coil type with compatible fittings. A schematic diagram is shown in Figure 23–2.

2.1.3 Water Bath. Thermostatically controlled to maintain the gas temperature exiting the condenser at <20 °C (68 °F).

2.1.4 Adsorbent Module. Glass container to hold the solid adsorbent. A shematic diagram is shown in Figure 23–2. Other physical configurations of the resin trap/condenser assembly are acceptable. The connecting fittings shall form leak-free, vacuum tight seals. No sealant greases shall be used in the sampling train. A coarse glass frit is included to retain the adsorbent.

2.2 Sample Recovery.

2.2.1 Fitting Caps. Ground glass, Teflon tape, or aluminum foil (Section 2.2.6) to cap off the sample exposed sections of the train.

2.2.2 Wash Bottles. Teflon, 500-ml.

2.2.3 Probe-Liner Probe-Nozzle, and Filter-Holder Brushes. Inert bristle brushes with precleaned stainless steel or Teflon handles. The probe brush shall have extensions of stainless steel or Teflon, at least as long as the probe. The brushes shall be properly sized and shaped to brush out the nozzle, probe liner, and transfer line, if used.

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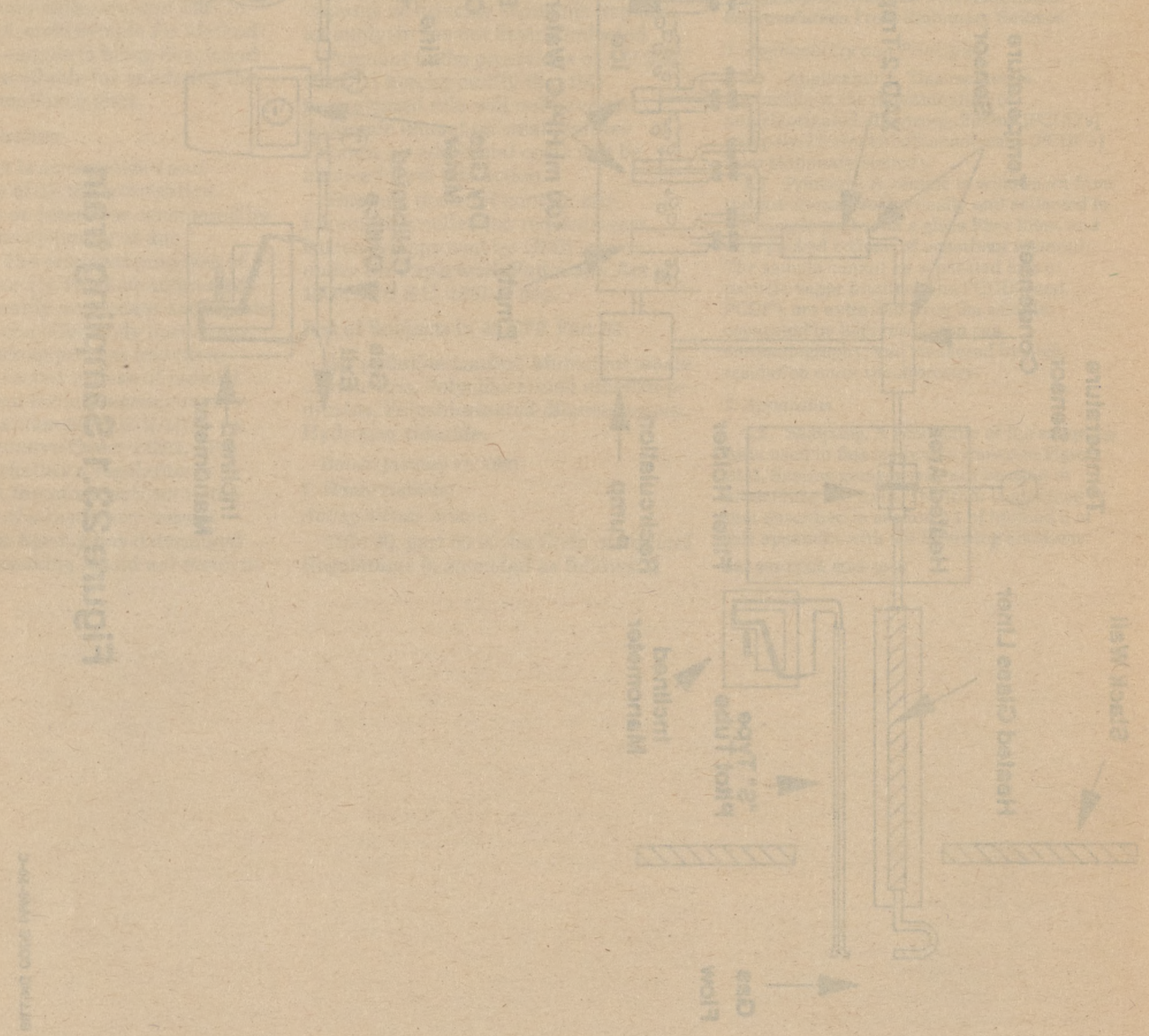

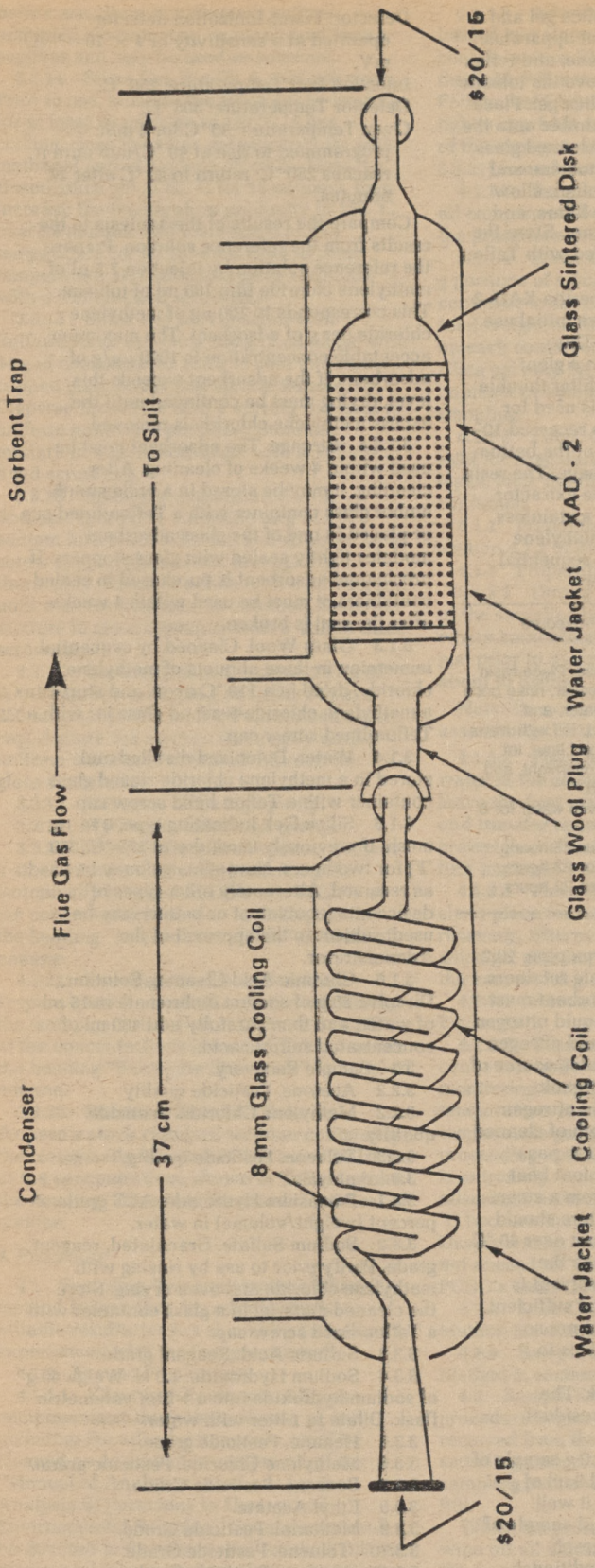

Figure 23.2. Condenser and adsorbent trap

BILLING CODE 6560-50-C

2.2.4 Filter Storage Container. Sealed filter holder, wide-mouth amber glass jar with Teflon-lined cap, or glass petri dish.

2.2.5 Balance. Triple beam.

2.2.6 Aluminum Foil. Heavy duty, hexane-rinsed.

2.2.7 Metal Storage Container. Air tight container to store silica gel.

2.2.8 Graduated Cylinder. Glass, 250-ml with 2-ml graduation.

2.2.9 Glass Sample Storage Container. Amber glass bottle for sample glassware washes, 500- or 1000-ml, with leak free Teflon-lined caps.

2.3 Analysis.

2.3.1 Sample Container. 125- and 250-ml flint glass bottles with Teflon-lined caps.

2.3.2 Test Tube. Glass.

2.3.3 Soxhlet Extraction Apparatus. Capable of holding 43 x 123 mm extraction thimbles.

2.3.4 Extraction Thimble. Glass, precleaned cellulosic, or glass fiber.

2.3.5 Pasteur Pipettes. For preparing liquid chromatographic columns.

2.3.6 Reacti-vials. Amber glass, 2-ml, silanized prior to use.

2.3.7 Rotary Evaporator. Buchi/Brinkman RF–121 or equivalent.

2.3.8 Nitrogen Evaporative Concentrator. N-Evap Analytical Evaporator Model III or equivalent.

2.3.9 Separatory Funnels. Glass, 2-liter.

2.3.10 Gas Chromatograph. Consisting of the following components:

2.3.10.1 Oven. Capable of maintaining the separation column at the proper operating temperature ± °C and performing programmed increases in temperature at rates of at least 40 °C/min.

2.3.10.2 Temperature Gauge. To monitor column oven, detector, and exhaust temperatures ± 1 °C.

2.3.10.3 Flow System. Gas metering system to measure sample, fuel, combustion gas, and carrier gas flows.

2.3.10.4 Capillary Columns. A fused silica column, 60 × 0.25 mm inside diameter (ID), coated with DB–5 and a fused silica column, 30 m × 0.25 mm ID coated with DB–225. Other column systems may be used provided that the user is able to demonstrate using calibration and performance checks that the column system is able to meet the specifications of section 6.1.2.2.

2.3.11. Mass Spectrometer. Capable of routine operation at a resolution of 1:10000 with a stability of ± 5 ppm.

2.3.12 Data System. Compatible with the mass spectrometer and capable of monitoring at least five groups of 25 ions.

2.3.13 Analytical Balance. To measure within 0.1 mg.

3. Reagents

3.1 Sampling.

3.1.1 Filters. Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. The filter efficiency test shall be conducted in accordance with ASTM Standard Method D 2986–71 (Reapproved 1978) (incorporated by reference—see § 60.17).

3.1.1.1 Precleaning. All filters shall be cleaned before their initial use. Place a glass extraction thimble and 1 g of silica gel and a plug of glass wool into a Soxhlet apparatus, charge the apparatus with toluene, and reflux for a minimum of 3 hours. Remove the toluene and discard it, but retain the silica gel. Place no more than 50 filters in the thimble onto the silica gel bed and top with the cleaned glass wool. Charge the Soxhlet with toluene and reflux for 16 hours. After extraction, allow the Soxhlet to cool, remove the filters, and dry them under a clean N_2 stream. Store the filters in a glass petri dish sealed with Teflon tape.

3.1.2 Adsorbent Resin. Amberlite XAD–2 resin. Thoroughly cleaned before initial use.

3.1.2.1 Cleaning Procedure. This procedure may be carried out in a giant Soxhlet extractor. An all-glass filter thimble containing an extra-course frit is used for extraction of XAD–2. The frit is recessed 10–15 mm above a crenelated ring at the bottom of the thimble to facilitate drainage. The resin must be carefully retained in the extractor cup with a glass wool plug and a stainless steel ring because it floats on methylene chloride. This process involves sequential extraction in the following order.

Solvent	Procedure
Water	Initial rinse: Place resin in a beaker, rinse once with water, and discard. Fill with water a second time, let stand overnight, and discard.
Water	Extract with water for 8 hours.
Methanol	Extract for 22 hours.
Methylene Chloride	Extract for 22 hours.
Toluene	Extract for 22 hours.

3.1.2.2 Drying.

3.1.2.2.1 Drying Column. Pyrex pipe, 10.2 cm ID by 0.6 m long, with suitable retainers.

3.1.2.2.2 Procedure. The adsorbent must be dried with clean inert gas. Liquid nitrogen from a standard commercial liquid nitrogen cylinder has proven to be a reliable source of large volumes of gas free from organic contaminants. Connect the liquid nitrogen cylinder to the column by a length of cleaned copper tubing, 0.95 cm ID, coiled to pass through a heat source. A convenient heat source is a water-bath heated from a steam line. The final nitrogen temperature should only be warm to the touch and not over 40 °C. Continue flowing nitrogen through the adsorbent until all the residual solvent is removed. The flow rate should be sufficient to gently agitate the particles but not so excessive as the cause the particles to fracture.

3.1.2.3 Quality Control Check. The adsorbent must be checked for residual toluene.

3.1.2.3.1 Extraction. Weigh 1.0 g sample of dried resin into a small vial, add 3 ml of toluene, cap the vial, and shake it well.

3.1.2.3.2 Analysis. Inject a 2 µl sample of the extract into a gas chromatograph operated under the following conditions:

Column: 6 ft × ⅛ in stainless steel containing 10 percent OV–101 on 100/120 Supelcoport.

Carrier Gas: Helium at a rate of 30 ml/min.

Detector: Flame ionization detector operated at a sensitivity of 4×10^{-11} A/mV.

Injection Port Temperature: 250 °C.

Detector Temperature: 305 °C.

Oven Temperature: 30 °C for 4 min; programmed to rise at 40 °C/min until it reaches 250 °C; return to 30 °C after 17 minutes.

Compare the results of the analysis to the results from the reference solution. Prepare the reference solution by injection 2.5 µl of methylene chloride into 100 ml of toluene. This corresponds to 100 µg of methylene chloride per g of adsorbent. The maximum acceptable concentration is 1000 µg/g of adsorbent. If the adsorbent exceeds this level, drying must be continued until the excess methylene chloride is removed.

3.1.2.4 Storage. The adsorbent must be used within 4 weeks of cleaning. After cleaning, it may be stored in a wide mouth amber glass container with a Teflon-lined cap or placed in one of the glass adsorbent modules tightly sealed with glass stoppers. If precleaned adsorbent is purchased in sealed containers, it must be used within 4 weeks after the seal is broken.

3.1.3 Glass Wool. Cleaned by sequential immersion in three aliquots of methylene chloride, dried in a 110 °C oven, and stored in a methylene chloride-washed glass jar with a Teflon-lined screw cap.

3.1.4 Water. Deionized distilled and stored in a methylene chloride-rinsed glass container with a Teflon-lined screw cap.

3.1.5 Silica Gel. Indicating type, 6 to 16 mesh. If previously used, dry at 175 °C (350 °F) for two hours. New silica gel may be used as received. Alternately other types of desiccants (equivalent or better) may be used, subject to the approval of the Administrator.

3.1.6 Chromic Acid Cleaning Solution. Dissolve 20 g of sodium dichromate in 15 ml of water, and then carefully add 400 ml of concentrated sulfuric acid.

3.2 Sample Recovery.

3.2.2 Acetone. Pesticide quality.

3.2.2 Methylene Chloride. Pesticide qualtity.

3.2.3 Toluene. Pesticide quality.

3.3 Analysis.

3.3.1 Potassium Hydroxide. ACS grade, 2-percent (weight/volume) in water.

3.3.2 Sodium Sulfate. Granulated, reagent grade. Purify prior to use by rinsing with methylene chloride and oven drying. Store the cleaned material in a glass container with a Teflon-lined screw cap.

3.3.3 Sulfuric Acid. Reagent grade.

3.3.4 Sodium Hydroxide. 1.0 N. Weigh 40 g of sodium hydroxide into a 1-liter volumetric flask. Dilute to 1 liter with water.

3.3.5 Hexane. Pesticide grade.

3.3.6 Methylene Chloride. Pesticide grade.

3.3.7 Benzene. Pesticide Grade.

3.3.8 Ethyl Acetate.

3.3.9 Methanol. Pesticide Grade.

3.3.10 Toluene. Pesticide Grade.

3.3.11 Nonane. Pesticide Grade.

3.3.12 Cyclohexane. Pesticide Grade.

3.3.13 Basic Alumina. Activity grade 1, 100–200 mesh. Prior to use, activate the alumina by heating for 16 hours at 130 °C

before use. Store in a desiccator. Pre-activated alumina may be purchased from a supplier and may be used as received.

3.3.14 Silica Gel. Bio-Sil A, 100–200 mesh. Prior to use, activate the silica gel by heating for at least 30 minutes at 180 °C. After cooling, rinse the silica gel sequentially with methanol and methylene chloride. Heat the rinsed silica gel at 50 °C for 10 minutes, then increase the temperature gradually to 180 °C over 25 minutes and maintain it at this temperature for 90 minutes. Cool at room temperature and store in a glass container with a Teflon-lined screw cap.

3.3.15 Silica Gel Impregnated with Sulfuric Acid. Combine 100 g of silica gel with 44 g of concentrated sulfuric acid in a screw capped glass bottle and agitate thoroughly. Disperse the solids with a stirring rod until a uniform mixture is obtained. Store the mixture in a glass container with a Teflon-lined screw cap.

3.3.16 Silica Gel Impregnated with Sodium Hydroxide. Combine 39 g of 1 N sodium hydroxide with 100 g of silica gel in a screw capped glass bottle and agitate thoroughly. Disperse solids with a stirring rod until a uniform mixture is obtained. Store the mixture in glass container with a Teflon-lined screw cap.

3.3.17 Carbon/Celite. Combine 10.7 g of AX–21 carbon with 124 g of Celite 545 in a 250-ml glass bottle with a Teflon-lined screw cap. Agitate the mixture thoroughly until a uniform mixture is obtained. Store in the glass container.

3.3.18 Nitrogen. Ultra high purity.

3.3.19 Hydrogen. Ultra high purity.

3.3.20 Internal Standard Solution. Prepare a stock standard solution containing the isotopically labelled PCDD's and PCDF's at the concentrations shown in Table 1 under the heading "Internal Standards" in 10 ml of nonane.

3.3.21 Surrogate Standard Solution. Prepare a stock standard solution containing the isotopically labelled PCDD's and PCDF's at the concentrations shown in Table 1 under the heading "Surrogate Standards" in 10 ml of nonane.

3.3.22 Recovery Standard Solution. Prepare a stock standard solution containing the isotopically labelled PCDD's and PCDF's at the concentrations shown in Table 1 under the heading "Recovery Standards" in 10 ml of nonane.

4. Procedure

4.1 Sampling. The complexity of this method is such that, in order to obtain reliable results, testers should be trained and experienced with the test procedures.

4.1.1 Pretest Preparation.

4.1.1.1 Cleaning Glassware. All glass components of the train upstream of and including the adsorbent module, shall be cleaned as described in section 3A of the "Manual of Analytical Methods for the Analysis of Pesticides in Human and Environmental Samples." Special care shall be devoted to the removal of residual silicone grease sealants on ground glass connections of used glassware. Any residue shall be removed by soaking the glassware for several hours in a chromic acid cleaning solution prior to cleaning as described above.

4.1.1.2 Adsorbent Trap. The traps must be loaded in a clean area to avoid contamination. They may not be loaded in the field. Fill a trap with 20 to 40 g of XAD–2. Follow the XAD–2 with glass wool and tightly cap both ends of the trap. Add 100 µl of the surrogate standard solution (section 3.3.21) to each trap.

4.1.1.3 Sample Train. It is suggested that all components be maintained according to the procedure described in APTD–0576.

4.1.1.4 Silica Gel. Weigh several 200 to 300 g portions of silica gel in an air tight container to the nearest 0.5 g. Record the total weight of the silica gel plus container, on each container. As an alternative, the silica gel may be weighed directly in its impinger or sampling holder just prior to sampling.

4.1.1.5 Filter. Check each filter against light for irregularities and flaws or pinhole leaks. Pack the filters flat in a clean glass container.

4.1.2 Preliminary Determinations. Same as section 4.1.2 of Method 5.

4.1.3 Preparation of Collection Train.

4.1.3.1 During preparation and assembly of the sampling train, keep all train openings where contamination can enter, sealed until just prior to assembly or until sampling is about to begin.

Note: Do not use sealant grease in assembling the train.

4.1.3.2 Place approximately 100 ml of water in the second and third impingers, leave the first and fourth impingers empty, and transfer approximately 200 to 300 g of preweighed silica gel from its container to the fifth impinger.

4.1.3.3 Place the silica gel container in a clean place for later use in the sample recovery. Alternatively, the weight of the silica gel plus impinger may be determined to the nearest 0.5 g and recorded.

4.1.3.4 Assemble the train as shown in Figure 23–1.

4.1.3.5 Turn on the adsorbent module and condenser coil recirculating pump and begin monitoring the adsorbent module gas entry temperature. Ensure proper sorbent temperature gas entry temperature before proceeding and before sampling is initiated. It is extremely important that the XAD–2 adsorbent resin temperature never exceed 50 °C because thermal decomposition will occur. During testing, the XAD–2 temperature must not exceed 20 °C for efficient capture of the PCDD's and PCDF's.

4.1.4 Leak-Check Procedure. Same as Method 5, section 4.1.4.

4.1.5 Sample Train Operation. Same as Method 5, section 4.1.5.

4.2 Sample Recovery. Proper cleanup procedure begins as soon as the probe is removed from the stack at the end of the sampling period. Seal the nozzle end of the sampling probe with Teflon tape or aluminum foil.

When the probe can be safely handled, wipe off all external particulate matter near the tip of the probe. Remove the probe from the train and close off both ends with aluminum foil. Seal off the inlet to the train with Teflon tape, a ground glass cap, or aluminum foil.

Transfer the probe and impinger assembly to the cleanup area. This area shall be clean and enclosed so that the chances of losing or contaminating the sample are minimized. Smoking, which could contaminate the sample, shall not be allowed in the cleanup area.

Inspect the train prior to and during disassembly and note any abnormal conditions, e.g., broken filters, colored impinger liquid, etc. Treat the samples as follows:

4.2.1 Container No. 1. Either seal the filter holder or carefully remove the filter from the filter holder and place it in its identified container. Use a pair of cleaned tweezers to handle the filter. If it is necessary to fold the filter, do so such that the particulate cake is inside the fold. Carefully transfer to the container any particulate matter and filter fibers which adhere to the filter holder gasket, by using a dry inert bristle brush and a sharp-edged blade. Seal the container.

4.2.2 Adsorbent Module. Remove the module from the train, tightly cap both ends, label it, cover with aluminum foil, and store it on ice for transport to the laboratory.

4.2.3 Container No. 2. Quantitatively recover material deposited in the nozzle, probe transfer lines, the front half of the filter holder, and the cyclone, if used, first, by brushing while rinsing three times each with acetone and then, by rinsing the probe three times with methylene chloride. Collect all the rinses in Container No. 2.

Rinse the back half of the filter holder three times with acetone. Rinse the connecting line between the filter and the condenser three times with acetone. Soak the connecting line with three separate portions of methylene chloride for 5 minutes each. If using a separate condenser and adsorbent trap, rinse the condenser in the same manner as the connecting line. Collect all the rinses in Container No. 2 and mark the level of the liquid on the container.

4.2.4 Container No. 3. Repeat the methylene chloride-rinsing described in Section 4.2.3 using toluene as the rinse solvent. Collect the rinses in Container No. 3 and mark the level of the liquid on the container.

4.2.5 Impinger Water. Measure the liquid in the first three impingers to within ±1 ml by using a graduated cylinder or by weighing it to within ±0.5 g by using a balance. Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas.

Discard the liquid after measuring and recording the volume or weight.

4.2.7 Silica Gel. Note the color of the indicating silica gel to determine if it has been completely spent and make a mention of its condition. Transfer the silica gel from the fifth impinger to its original container and seal.

5. Analysis

All glassware shall be cleaned as described in section 3A of the "Manual of Analytical Methods for the Analysis of Pesticides in Human and Environmental Samples." All samples must be extracted

within 30 days of collection and analyzed within 45 days of extraction.

5.1 Sample Extraction.

5.1.1 Extraction System. Place an extraction thimble (section 2.3.4), 1 g of silica gel, and a plug of glass wool into the Soxhlet apparatus, charge the apparatus with toluene, and reflux for a minimum of 3 hours. Remove the toluene and discard it, but retain the silica gel. Remove the extraction thimble from the extraction system and place it in a glass beaker to catch the solvent rinses.

5.1.2 Container No. 1 (Filter). Transfer the contents directly to the glass thimble of the extraction system and extract them simultaneously with the XAD–2 resin.

5.1.3 Adsorbent Cartridge. Suspend the adsorbent module directly over the extraction thimble in the beaker (See section 5.1.1). The glass frit of the module should be in the up position. Using a Teflon squeeze bottle containing toluene, flush the XAD–2 into the thimble onto the bed of cleaned silica gel. Thoroughly rinse the glass module catching the rinsings in the beaker containing the thimble. If the resin is wet, effective extraction can be accomplished by loosely packing the resin in the thimble. Add the XAD–2 glass wool plug into the thimble.

5.1.4 Container No. 2 (Acetone and Methylene Chloride). Concentrate the sample to a volume of about 1–5 ml using the rotary evaporator apparatus, at a temperature of less than 37 °C. Rinse the sample container three times with small portions of methylene chloride and add these to the concentrated solution and concentrate further to near dryness. This residue contains particulate matter removed in the rinse of the train probe and nozzle. Add the concentrate to the filter and the XAD–2 resin in the Soxhlet apparatus described in section 5.1.1.

5.1.5 Extraction. Add 100 µl of the internal standard solution (Section 3.3.20) to the extraction thimble containing the contents of the adsorbent cartridge, the contents of Container No. 1, and the concentrate from section 5.1.4. Cover the contents of the extraction thimble with the cleaned glass wool plug to prevent the XAD–2 resin from floating into the solvent reservoir of the extractor. Place the thimble in the extractor, and add the toluene contained in the beaker to the solvent reservoir. Pour additional toluene to fill the reservoir approximately 2/3 full. Add Teflon boiling chips and assemble the apparatus. Adjust the heat source to cause the extractor to cycle three times per hour. Extract the sample for 16 hours. After extraction, allow the Soxhlet to cool. Transfer the toluene extract and three 10-ml rinses to the rotary evaporator. Concentrate the extract to approximately 10 ml. At this point the analyst may choose to split the sample in half. If so, split the sample, store one half for future use, and analyze the other according to the procedures in sections 5.2 and 5.3. In either case, use a nitrogen evaporative concentrator to reduce the volume of the sample being analyzed to near dryness. Dissolve the residue in 5 ml of hexane.

5.1.6 Container No. 3 (Toluene Rinse). Add 100 µl of the Internal Standard solution (section 3.3.2) to the contents of the container. Concentrate the sample to a volume of about 1–5 ml using the rotary evaporator apparatus at a temperature of less than 37 °C. Rinse the sample container apparatus at a temperature of less than 37 °C. Rinse the sample container three times with small portions of toluene and add these to the concentrated solution and concentrate further to near dryness. Analyze the extract separately according to the procedures in sections 5.2 and 5.3, but concentrate the solution in a rotary evaporator apparatus rather than a nitrogen evaporative concentrator.

5.2 Sample Cleanup and Fractionation.

5.2.1 Silica Gel Column. Pack one end of a glass column, 20 mm x 230 mm, with glass wool. Add in sequence, 1 g silica gel, 2 g of sodium hydroxide impregnated silica gel, 1 g silica gel, 4 g of acid-modified silica gel, and 1 g of silica gel. Wash the column with 30 ml of hexane and discard it. Add the sample extract, dissolved in 5 ml of hexane to the column with two additional 5-ml rinses. Elute the column with an additional 90 ml of hexane and retain the entire eluate. Concentrate this solution to a volume of about 1 ml using the nitrogen evaporative concentrator (section 2.3.7).

5.2.2 Basic Alumina Column. Shorten a 25-ml disposable Pasteur pipette to about 16 ml. Pack the lower section with glass wool and 12 g of basic alumina. Transfer the concentrated extract from the silica gel column to the top of the basic alumina column and elute the column sequentially with 120 ml of 0.5 percent methylene chloride in hexane followed by 120 ml of 35 percent methylene chloride in hexane. Discard the first 120 ml of eluate. Collect the second 120 ml of eluate and concentrate it to about 0.5 ml using the nitrogen evaporative concentrator.

5.2.3 AX–21 Carbon/Celite 545 Column. Remove the botton 0.5 in. from the tip of a 9-ml disposable Pasteur pipette. Insert a glass fiber filter disk in the top of the pipette 2.5 cm from the constriction. Add sufficient carbon/celite mixture to form a 2 cm column. Top with a glass wool plug. In some cases AX–21 carbon fines may wash through the glass wool plug and enter the sample. This may be prevented by adding a celite plug to the exit end of the column. Rinse the column in sequence with 2 ml of 50 percent benzene in ethyl acetate, 1 ml of 50 percent methylene chloride in cyclohexane, and 2 ml of hexane. Discard these rinses. Transfer the concentrate in 1 ml of hexane from the basic alumina column to the carbon/celite column along with 1 ml of hexane rinse. Elute the column sequentially with 2 ml of 50 percent methylene chloride in hexane and 2 ml of 50 percent benzene in ethyl acetate and discard these eluates. Invert the column and elute in the reverse direction with 13 ml of toluene. Collect this eluate. Concentrate the eluate in a rotary evaporator at 50 °C to about 1 ml. Transfer the concentrate to a Reacti-vial using a toluene rinse and concentrate to a volume of 200 µl using a stream of N_2. Store extracts at room temperature, shielded from light, until the analysis is performed.

5.3 Analysis. Analyze the sample with a gas chromatograph coupled to a mass spectrometer (GC/MS) using the instrumental parameters in sections 5.3.1 and 5.3.2. Immediately prior to analysis, add a 20 µl aliquot of the Recovery Standard solution from Table 1 to each sample. A 2 µl aliquot of the extract is injected into the GC. Sample extracts are first analyzed using the DB–5 capillary column to determine the concentration of each isomer of PCDD's and PCDF's (tetra-through octa-). If tetra-chlorinated dibenzofurans are detected in this analysis, then analyze another aliquot of the sample in a separate run, using the DB–225 column to measure the 2,3,7,8 tetra-chloro dibenzofuran isomer. Other column systems may be used, provided that the user is able to demonstrate using calibration and performance checks that the column system is able to meet the specifications of section 6.1.2.2.

5.3.1 Gas Chromatograph Operating Conditions.

5.3.1.1 Injector. Configured for capillary column, splitless, 250°C..

5.3.1.2 Carrier Gas. Helium, 1–2 ml/min.

5.3.1.3 Oven. Initially at 150°C. Raise by at least 40°C/min to 190°C and then at 3°C/min up to 300°C.

5.3.2 High Resolution Mass Spectrometer.

5.3.2.1 Resolution. 10000 m/e.

5.3.2.2 Ionization Mode. Electron impact.

5.3.2.3 Source Temperature 250°C.

5.3.2.4 Monitoring Mode. Selected ion monitoring. A list of the various ions to be monitored is summarized in Table 3.

5.3.2.5 Identification Criteria. The following identification criteria shall be used for the characterization of polychlorinated dibenzodioxins and dibenzofurans.

1. The integrated ion-abundance ratio (M/M+2 or M+2/M+4) shall be within 15 percent of the theoretical value. The acceptable ion-abundance ratio ranges for the identification of chlorine-containing compounds are given in Table 4.

2. The retention time for the analytes must be within 3 seconds of the corresponding ^{13}C-labeled internal standard, surrogate or alternate standard.

3. The monitored ions, shown in Table 3 for a given analyte, shall reach their maximum within 2 seconds of each other.

4. The identification of specific isomers that do not have corresponding ^{13}C-labeled standards is done by comparison of the relative retention time (RRT) of the analyte to the nearest internal standard retention time with reference (i.e., within 0.005 RRT units) to the comparable RRT's found in the continuing calibration.

5. The signal to noise ratio for all monitored ions must be greater than 2.5.

6. The confirmation of 2, 3, 7, 8–TCDD and 2, 3, 7, 8–TCDF shall satisfy all of the above identification criteria.

7. For the identification of PCDF's, no signal may be found in the corresponding PCDPE channels.

5.3.2.6 Quantification. The peak areas for the two ions monitored for each analyte are summed to yield the total response for each analyte. Each internal standard is used to quantify the indigenous PCDD's or PCDF's in its homologous series. For example, the $^{13}C_{12}$–2,3,7,8-tetra chlorinated dibenzodioxin is used to calculate the concentrations of all other tetra chlorinated isomers. Recoveries of the tetra- and penta- internal standards are

calculated using the $^{13}C_{12}$–1,2,3,4–TCDD. Recoveries of the hexa- through octa- internal standards are calculated using $^{13}C_{12}$–1,2,3,7,8,9–HxCDD. Recoveries of the surrogate standards are calculated using the corresponding homolog from the internal standard.

6. Calibration

Same as Method 5 with the following additions.

6.1 GC/MS System.

6.1.1 Initial Calibration. Calibrate the GC/MS system using the set of five standards shown in Table 2. The relative standard deviation for the mean response factor from each of the unlabeled analytes (Table 2) and of the internal, surrogate, and alternate standards shall be less than or equal to the values in Table 5. The signal to noise ratio for the GC signal present in every selected ion current profile shall be greater than or equal to 2.5. The ion abundance ratios shall be within the control limits in Table 4.

6.1.2 Daily Performance Check.

6.1.2.1 Calibration Check. Inject on μl of solution Number 3 from Table 2. Calculate the relative response factor (RRF) for each compound and compare each RRF to the corresponding mean RRF obtained during the initial calibration. The analyzer performance is acceptable if the measured RRF's for the labeled and unlabeled compounds for the daily run are within the limits of the mean values shown in Table 5. In addition, the ion-abundance ratios shall be within the allowable control limits shown in Table 4.

6.1.2.2 Column Separation Check. Inject a solution of a mixture of PCDD's and PCDF's that documents resolution between 2,3,7,8–TCDD and other TCDD isomers. Resolution is defined as a valley between peaks that is less than 25 percent of the lower of the two peaks. Identify and record the retention time windows for each homologous series.

Perform a similar resolution check on the confirmation column to document the resolution between 2,3,7,8 TCDF and other TCDF isomers.

6.2 Lock Channels. Set mass spectrometer lock channels as specified in Table 3. Monitor the quality control check channels specified in Table 3 to verify instrument stability during the analysis.

7. Quality Control

7.1 Sampling Train Collection Efficiency Check. Add 100 μl of the surrogate standards in Table 1 to the absorbent cartridge of each train before collecting the field samples.

7.2 Internal Standard Percent Recoveries. A group of nine carbon labeled PCDD's and PCDF's representing, the tetra-through octachlorinated homologues, is added to every sample prior to extraction. The role of the internal standards is to quantify the native PCDD's and PCDF's present in the sample as well as to determine the overall method efficiency. Recoveries of the internal standards must be between 40 to 130 percent for the tetra-through hexachlorinated compounds while the range is 25 to 130 percent for the higher hepta- and octachlorinated homologues.

7.3 Surrogate Recoveries. The five surrogate compounds in Table 2 are added to the resin in the adsorbent sampling cartridge before the sample is collected. The surrogate recoveries are measured relative to the internal standards and are a measure of collection efficiency. They are not used to measure native PCDD's and PCDF's. All recoveries shall be between 70 and 130 percent. Poor recoveries for all the surrogates may be an indication of breakthrough in the sampling train. If the recovery of all standards is below 70 percent, the sampling runs must be repeated. As an alternative, the sampling runs do not have to be repeated if the final results are divided by the fraction of surrogate recovery. Poor recoveries of isolated surrogate compounds should not be grounds for rejecting an entire set of the samples.

7.4 Toluene QA Rinse. Report the results of the toluene QA rinse separately from the total sample catch. Do not add it to the total sample.

8. Quality Assurance

8.1 Applicability. When the method is used to analyze samples to demonstrate compliance with a source emission regulation, an audit sample must be analyzed, subject to availability.

8.2 Audit Procedure. Analyze an audit sample with each set of compliance samples. The audit sample contains tetra through octa isomers of PCDD and PCDF. Concurrently, analyze the audit sample and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for the compliance samples and the EPA audit sample.

8.3 Audit Sample Availability. Audit samples will be supplied only to enforcement agencies for compliance tests. The availability of audit samples may be obtained by writing: Source Test Audit Coordinator (MD–77B), Quality Assurance Division, Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, or by calling the Source Test Audit Coordinator (STAC) at (919) 541–7834. The request for the audit sample must be made at least 30 days prior to the scheduled compliance sample analysis.

8.4 Audit Results. Calculate the audit sample concentration according to the calculation procedure described in the audit instructions included with the audit sample. Fill in the audit sample concentration and the analyst's name on the audit response form included with the audit instructions. Send one copy to the EPA Regional Office or the appropriate enforcement agency and a second copy to the STAC. The EPA Regional office or the appropriate enforcement agency will report the results of the audit to the laboratory being audited. Include this response with the results of the compliance samples in relevant reports to the EPA Regional Office or the appropriate enforcement agency.

9. Calculations

Same as Method 5, section 6 with the following additions.

9.1 Nomenclature.

A_{ai} = Integrated ion current of the noise at the retention time of the analyte.

A^*_{ci} = Integrated ion current of the two ions characteristic of the internal standard i in the calibration standard.

A_{cij} = Integrated ion current of the two ions characteristic of compound i in the jth calibration standard.

A^*_{cij} = Integrated ion current of the two ions characteristic of the internal standard i in the jth calibration standard.

A_{csi} = Integrated ion current of the two ions characteristic of surrogate compound i in the calibration standard.

A_i = Integrated ion current of the two ions characteristic of compound i in the sample.

A^*_i = Integrated ion current of the two ions characteristic of internal standard i in the sample.

A_{rs} = Integrated ion current of the two ions characteristic of the recovery standard.

A_{si} = Integrated ion current of the two ions characteristic of surrogate compound i in the sample.

C_i = Concentration of PCDD or PCDF i in the sample, pg/M ^{3}.

C_T = Total concentration of PCDD's or PCDF's in the sample, pg/M ^{3}.

m_{ci} = Mass of compound i in the calibration standard injected into the analyzer, pg.

m_{rs} = Mass of recovery standard in the calibration standard injected into the analyzer, pg.

m_{si} = Mass of surrogate compound i in the calibration standard, pg.

RRF_i = Relative response factor.

RRF_{rs} = Recovery standard response factor.

RRF_s = Surrogate compound response factor.

9.2 Average Relative Response Factor.

$$RRF_i = \frac{1}{n}\sum_{j=1}^{n}\frac{A_{cij}\, m^*_{ci}}{A^*_{cij}\, m_{ci}} \qquad \text{Eq. 23–1}$$

9.3 Concentration of the PCDD's and PCDF's.

$$C_i = \frac{m_i^*\, A_i}{A_i^*\, RRF_i\, V_{mstd}} \qquad \text{Eq. 23–2}$$

9.4 Recovery Standard Response Factor.

$$RRF_{rs} = \frac{A_{ci}{}^* m_{rs}}{A_{rs}\, m_{ci}{}^*} \qquad \text{Eq. 23–3}$$

9.5 Recovery of Internal Standards (R*).

$$R^* = \frac{A_i^*\, m_{rs}}{A_{rs}\, RF_{rs}\, m_i^*} \times 100\% \qquad \text{Eq. 23–4}$$

9.6 Surrogate Compound Response Factor.

$$RRF_s = \frac{A_{cl}^* m_s}{A_{cls} m_{cl}^*} \quad \text{Eq. 23-5}$$

9.7 Recovery of Surrogate Compounds (R_s).

$$R_s = \frac{A_s m_i^*}{A_i^* RRF_s m_s} \times 100\% \quad \text{Eq. 23-6}$$

9.8 Minimum Detectable Limit (MDL).

$$MDL = \frac{2.5 A_{si} m_i^*}{A_{ci}^* RRF_i} \quad \text{Eq. 23-7}$$

9.9 Total Concentration of PCDD's and PCDF's in the Sample.

$$C_{Tr} = \sum_{i=1}^{n} C_i \quad \text{Eq. 23-8}$$

Any PCDD's or PCDF's that are reported as nondetected (below the MDL) shall be counted as zero for the purpose of calculating the total concentration of PCDD's and PCDF's in the sample.

10. Bibliography

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TABLE 1.—COMPOSITION OF THE SAMPLE FORTIFICATION AND RECOVERY STANDARDS SOLUTIONS

Analyte	Concentration (pg/μl)
Internal Standards:	
$^{13}C_{12}$-2,3,7,8-TCDD	100
$^{13}C_{12}$-1,2,3,7,8-PeCDD	100
$^{13}C_{12}$-1,2,3,6,7,8-HxCDD	100
$^{13}C_{12}$-1,2,3,4,6,7,8-HpCDD	100
$^{13}C_{12}$-OCDD	100

TABLE 1.—COMPOSITION OF THE SAMPLE FORTIFICATION AND RECOVERY STANDARDS SOLUTIONS—Continued

Analyte	Concentration (pg/μl)
$^{13}C_{12}$-2,3,7,8-TCDF	100
$^{13}C_{12}$-1,2,3,7,8-PeCDF	100
$^{13}C_{12}$-1,2,3,6,7,8-HxCDF	100
$^{13}C_{12}$-1,2,3,4,6,7,8-HpCDF	100
Surrogate Standards:	
$^{37}Cl_4$-2,3,7,8-TCDD	100
$^{13}C_{12}$-1,2,3,4,7,8-HxCDD	100
$^{13}C_{12}$-2,3,4,7,8-PeCDF	100
$^{13}C_{12}$-1,2,3,4,7,8-HxCDF	100
$^{13}C_{12}$-1,2,3,4,7,8,9-HpCDF	100
Recovery Standards:	
$^{13}C_{12}$-1,2,3,4-TCDD	500
$^{13}C_{12}$-1,2,3,7,8,9-HxCDD	500

TABLE 2.—COMPOSITION OF THE INITIAL CALIBRATION SOLUTIONS

Compound	Concentrations (pg/μL)				
	Solution No.				
	1	2	3	4	5
Alternate Standard: $^{13}C_{12}$-1,2,3,7,8,9-HxCDF	2.5	5	25	250	500
Recovery Standards: $^{13}C_{12}$-1,2,3,4-TCDD	100	100	100	100	100
$^{13}C_{12}$-1,2,3,7,8,9-HxCDD	100	100	100	100	100

TABLE 3.—ELEMENTAL COMPOSITIONS AND EXACT MASSES OF THE IONS MONITORED BY HIGH RESOLUTION MASS SPECTROMETRY FOR PCDD'S AND PCDF'S

Descriptor No.	Accurate mass	Ion type	Elemental composition	Analyte
2	292.9825	LOCK	C_7F_{11}	PFK
	303.9016	M	$C_{12}H_4{}^{35}Cl_4O$	TCDF
	305.8987	M+2	$C_{12}H_4{}^{35}Cl^{37}Cl_3O$	TCDF
	315.9419	M	$^{13}C_{12}H_4{}^{35}Cl_4O$	TCDF (S)
	317.9389	M+2	$^{13}C_{12}H_4{}^{35}Cl_3{}^{37}ClO$	TCDF (S)
	319.8965	M	$C_{12}H_4{}^{35}ClO_2$	TCDD
	321.8936	M+2	$C_{12}H_4{}^{35}Cl_3{}^{37}ClO_2$	TCDD
	327.8847	M	$C_{12}H_4{}^{37}Cl_4O_2$	TCDD (S)
	330.9792	QC	C_7F_{13}	PFK
	331.9368	M	$^{13}C_{12}H_4{}^{35}Cl_4O_2$	TCDD (S)
	333.9339	M+2	$^{13}C_{12}H_4{}^{35}Cl^{37}ClO_2$	TCDD (S)
	339.8597	M+2	$C_{12}H_3{}^{35}Cl_4{}^{37}ClO$	PECDF
	341.8567	M+4	$C_{12}H_3{}^{35}Cl_3{}^{37}Cl_2O$	PeCDF
	351.9000	M+2	$^{13}C_{12}H_3{}^{35}Cl_4{}^{37}ClO$	PeCDF (S)
	353.8970	M+4	$^{13}C_{12}H_3{}^{35}Cl^{353}Cl_2O$	PeCDF (S)
	355.8546	M+2	$C_{12}H_3{}^{35}Cl_3{}37ClO_2$	PeCDD
	357.8516	M+4	$C_{12}H_3{}^{35}Cl_3{}^{37}Cl_2O_2$	PeCDD
	367.8949	M+2	$^{13}C_{12}H_3{}^{35}Cl_4{}^{37}ClO_2$	PeCDD (S)
	369.8919	M+4	$^{13}C_{12}H_3{}^{35}Cl_3{}^{37}Cl_2O_2$	PeCDD (S)
	375.8364	M+2	$C_{12}H_4{}^{35}Cl_5{}^{37}ClO$	HxCDPE
	409.7974	M+2	$C_{12}H_3{}^{35}Cl_6{}^{37}ClO$	HpCPDE
3	373.8208	M+2	$C_{12}H_2{}35Cl_5{}^{37}ClO$	HxCDF
	375.8178	M+4	$C_{12}H_2{}^{35}Cl_4{}^{37}Cl_2O$	HxCDF
	383.8639	M	$^{13}C_{12}H_2{}^{35}Cl_6O$	HxCDF (S)
	385.8610	M+2	$^{13}C_{12}H_2{}^{35}Cl_5{}^{37}ClO$	HxCDF (S)
	389.8157	M+2	$C_{12}H_2{}^{35}Cl_6{}^{37}ClO_2$	HxCDD
	391.8127	M+4	$C_{12}H_2{}^{35}Cl_4{}^{37}Cl_2O_2$	HxCDD
	392.9760	LOCK	C_9F_{15}	PFK

TABLE 3.—ELEMENTAL COMPOSITIONS AND EXACT MASSES OF THE IONS MONITORED BY HIGH RESOLUTION MASS SPECTROMETRY FOR PCDD'S AND PCDF'S—Continued

Descriptor No.	Accurate mass	Ion type	Elemental composition	Analyte
	401.8559	M+2	$^{13}C_{12}H_2{}^{35}Cl_5{}^{37}ClO_2$	HxCDD (S)
	403.8529	M+4	$^{13}C_{12}H_2{}^{35}Cl_4{}^{37}Cl_2O$	HxCDD (S)
	445.7555	M+4	$C_{12}H_2{}^{35}Cl_6{}^{37}Cl_2O$	OCDPE
	430.9729	QC	C_9F_{17}	PFK
4	407.7818	M+2	$C_{12}H^{35}Cl_6{}^{37}ClO$	HpCDF
	409.7789	M+4	$C_{12}H^{35}Cl_5{}^{37}Cl_2O$	HpCDF
	417.8253	M	$^{13}C_{12}H^{35}Cl_7O$	HpCDF (S)
	419.8220	M+2	$^{13}C_{12}H^{35}Cl_6{}^{37}ClO$	HpCDF (S)
	423.7766	M+2	$C_{12}H^{35}Cl_6{}^{37}ClO_2$	HpCDD
	425.7737	M+4	$C_{12}H^{35}Cl_5{}^{37}Cl_2O_2$	HpCDD
	435.8169	M+2	$^{13}C_{12}H^{35}Cl_6{}^{37}ClO_2$	HpCDD (S)
	437.8140	M+4	$^{13}C_{12}H^{35}Cl_5{}^{37}Cl_2O_2$	HpCDD (S)
	479.7165	M+4	$C_{12}H^{35}Cl_7{}^{37}Cl_2O$	NCPDE
	430.9729	LOCK	C_9F_{17}	PFK
	441.7428	M+2	$C_{12}{}^{35}Cl_7{}^{37}ClO$	OCDF
	443.7399	M+4	$C_{12}{}^{35}Cl_6{}^{37}Cl_2O$	OCDF
	457.7377	M+2	$C_{12}{}^{35}Cl_7{}^{37}ClO_2$	OCDD
	459.7348	M+4	$C_{12}{}^{35}Cl_6{}^{37}Cl_2O_2$	OCDD
	469.7779	M+2	$^{13}C_{12}{}^{35}Cl_7{}^{37}ClO_2$	OCDD (S)
	471.7750	M+4	$^{13}C_{12}{}^{35}Cl_6{}^{37}Cl_2O_2$	OCDD (S)
	513.6775	M+4	$C_{12}{}^{35}Cl_8{}^{37}Cl_2O_2$	DCDPE
	442.9728	QC	$C_{10}F_{17}$	PFK

(a) The following nuclidic masses were used:
H = 1.007825
C = 12.000000
^{13}C = 13.003355
F = 18.9984
O = 15.994915
^{35}Cl = 34.968853
^{37}Cl = 36.965903
S = Labeled Standard
QC = Ion selected for monitoring instrument stability during the GC/MS analysis.

TABLE 4.—ACCEPTABLE RANGES FOR ION-ABUNDANCE RATIOS OF PCDD'S AND PCDF'S

No. of chlorine atoms	Ion type	Theoretical ratio	Control limits	
			Lower	Upper
4	M/M+2	0.77	0.65	0.89
5	M+2/M+4	1.55	1.32	1.78
6	M+2/M+4	1.24	1.05	1.43
6[a]	M/M+2	0.51	0.43	0.59
7[b]	M/M+2	0.44	0.37	0.51
7	M+2/M+4	1.04	0.88	1.20
8	M+2/M+4	0.89	0.76	1.02

[a] Used only for ^{13}C-HxCDF.
[b] Used only for ^{13}C-HpCDF.

TABLE 5.—MINIMUM REQUIREMENTS FOR INITIAL AND DAILY CALIBRATION RESPONSE FACTORS

Compound	Relative response factors	
	Initial calibration RSD	Daily calibration % difference
Unlabeled Analytes:		
2,3,7,8-TCDD	25	25
2,3,7,8-TCDF	25	25
1,2,3,7,8-PeCDD	25	25
1,2,3,7,8-PeCDF	25	25
2,3,4,7,8-PeCDF	25	25
1,2,4,5,7,8-HxCDD	25	25
1,2,3,6,7,8-HxCDD	25	25
1,2,3,7,8,9-HxCDD	25	25
1,2,3,4,7,8-HxCDF	25	25
1,2,3,6,7,8-HxCDF	25	25
1,2,3,7,8,9-HxCDF	25	25
2,3,4,6,7,8-HxCDF	25	25
1,2,3,4,6,7,8-HpCDD	25	25
1,2,3,4,6,7,8-HpCDF	25	25
OCDD	25	25
OCDF	30	30
Internal Standards:		
$^{13}C_{12}$-2,3,7,8-TCDD	25	25
$^{13}C_{12}$-1,2,3,7,8-PeCDD	30	30
$^{13}C_{12}$-1,2,3,6,7,8-HxCDD	25	25
$^{13}C_{12}$-1,2,3,4,6,7,8-HpCDD	30	30
$^{13}C_{12}$-OCDD	30	30
$^{13}C_{12}$-2,3,7,8-TCDF	30	30
$^{13}C_{12}$-1,2,3,7,8-PeCDF	30	30
$^{13}C_{12}$-1,2,3,6,7,8-HxCDF	30	30
$^{13}C_{12}$-1,2,3,4,6,7,8-HpCDF	30	30
Surrogate Standards:		
$^{37}Cl_4$-2,3,7,8-TCDD	25	25
$^{13}C_{12}$-2,3,4,7,8-PeCDF	25	25
$^{13}C_{12}$-1,2,3,4,7,8-HxCDD	25	25
$^{13}C_{12}$-1,2,3,4,7,8-HxCDF	25	25
$^{13}C_{12}$-1,2,3,4,7,8,9-HpCDF	25	25

TABLE 5.—MINIMUM REQUIREMENTS FOR INITIAL AND DAILY CALIBRATION RESPONSE FACTORS—Continued

Compound	Relative response factors	
	Initial calibration RSD	Daily calibration % difference
Alternate Standard: $^{13}C_{12}$-1,2,3,7,8,9-HxCDF	25	25

* * * * *

Method 26—Determination of Hydrogen Chloride Emissions From Stationary Sources

1. Applicability, Principle, Interferences, Precision, Bias, and Stability

1.1 Applicability. This method is applicable for determining hydrogen chloride (HC1) emissions from stationary sources.

1.2 Principle. An integrated sample is extracted from the stack and passed through dilute sulfuric acid. In the dilute acid, the HC1 gas is dissolved and forms chloride ($C1^-$) ions. The $C1^-$ is analyzed by ion chromatography (IC).

1.3 Interferences. Volatile materials which produce chloride ions upon dissolution during sampling are obvious interferences. Another likely interferent is diatomic chlorine ($C1_2$) gas which reacts to form HC1 and hypochlorous acid (HOC1) upon dissolving in water. However, $C1_2$ gas exhibits a low solubility in water and the use of acidic, rather than neutral or basic collection solutions, greatly reduces the chance of dissolving any chlorine present. This method does not experience a significant bias when sampling a 400 ppm HC1 gas stream containing 50 ppm $C1_2$. Sampling a 220 ppm HC1 gas stream containing 180 ppm $C1_2$ results in a positive bias of 3.4 percent in the HC1 measurement.

1.4 Precision and Bias. The within-laboratory relative standard deviations are 6.2 and 3.2 percent at HC1 concentrations of 3.9 and 15.3 ppm, respectively. The method does not exhibit a bias to $C1_2$ when sampling at concentrations less than 50 ppm.

1.5 Stability. The collected samples can be stored for up to 4 weeks before analysis.

1.6 Detection Limit. The analytical detection limit of the method is 0.1 μg/ml.

2. Apparatus

2.1 Sampling. The sampling train is shown in Figure 26–1, and component parts are discussed below.

2.1.1 Probe. Borosilicate glass, approximately ⅜-in. (9-mm) I.D. with a heating system to prevent moisture condensation. A ⅜-in I.D. Teflon elbow should be attached to the inlet of the probe and a 1-in. (25-mm) length of ⅜-in. I.D. Teflon tubing should be attached to the open end of the elbow to permit the opening of the probe to be turned away from the gas stream. This reduces the amount of particulate entering the train. This probe configuration should be used when the concentration of particulate matter in the emissions is high. When high concentrations are not present, the Teflon elbow is not necessary, and the probe inlet may be perpendicular to the gas stream. A glass wool plug should *not* be used to remove particulate matter since a negative bias in the data could result. Instead, a Teflon filter (see Section 2.1.5) should be installed at the inlet (for stack temperatures ≤300 °F) or outlet (for stack temperatures >300 °F) of the probe.

2.1.2 Three-way Stopcock. A borosilicate, three-way glass stopcock with a heating system to prevent moisture condensation. The heated stopcock should connect directly to the outlet of the probe and the inlet of the first impinger. The heating system should be capable of preventing condensation up to the inlet of the first impinger. Silicone grease may be used, if necessary, to prevent leakage.

BILLING CODE 6560–50–M

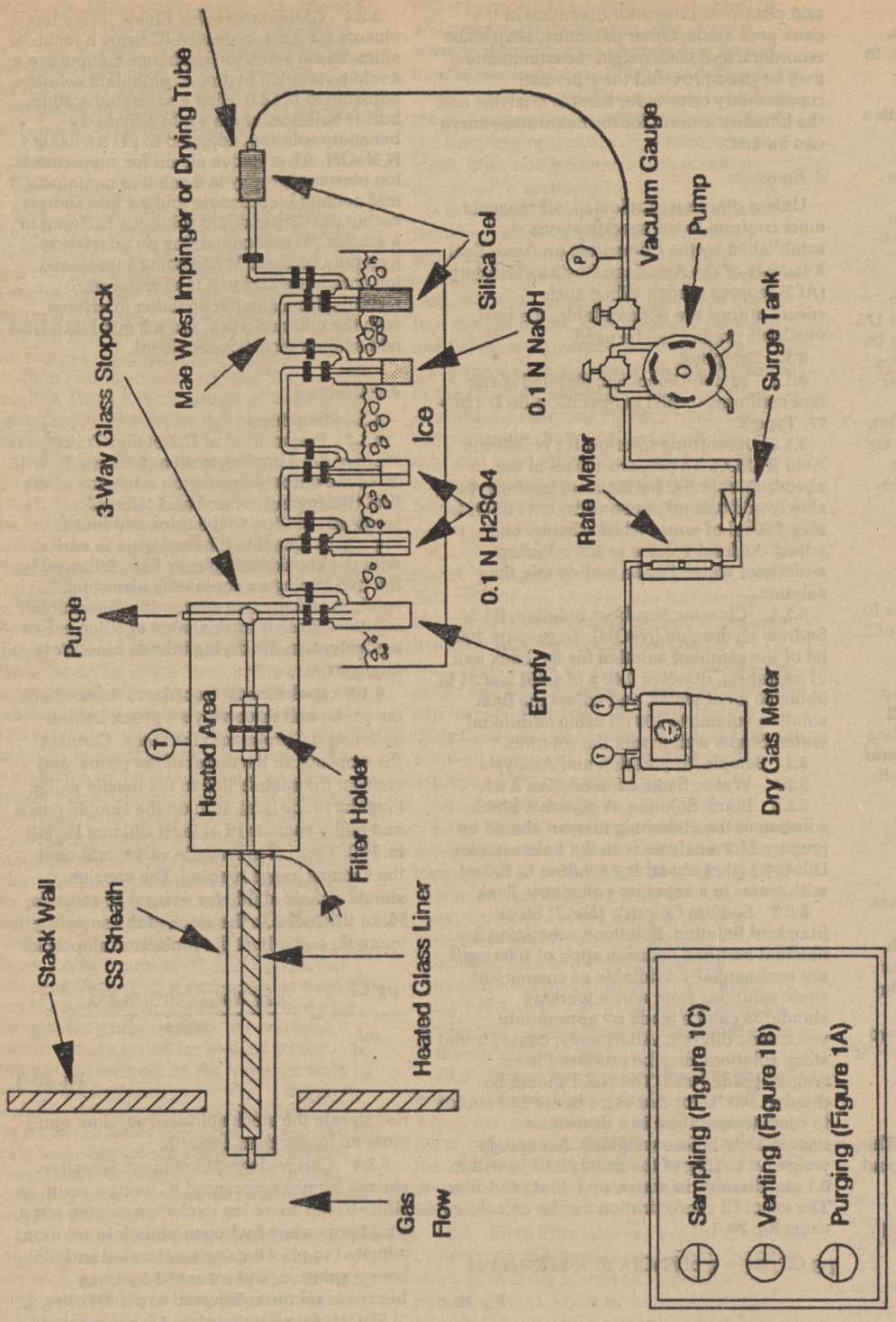

Figure 26-1. Sampling train.

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2.1.3 Impingers. Four 30-ml midget impingers with leak-free glass connectors. Silicone grease may be used, if necessary, to prevent leakage. For sampling at high moisture sources or for sampling times greater than 1 hour, a midget impinger with a shortened stem (such that the gas sample does not bubble through the collected condensate) should be used in front of the first impinger.

2.1.4 Drying Tube or Impinger. Tube or impinger, of Mae West design, filled with 6- to 16-mesh indicating type silica gel, or equivalent, to dry the gas sample and to protect the dry gas meter and pump. If the silica gel has been used previously, dry at 175 °C (350 °F) for 2 hours. New silica gel may be used as received. Alternatively, other types of desiccants (equivalent or better) may be used.

2.1.5 Filter. A 25-mm Teflon mat, Pallflex TX40H175 or equivalent. Locate between the probe liner and Teflon elbow in a glass or quartz filter holder in a filter box heated to 250 °F.

2.1.6 Sample Line. Leak-free, with compatible fittings to connect the last impinger to the needle valve.

2.1.7 Rate Meter. Rotameter, or equivalent, capable of measuring flow rate to within 2 percent of the selected flow rate of 2 liters/min.

2.1.8 Purge Pump, Purge Line, Drying Tube, Needle Valve, and Rate-Meter. Pump capable of purging the sampling probe at 2 liters/min, with drying tube, filled with silica gel or equivalent, to protect pump, and a rate meter capable of measuring 0 to 5 liters/min.

2.1.9 Stopcock Grease, Valve, Pump, Volume Meter, Barometer, and Vacuum Gauge. Same as in Method 6, Sections 2.1.4, 2.1.7, 2.1.8, 2.1.10, 2.1.11, and 2.1.12.

2.2 Sample Recovery.

2.2.1 Wash Bottles. Polyethylene or glass, 500-ml or larger, two.

2.2.2 Storage Bottles. 100-ml glass, with Teflon-lined lids, to store impinger samples (two per sampling run). During clean-up, the two front impinger contents (0.1 N H_2SO_4) should be combined. The contents of the two rear impinger (0.1 N NaOH) may be discarded, as these solutions are included only to absorb Cl_2, and thus protect the pump.

2.3 Sample Preparation and Analysis. The materials required for volumetric dilution and chromatographic analysis of samples are described below.

2.3.1 Volumetric Flasks. Class A, 100-ml size.

2.3.2 Volumetric Pipets. Class A, assortment. To dilute samples into the calibration range of the instrument.

2.3.3 Ion Chromatograph. Suppressed or nonsuppressed, with a conductivity detector and electronic integrator operating in the peak area mode. Other detectors, strip chart recorders, and peak height measurements may be used provided the 5 percent repeatability criteria for sample analysis and the linearity criteria for the calibration curve can be met.

3. Reagents

Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society (ACS reagent grade). When such specifications are not available, the best available grade shall be used.

3.1. Sampling.

3.1.1 Water. Deionized, distilled water that conforms to ASTM Specification D 1193–77, Type 3.

3.1.2 Absorbing solution, 0.1 N Sulfuric Acid (H_2SO_4). To prepare 100 ml of the absorbing solution for the front impinger pair, slowly add 0.28 ml of concentrated H_2SO_4 to about 90 ml of water while stirring, and adjust the final volume to 100 ml using additional water. Shake well to mix the solution.

3.1.3. Chlorine Scrubber Solution, 0.1 N Sodium Hydroxide (NaOH). To prepare 100 ml of the scrubber solution for the back pair of impingers, dissolve 0.40 g of solid NaOH in about 90 ml of water, and adjust the final solution volume to 100 ml using additional water. Shake well to mix the solution.

3.2 Sample Preparation and Analysis.

3.2.1 Water. Same as in Section 3.1.1.

3.2.2 Blank Solution. A separate blank solution of the absorbing reagent should be prepared for analysis with the field samples. Dilute 30 ml of absorbing solution to 100 ml with water in a separate volumetric flask.

3.2.3 Sodium Chloride (NaCl) Stock Standard Solution. Solutions containing a nominal certified concentration of 1000 mg/l are commercially available as convenient stock solutions from which working standards can be made by appropriate volumetric dilution. Alternately, concentrated stock solutions may be produced from reagent grade NaCl. The NaCl should be dried at 100 °C for 2 or more hours and cooled to room temperature in a desiccator immediately before weighing. Accurately weigh 1.6 to 1.7 g of the dried NaCl to within 0.1 mg, dissolve in water, and dilute to 1 liter. The exact Cl concentration can be calculated using Eq. 26–1.

$$\mu g\ Cl^-/ml = g\ of\ NaCl \times 10^3 \times 35.453/58.44$$

Eq. 26–1

Refrigerate the stock standard solution and store no longer than 1 month.

3.2.4 Chromatographic Eluent. Effective eluents for nonsuppressed IC using a resin- or silica-based weak ion exchange column are a 4 mM potassium hydrogen phthalate solution, adjusted to pH 4.0 using a saturated sodium borate solution, and a 4 mM 4-hydroxy benzoate solution, adjusted to pH 8.6 using 1 N NaOH. An effective eluent for suppressed ion chromatography is a solution containing 3 mM sodium bicarbonate and 2.4 mM sodium carbonate. Other dilute solutions buffered to a similar pH and containing no interfering ions may be used. When using suppressed ion chromatography, if the "water dip" resulting from sample injection interferes with the chloride peak, use a 2 mM NaOH/2.4 mM sodium bicarbonate eluent.

4. Procedure

4.1 Sampling.

4.1.1 Preparation of Collection Train. Prepare the sampling train as follows: Pour 15 ml of the absorbing solution into each of the first two impingers, and add 15 ml of scrubber solution to the third and fourth impingers. Connect the impingers in series with the knockout impinger first, followed by the two impingers containing absorbing solution and the two containing the scrubber solution. Place a fresh charge of silica gel, or equivalent, in the drying tube or Mae West impinger.

4.1.2 Leak-Check Procedures. Leak-check the probe and three-way stopcock before inserting the probe into the stack. Connect the stopcock to the outlet of the probe, and connect the sample line to the needle valve. Plug the probe inlet, turn on the sample pump, and pull a vacuum of at least 250 mm Hg (10 in. Hg). Turn off the needle valve, and note the vacuum gauge reading. The vacuum should remain stable for at least 30 seconds. Place the probe in the stack at the sampling location, and adjust the probe and stopcock:

$$\frac{\mu g\ Cl^-}{ml} = \frac{g\ of\ NaCl \times 10^3 \times 35.453}{58.44}$$

Eq. 26–1

Refrigerate the stock standard solution and store no longer than 1 month.

3.2.4 Chromatographic Eluent. Effective eluents for nonsuppressed IC using a resin- or silica-based weak ion exchange column are a 4 mM potassium hydrogen phthalate solution, adjusted to pH 4.0 using a saturated sodium borate solution, and a 4 mM 4-hydroxy benzoate solution, adjusted to pH 8.6 using 1 N NaOH. An effective eluent for suppressed ion chromatography is a solution containing 3 mM sodium bicarbonate and 2.4 mM sodium

carbonate. Other dilute solutions buffered to a similar pH and containing no interfering ions may be used. When using suppressed ion chromatography, if the "water dip" resulting from sample injection interferes with the chloride peak, use a 2 mM NaOH/2.4 mM sodium bicarbonate eluent.

4. Procedure

4.1 Sampling.

4.1.1 Preparation of Collection Train. Prepare the sampling train as follows: Pour 15 ml of the aborbing solution into each of the first two impingers, and add 15 ml of scrubber solution to the third and fourth impingers. Connect the impingers in series with the knockout impinger first, followed by the two impingers containing absorbing solution and the two containing the scrubber solution. Place a fresh charge of silica gel, or equivalent, in the drying tube or Mae West impinger.

4.1.2 Leak-Check Procedures. Leak-check the probe and three-way stopcock before inserting the probe into the stack. Connect the stopcock to the outlet of the probe, and connect the sample line to the needle valve. Plug the probe inlet, turn on the sample pump, and pull a vacuum of at least 250 mm Hg (10 in. Hg). Turn off the needle valve, and note the vacuum gauge reading. The vacuum should remain stable for at least 30 seconds. Place the probe in the stack at the sampling location, and adjust the probe and stopcock heating system to a temperature sufficient to prevent water condensation. Connect the first impinger to the stopcock, and connect the sample line to the last impinger and the needle valve. Upon completion of a sampling run, remove the probe from the stack and leak-check as described above. If a leak has occurred, the sampling run must be voided. Alternately, the portion of the train behind the probe may be leak-checked between multiple runs at the same site as follows: Close the stopcock to the first impinger (see Figure 1A of Figure 26–1), and turn on the sampling pump. Pull a vacuum of at least 250 mm Hg, turn off the needle valve, and note the vacuum gauge reading. The vacuum should remain stable for at least 30 seconds. Release the vacuum on the impinger train by turning the stopcock to the vent position to permit ambient air to enter (see Figure 1B of Figure 26–2). If this procedure is used, the full train leak-check described above must be conducted following the final run, and all preceding sampling runs must be voided if a leak has occurred.

4.1.3 Purge Procedure. Immediately before sampling, connect the purge line to the stopcock, and turn the stopcock to permit the purge pump to purge the probe (see Figure 1A of Figure 26–1). Turn on the purge pump, and adjust the purge rate to 2 liters/min. Purge for at least 5 minutes before sampling.

4.1.4 Sample Collection. Turn on the sampling pump, pull a slight vacuum of approximately 25 mm Hg (1 in. Hg) on the impinger train, and turn the stopcock to permit stack gas to be pulled through the impinger train (see Figure 1C of Figure 26–3). Adjust the sampling rate to 2 liters/min, as indicated by the rate meter, and maintain this rate to within 10 percent during the entire sampling run. Take readings of the dry gas meter volume and temperature, rate meter, and vacuum gauge at least once every 5 minutes during the run. A sampling time of 1 hour is recommended. Shorter sampling times may introduce a significant negative bias in the HCl concentration. At the conclusion of the sampling run, remove the train from the stack, cool, and perform a leak-check as described in section 4.1.2.

4.2 Sample Recovery. Disconnect the impingers after sampling. Quantitatively transfer the contents of the first three impingers (the knockout impinger and the two absorbing solution impingers) to a leak-free storage bottle. Add the water rinses of each of these impingers and connecting glassware to the storage bottle. The contents of the scrubber impingers and connecting glassware rinses may be discarded. The sample bottle should be sealed, shaken to mix, and labeled. The fluid level should be marked so that if any sample is lost during transport, a correction proportional to the lost volume can be applied.

4.3 Sample Preparation for Analysis. Check the liquid level in each sample, and determine if any sample was lost during shipment. If a noticeable amount of leakage has occurred, the volume lost can be determined from the difference between the initial and final solution levels, and this value can be used to correct the analytical results. Quantitatively transfer the sample solution to a 100-ml volumetric flask, and dilute the solution to 100 ml with water.

4.4 Sample Analysis.

4.4.1 The IC conditions will depend upon analytical column type and whether suppressed or nonsuppressed IC is used. An example chromatogram from a nonsuppressed system using a 150-mm Hamilton PRP–X100 anion column, a * * *. 2 l/min flow rate of a 4 mM 4-hydroxy benzoate solution adjusted to a pH of 8.6 using 1 N NaOH, a 50 μl sample loop, and a conductivity detector set on 1.0 μS full scale is shown in Figure 26–2.

4.4.2 Before sample analysis, establish a stable baseline. Next, inject a sample of water, and determine if any Cl^- appears in the chromatogram. If Cl^- is present, repeat the load/injection procedure until no Cl^- is present. At this point, the instrument is ready for use.

4.4.3 First, inject the calibration standards covering an appropriate concentration range, starting with the lowest concentration standard. Next, inject in duplicate, a QC sample followed by a water blank and the field samples. Finally, repeat the injection of calibration standards to allow compensation for any drift in the instrument during analysis of the field samples. Measure the Cl^- peak areas or heights of the samples. Use the average response from the duplicate injections to determine the field sample concentrations using a linear calibration curve generated from the standards.

4.5 Audit Analysis. An audit sample must be analyzed, subject to availability.

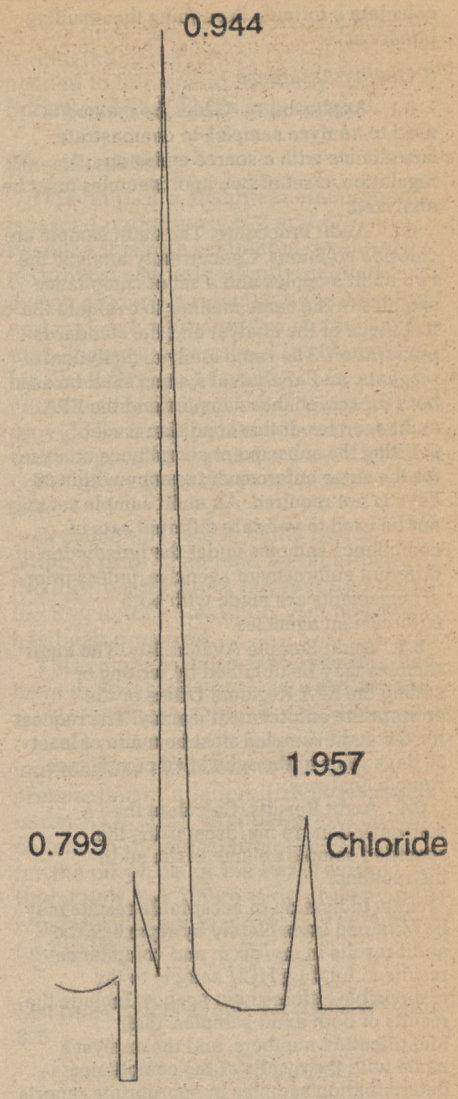

Figure 26-2. Example Chromatogram

5. Calibration

5.1 Dry Gas Metering System, Thermometers, Rate Meter, and Barometer. Same as in Method 6, sections 5.1, 5.2, 5.3, and 5.4.

5.2 Calibration Curve for Ion Chromatograph. To prepare calibration standards, dilute given volumes (1.0 ml or greater) of the stock standard solution, with 0.1 N H_2SO_4 (section 3.1.2) to convenient volumes. Prepare at least four standards that are within the linear range of the instrument and which cover the expected concentration range of the field samples. Analyze the standards as instructed in section 4.4.3, beginning with the lowest concentration standard. Determine the peak measurements, and plot individual values versus Cl^- concentration in μg/ml. Draw a smooth curve through the points. Use linear regression to

calculate a formula describing the resulting linear curve.

6. Quality Assurance

6.1 Applicability. When the method is used to analyze samples to demonstrate compliance with a source emission regulation, a set of two audit samples must be analyzed.

6.2 Audit Procedure. The audit sample are chloride solutions. Concurrently analyze the two audit samples and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for compliance samples and the EPA audit samples. If this condition is met, auditing the subsequent compliance analyses for the same enforcement agency within 30 days is not required. An audit sample set may not be used to validate different sets of compliance samples under the jurisdiction of different enforcement agencies, unless prior arrangements are made with both enforcement agencies.

6.3 Audit Sample Availability. The audit samples may be obtained by writing or calling the EPA Regional Office or the appropriate enforcement agency. The request for the audit samples must be made at least 30 days prior to the scheduled compliance sample analyses.

6.4 Audit Results. Calculate the concentrations in mg/dscm using the specified sample volume in the audit instructions.

Note: Indication of acceptable results may be obtained immediately by reporting the audit results in mg/dscm and compliance results in total μg HCl/ sample to the responsible enforcement agency. Include the results of both audit samples, their identification numbers, and the analyst's name with the results of the compliance determination samples in appropriate reports to the EPA Regional Office or the appropriate enforcement agency. Include this information with subsequent analyses for the same enforcement agency during the 30-day period.

The concentrations of the audit samples obtained by the analyst shall agree within 10 percent of the actual concentrations. If the 10 percent specification is not met, reanalyze the compliance samples and audit samples, and include initial and reanalysis values in the test report.

Failure to meet the 10 percent specification may require retests until the audit problems are resolved. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the Administrator may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. While steps are being taken to resolve audit analysis problems, the Administrator may also choose to use the data to determine the compliance or noncompliance status of the affected facility.

7. Calculations

Retain at least one extra decimal figure beyond those contained in the available data in intermediate calculations, and round off only the final answer appropriately.

7.1 Sample Volume, Dry Basis, Corrected to Standard Conditions. Calculate the sample volume using Eq. 6–1 of Method 6.

7.2 Total μg HCl Per Sample.

$$m = \frac{(S-B)(100)(36.46)}{(35.453)} = (102.84)(S-B)$$

Eq. 26–2

where:

m = Mass of Hcl in sample, μg.
S = Concentration of sample, μg Cl^-/ml.
B = Concentration of blank, μg Cl^-/ml.
100 = Volume of filtered and diluted sample, ml.
36.46 = Molecular weight of HCl, μg/μg-mole.
35.453 = Atomic weight of Cl, μg/μg-mole.

7.3 Concentration of HCl in the Flue Gas.

$$C = \frac{K_m}{V_{m(std)}}$$

Eq. 26–3

where:

C = Concentration of HCl, dry basis, mg/dscm.
K = 10^{-3} mg/μg.
m = Mass of HCl in sample, μg.
$V_{m(std)}$ = Dry gas volume measured by the dry gas meter, corrected to standard conditions, dscm.

8. Bibliography

1. Steinsberger, S.C. and J.H. Margeson. "Laboratory and Field Evaluation of a Methodology for Determination of Hydrogen Chloride Emissions from Municipal and Hazardous Waste Incinerators." U.S. Environmental Protection Agency, Office of Research and Development. Report No. _____, 1989.

2. State of California, Air Resources Board. Method 421. "Determination of Hydrochloric Acid Emissions from Stationary Sources." March 18, 1987.

3. Entropy Environmentalists Inc. "Laboratory Evaluation of a Sampling and Analysis Method for Hydrogen Chloride Emissions from Stationary Sources: Interim Report." EPA Contract No. 68–02–4442. Research Triangle Park, North Carolina. January 22, 1988.

* * * * *

Appendix A [Amended]

3. Method 19 of appendix A part 60 is amended by adding paragraphs 4.3 and 5.4 as follows: Method 19—Determination of Sulfur Dioxide Removal Efficiency and Particulate Matter, Sulfur Dioxide, and Nitrogen Oxides Emission Rates

* * * * *

4.3 Daily Geometric Average Pollutant Rates from Hourly Values. The geometric average pollutant rate (E_{ga}) is computed using the following equation:

$$E_{ga} = EXP\left[(1/n)\sum_{j=1}^{n}[\ln(E_{hj})]\right]$$

Eq. 19–20a

where:

E_{ga} = daily geometric average pollutant rate, ng/J (lbs/million Btu) or ppm corrected to 7 percent O_2.
E_{hj} = hourly arithmetic average pollutant rate for hour "j," ng/J (lb/million Btu) or ppm corrected to 7 percent O_2.
n = total number of hourly averages for which pollutant rates are available within the 24 hr midnight to midnight daily period.
ln = natural log of indicated value.
EXP = the natural logarithmic base (2.718) raised to the value enclosed by brackets.

* * * * *

5.4 Daily Geometric Average Percent Reduction from Hourly Values. The geometric average percent reduction ($\%R_{ga}$) is computed using the following equation:

$$\%R_{ga} = 100\left[1-EXP\left[(1/n)\sum_{j=1}^{n} 1n\,(E_{jo}/E_{ji})\right]\right]$$

Eq. 19–24a

where:

$\%R_{ga}$ = daily geometric average percent reduction.

E_{jo}, E_{ji} = matched pair hourly arithmetic average pollutant rate, outlet and inlet, respectively, ng/J (lb/million Btu) or ppm corrected to 7 percent O_2.

n = total number of hourly averages for which paired inlet and outlet pollutant rates are available within the 24-hr midnight to midnight daily period.

ln = natural log of indicated value.

EXP = the natural logarithmic base (2.718) raised to the value enclosed by brackets.

Note: The calculation includes only paired data sets (hourly average) for the inlet and outlet pollutant measurements.

* * * * *

[FR Doc. 91–1399 Filed 2–12–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 90899–1019]

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Final rule, technical amendment.

SUMMARY: The Secretary of Commerce issues this final rule implementing a technical amendment to reinstate regulatory language that was unintentionally deleted by regulations implementing Amendment 13 to the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish (Bering FMP) and Amendment 18 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (Gulf FMP) (54 FR 50386, December 6, 1989).

EFFECTIVE DATE: February 8, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Peacock (Fishery Management Specialist), NMFS, Plans and Regulations Division, 1335 East-West Highway, Silver Spring, Maryland 20910, telephone 301–427–2343.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the Exclusive Economic Zone off Alaska are governed by Federal regulations at 50 CFR parts 611, 620, 672, and 675 that implement the Bering and the Gulf FMPs. These FMPs were prepared by the North Pacific Fishery Management Council and approved by the Secretary of Commerce (Secretary) under provisions of the Magnuson Fishery Conservation and Management Act.

This final rule implements a technical amendment that (1) reinstates language unintentionally deleted by amendatory language in 54 FR 50383 (December 6, 1989) and (2) retains the amendatory language of 56 FR 492 (January 7, 1991).

On December 6, 1989, a final rule was published in the **Federal Register** (54 FR 50386) that was intended only to amend the introductory language of §§ 672.20(a)(2) and 675.20(a)(2). Item 11 of this amendatory language states that * * * paragraphs (a)(2) and (f)(1) are revised * * *; item 20 states that * * * paragraph (a)(2) is revised * * *. This amendatory language revised the introductory text of paragraph (a)(2) in these sections but deleted the remainder of the regulatory language in §§ 672.20(a)(2) and 675.20(a)(2). Paragraphs in § 672.20 that were unintentionally deleted were (a)(2)(i), (a)(2)(ii), (a)(2)(ii)(A), and (a)(2)(ii)(B). Table 1 in § 672.20 also was unintentionally deleted. Paragraphs that were unintentionally deleted in § 675.20 were as follows: (a)(2)(i), (a)(2)(i)(A), and (a)(2)(i)(B).

On January 1, 1991, final rules implementing Amendment 14 to the Bering FMP and Amendment 19 to the Gulf FMP also revised text in §§ 672.20(a)(2) and 675.20(a)(2) (56 FR 492, January 7, 1991). This rule retains the changes to these sections resulting from Amendments 14 and 19.

The Gulf and Bering FMPs were implemented using procedures specified by the Magnuson Act and the Administrative Procedure Act. However, as explained above, the language currently in §§ 672.20(a) and 675.20(a) does not correctly reflect the Gulf or Bering FMPs and subsequent amendments.

This final rule, technical amendment, is reinstating regulatory language needed to implement correctly the Bering and Gulf FMPs as amended.

Classification

This final rule, technical amendment, is issued under parts 672 and 675. Because this rule reinstates regulatory text that was inadvertently deleted during an earlier rulemaking proceeding and makes no substantive changes other than changes determined in rulemaking for Amendments 14 and 19, it is unnecessary under 5 U.S.C. 553(b)(B) to provide for prior public comment and there is good cause under 5 U.S.C. 553(d) not to delay for 30 days its effective date.

Because this rule is being issued without prior comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act and none has been prepared.

This rule reinstates language that has been determined not to be a major rule under Executive Order 12291, does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act. There is no change in the regulatory impacts previously reviewed and analyzed.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, General limitations.

Dated: February 7, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. Section 672.20(a)(2) is revised and Table 1 is added to the section to read as follows:

§ 672.20 General limitations.

(a) * * *

(2) *Total Allowable Catch (TAC).*

(i) The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the annual TAC for each calendar year for each target species and the "other species" category, and will apportion the TACs among DAP, JVP, Total Allowable Level of Foreign Fishing (TALFF), and reserves. TACs in the target spacies category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c)(1) of this section.

(ii) The sum of the TACs specified must be within the OY range of 116,000 to 800,000 mt for target species and the "other species" category. Initial reserves are established for pollock, Pacific cod, flounder, and "other species" which are equal to 20 percent of the TACs for these species or species groups.

(iii) The annual determinations of the TAC for each target species and the "other species" category, the reapportionment of reserves, and the reapportionment of surplus DAH may be adjusted, based upon a review of the following:

(A) Assessments of the biological condition of each target species and the "other species" category. Assessments will include, where practicable, updated estimates of maximum sustainable yield (MSY), and acceptable biological catch (ABC); historical catch trends and current catch statistics; assessments of alternative harvesting strategies and related effects on component species and species groups; relevant information relating to changes in groundfish markets; and recommendations for TAC by species or species group.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the fishery management plan for groundfish in the Gulf of Alaska area.

(iv) The TAC of pollock for the Central and Western regulatory areas will be divided equally into the four quarterly reporting periods of the fishing year. Within any fishing year, any unharvested amount of a quarterly allowance will be added in equal proportions to the quarterly allowances of the following quarters. Within any fishing year, harvests in excess of a quarterly allowance will be deducted in equal proportions from the quarterly allowances of the following quarters of that fishing year.

TABLE 1 to § 672.20.—Species or species groups and areas for which Total Allowable Catch (TAC), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF) ARE SPECIFIED FOR EACH FISHING YEAR. TAC=DAH+RESERVE+TALFF; DAH=DAP+JVP

Species	Area [1]
Pollock	W/C
	Shelikof district.
	E
Pacific cod	W
	C
	E
Flatfish [2] (deep water)	W
	C
	E
Flatfish [3] (shallow water)	W
	C
	E
Flathead sole	W
	C
	E
Arrowtooth flounder	W
	C
	E
Sablefish	W
	C
	WYK
	SEO/EYK
Pelagic [4] shelf rockfish	W
	C
	E
Pacific ocean perch [5]	W
	C
	E
Shortraker/rougheye rockfish [6]	W
	C
	E
Demersal shelf rockfish [7]	SEO
"Other rockfish" [8 9]	W
	C
	E
Thornyhead rockfish	GW
"Other species" [10]	GW

[1] See figure 1 of § 672.20 for description of regulatory areas/districts.

[2] The category "deep-water flatfish" means rex sole, Dover sole, and Greenland turbot.

[3] The category "shallow-water flatfish" means flatfish not including deep-water flatfish, arrowtooth flounder, or flathead sole.

[4] The category "pelagic shelf rockfish" includes five species: *Sebastes melanops* (black rockfish), *S. mystinus* (blue rockfish), *S. ciliatus* (dusky rockfish), *S. entomelas* (widow rockfish), and *S. flavidus* (yellowtail rockfish).

[5] Pacific ocean perch means *S. alutus*.

[6] The category shortraker/rougheye rockfish includes two species: *Sebastes borealis* and *S. aleutianus*, respectively.

[7] The category demersal shelf rockfish includes eight species: *Sebastes nebulosus* (China rockfish), *S. caurinus* (copper rockfish), *S. maliger* (quillback rockfish), *S. helvomaculatus* (rosethorn rockfish), *S. nigrocinctus* (tiger rockfish), *S. ruberrimis* (yelloweye rockfish), *S. pinniger* (canary rockfish), and *S. babcocki* (redbanded rockfish).

[8] The category slope rockfish includes 17 species: *Sebastes polyspinis* (northern rockfish), *S. zacentrus* (sharpchin rockfish), *S. aurora* (aurora rockfish), *S. melanostomus* (blackgill rockfish), *S. goodei* (chilipepper rockfish), *S. crameri* (darkblotched rockfish), *S. elongatus* (greenstriped rockfish), *S. variegatus* (harlequin rockfish), *S. wilsoni* (pygmy rockfish), *S. jordani* (shortbelly rockfish), *S. diploproa* (splitnose rockfish), *S. saxicola* (stripetail rockfish), *S. miniatus* (vermilion rockfish), and *S. reedi* (yellowmouth rockfish), *S. paucispinis* (bocaccio), *S. brevispinis* (silvergrey rockfish), and *S. proriger* (redstripe rockfish).

[9] The "other rockfish" category in the Western and Central Regulatory Areas and in the West Yakutat and East Yakutat Districts includes slope rockfish and demersal shelf rockfish. The "other rockfish" category in the Southeast Outside District includes slope rockfish.

[10] The "other species" category includes Atka mackerel, sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC is equal to 5 percent of the TACs of the target species.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

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

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

4. Section 675.20(a)(2) is revised to read as follows:

§ 675.20 General limitations.

(a) * * *

(2) *Total Allowable Catch (TAC).* The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the annual TAC for each calendar year for each target species and for the "other species" category, and will apportion the TACs among DAP, JVP, TALFF, and reserves. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (b) of this section. The sum of the TACs so specified must be within the OY range of 1.4–2.0 million mt for target species and the "other species" category.

(i) The annual determination of the TAC for each target species and the "other species" category, the division of the pollock TAC into seasonal allowances, the exceeding of these species' TACs through the apportionment of reserves, and the reapportionment of surplus domestic annual harvest (DAH) to total allowable level of foreign fishing (TALFF) will be based on and be consistent with two types of information:

(A) Biological condition of groundfish stocks as set forth in the resource assessment documents prepared annually for the Council. These documents will provide information on historical catch trend; updated estimates of the maximum sustainable yield of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the "other species" category; assessments of the multi-species and ecosystem impacts of harvesting the groundfish complex at current levels given the assessed condition of stocks, including

consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

(B) Socioeconomic considerations that are consistent with the goals of the fishery management plan for the groundfish fishery of the Bering sea and Aleutian Islands area, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of the groundfish harvests on prohibited species and the domestic target fisheries which utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the fishery to subsistence users; and the need to promote utilization of certain species.

(ii) The TAC of pollock in each subarea will be divided, after subtraction of reserves, into two allowances. The first allowance will be available for directed fishing from January 1 until noon, Alaska local time (A.l.t.), April 15. The second allowance will be available for directed fishing from noon, A.l.t., June 1 through the end of the fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

[FR Doc. 91-3444 Filed 2-8-91; 2:44 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 30
Wednesday, February 13, 1991

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

FEDERAL RESERVE SYSTEM

[Docket No. R-0725]

Federal Open Market Committee; Rules Regarding Availability of Information

12 CFR Part 271

AGENCY: Federal Open Market Committee, FRS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Open Market Committee ("Committee") proposes to amend its Rules Regarding Availability of Information to conform its provisions regarding fees to the requirements of the Freedom of Information Reform Act. The new fee schedule is set out in "appendix A" and reflects the direct costs to the Committee to conduct searches, review documents, and copy documents in response to requests made under the Freedom of Information Act. In addition, the proposed amendments would update portions of the Rules.

DATES: Comments must be submitted on or before March 15, 1991.

ADDRESSES: Comments, which should refer to Docket No. R-0725, may be mailed to the Secretary of the Committee, 20th and C Streets, NW., Washington, DC 20551, or delivered to the guard stationed in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.). Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 271.6 of the Committee's Rules Regarding Availability of Information.

FOR FURTHER INFORMATION CONTACT: Normand R.V. Bernard, Assistant Secretary, Federal Open Market Committee (202/452-3606); or Stephen L. Siciliano, Special Assistant to the General Counsel, Board of Governors of the Federal Reserve System (202/452-3920); or for the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Dororthea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Committee last amended its Rules Regarding Availability of Information in 1977 (42 FR 13299, March 10, 1977). The Freedom of Information Reform Act of 1986 (Pub. L. No. 99-570) ("FOI Reform Act") requires each federal agency to "promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests * * *" under the Freedom of Information Act ("FOIA"). These regulations must conform to guidelines issued by the Office of Management and Budget ("OMB"). (52 FR 10017, March 27, 1987.) The FOI Reform Act requires that the fees charged provide only for the recovery of the direct costs of search, review, and duplication. (5 U.S.C. 552(a)(4)(A)(iv)). The Committee has therefore conducted a study of its costs and proposes to assess the allowable charges as set forth in § 271.8 of this proposed regulation.

In addition to conforming the Committee's fee procedures to the FOI Reform Act, the Committee is making technical changes to update provisions of its Rules Regarding Availability of Information ("Rules"). In this regard, the definitions of "Records of the Committee' and "Search" are modified.

The Committee is also proposing changes to § 271.6 of its Rules to conform provisions of that section to changes in statutory exemptions from the disclosure requirements of FOIA that have been enacted since the Committee's Rules were last published. Changes are also proposed to § 271.5 to clarify its scope by referring in § 271.5(b)(3) to foreign exchange and domestic securities markets rather than only to securities markets.

Regulatory Flexibility Act Analysis

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

List of Subjects in 12 CFR Part 271

Federal Open Market Committee, Freedom of Information.

For the reasons set forth in this notice, and pursuant to the Committee's authority under the Freedom of Information Reform Act of 1986, Public Law No. 99-570 (5 U.S.C. 552(a)(4)(A)(i)), to promulgate rules implementing the FOI Reform Act, and its authority under 12 U.S.C. 263 to issue rules regarding the conduct of its business, the Committee proposes to amend 12 CFR part 271 as follows:

PART 271—RULES REGARDING AVAILABILITY OF INFORMATION

1. The authority citation for part 271 is revised to read as follows:

Authority: 12 U.S.C. 263; 5 U.S.C. 552.

2. Section 271.1 is revised to read as follows:

§ 271.1 Authority.

This part is issued by the Federal Open Market Committee (the "Committee") pursuant to the requirement of section 552 of title 5 of the United States Code that every agency shall publish in the **Federal Register** for the guidance of the public descriptions of the established places at which, the officers from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions, and the requirement that agencies promulgate, pursuant to notice and receipt of public comment, the fees applicable to those requests for information, and also pursuant to the Committee's authority under section 12A of the Federal Reserve Act, 12 U.S.C. 263, to issue regulations governing the conduct of its business.

3. In § 271.2, paragraph (b) is revised and paragraphs (c) and (d) are added to read as follows:

§ 271.2 Definitions.

* * * * *

(b) *Records of the Committee.* For purposes of requests submitted pursuant to the Freedom of Information Act (5 U.S.C. 552), the term "records of the Committee" includes rules, statements, opinions, orders, memoranda, letters, reports, accounts, and other written material, as well as magnetic tapes, computer printouts of information

obtained through use of existing computer programs, charts, and other materials in machine readable form that constitute a part of the Committee's official files.

(c) *Board* and *Federal Reserve bank.* For the purposes of this part, "Board" means the Board of Governors of the Federal Reserve System established by the Federal Reserve Act of 1913 (38 Stat. 251), and "Federal Reserve bank" means one of the district banks authorized by that same Act, 12 U.S.C. 222, including any branch of any such bank.

(d) *Search.* (1) For the purposes of this part, "search" means a reasonable search of the Committee's files and any other files containing records of the Committee as seems reasonably likely in the particular circumstances to contain documents of the kind requested. Searches may be done manually or by computer using existing programming. For purposes of computing fees under § 271.8 of this part, search time includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Such activity is distinct from "review" of material to determine whether the material is exempt from disclosure.

(2) "Search" does not mean or include:

(i) Research;

(ii) Creation of any information or data retrieval program or system;

(iii) Extensive modification of an existing program or system; or

(iv) Creation of any document, or any other activity that involves creative processes rather than simply retrieval of existing documents.

4. Section 271.4 is amended by revising paragraph (c) to read as follows, and by removing paragraph (f):

§ 271.4 Records available to the public on request.

* * * * *

(c) *Obtaining access to records.* Any person requesting access to records of the Committee shall submit such request in writing to the Secretary of the Committee. In any case in which the records requested, or copies thereof, are available at a Federal Reserve Bank, the Secretary of the Committee or his or her designee may so advise the person requesting access to the records. Every request for access to records of the Committee shall state the full name and address of the person requesting them and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty. The Secretary of the Committee or his or her designee shall determine within ten working days after receipt of a request for access to records of the Committee whether to comply with such request; and he shall immediately notify the requesting party of his decision, of the reasons therefor, and of the right of the requesting party to appeal to the Committee any refusal to make available the requested records of the Committee.

* * * * *

5. Section 271.5 is amended by revising paragraph (b)(3) to read as follows:

§ 271.5 Deferment of availability of certain information.

* * * * *

(b) * * *

(3) Result in unnecessary or unwarranted disturbances in foreign exchange or domestic securities markets;

* * * * *

6. Section 271.6 is amended by revising paragraphs (b) and (d), by removing the word "or" at the end of paragraph (e) and adding a semicolon in place of the period at the end of paragraph (f), and adding paragraphs (g) and (h) to read as follows:

§ 271.6 Information not disclosed.

* * * * *

(b) Relates solely to internal personnel rules or practices or other internal practices of the Committee within the meaning of 5 U.S.C. 552(b)(2);

* * * * *

(d) Is contained in inter- or intra-agency memorandums, reports, or letters that would not be routinely available by law to a party (other than an agency) in litigation with the Committee, including by not limited to:

(i) Memorandums;

(ii) Reports;

(iii) Other documents prepared by the staff or agents of the Committee;

(iv) Records of deliberations of the Committee and of discussions at meetings of the Committee, or staff or agents of the Committee;

* * * * *

(g) Constitutes records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7); or

(h) Constitutes a document or information that is covered by an order of a court of competent jurisdiction that prohibits its disclosure.

* * * * *

7. Section 271.8 is added to read as follows:

§ 271.8 Fee schedule; waiver of fees.

(a) *Fee schedule.* Records of the Committee available for public inspection and copying are subject to a written Schedule of Fees for search, review, and duplication. (See appendix A to this part for Schedule of Fees.) The fees set forth in the Schedule of Fees reflect the full allowable direct costs of search, duplication, and review, and may be adjusted from time to time by the Secretary to reflect changes in direct costs.

(b) *Fees charged.* The fees charged only cover the full allowable direct costs of search, duplication, or review.

(1) *Direct costs* mean those expenditures which the Committee actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a request made under § 271.4 of this part. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus a factor to cover benefits) and the cost of operating duplicating machinery. Not inlcuded in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) *Duplication* refers to the process of making a copy of a document necessary to respond to a request for disclosure of records, or for inspection of original records that contain exempt material or that otherwise cannot be inspected directly. Such copies may take the form of paper copy, microform, audio-visual materials, or machine readable documentation (*e.g.*, magnetic tape or disk), among others.

(3) *Review* refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, *e.g.*, doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(c) *Commercial use.* (1) The fees in the Schedule of Fees for document search, duplication, and review apply when records are requested for commercial use.

(2) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request was made.

(d) *Educational, research, or media use.* (1) Only the fees in the Schedule of Fees for document duplication apply when records are not sought for

commercial use and the requester is a representative of the news media, or of an education or noncommercial scientific institution, whose purpose is scholarly or scientific research. However, there is no charge for the first one hundred pages of duplication.

(2) *Educational institution* refers to a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, graduate higher education, professional education, or an institution of vocational education which operates a program of scholarly research.

(3) *Noncommercial scientific institution* refers to an institution that is not operated on a "commercial" basis (as that term is used in paragraph (c) of this section) and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(4) *Representative of the news media* refers to any person who is actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. "Free lance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(e) *Other uses.* For all other requests, the fees in the Schedule of Fees for document search and duplication apply. However, there is no charge for the first one hundred pages of duplication or the first two hours of search time.

(f) *Aggregated requests.* If the Secretary reasonably believes that a requester or group of requesters is attempting to break down a request into a series of requests, each seeking portions of a document or documents solely for the purpose of avoiding the assessment of fees, the Secretary may aggregate such requests and charge accordingly. It is considered reasonable for the Secretary to presume that multiple requests of this type made within a 30-day period have been made to avoid fees.

(g) *Payment procedures*—(1) *Fee payment.* The Secretary may assume that a person requesting records pursuant to § 271.4 of this part will pay the applicable fees, unless a request includes a limitation on fees to be paid or seeks a waiver or reduction of fees pursuant to paragraph (h) of this section.

(2) *Advance notification.* If the Secretary estimates that charges are likely to exceed $25, the requester shall be notified of the estimated amount of fees, unless the requester has indicated in advance willingness to pay fees as high as those anticipated. Upon receipt of such notice the requester may confer with the Secretary as to the possibility of reformulating the request in order to lower the costs.

(3) *Advance payment.* (i) The Secretary may require advance payment of any fee estimated to exceed $250. The Secretary may also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion.

(ii) For purposes of computing the time period for responding to requests under § 271.4(c) of this part, the running of the time period will begin only after the Secretary receives the required payment.

(4) *Late charges.* The Secretary may assess interest charges when a fee is not paid within 30 days of the date on which the billing was sent. Interest will be at the rate prescribed in section 3717 of title 31 U.S.C. and will accrue from the date of the billing. This rate of interest is published by the Secretary of the Treasury before November 1 each year and is equal to the average investment rate for Treasury tax and loan accounts for the 12-month period ending on September 30 of each year. The rate is effective on the first day of the next calendar quarter after publication.

(5) *Fees for nonproductive search.* Fees for record searches and review may be charged even if no responsive documents are located or if the request is denied. The Secretary shall apply the standards set out in paragraph (h) of this section in determining whether to waive or reduce fees.

(h) *Waiver or reduction of fees*—(1) *Standards for determining waiver or reduction.* The Secretary or his or her designee shall grant a waiver or reduction of fees chargeable under paragraph (b) of this section where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and that the disclosure of information is not primarily in the commercial interest of the requester. The Secretary or his or her designee shall also waive fees that are less than the average cost of collecting fees.

(2) *Contents of request for waiver.* The Secretary shall normally deny a request for a waiver of fees that does not include:

(i) A clear statement of the requester's interest in the requested documents;

(ii) The use proposed for the documents and whether the requester will derive income or other benefit from such use;

(iii) A statement of how the public will benefit from such use and from the Board's release of the requested documents; and

(iv) If specialized use of the documents or information is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(3) *Burden of proof.* In all cases the burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(4) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Committee, fees shall be waived where the total charges (including charges for information provided under the Privacy Act of 1974 (5 U.S.C. 552a) are $50 or less; but the Secretary may waive fees in excess of that amount.

10. Appendix A is added to the end of part 271 to read as follows:

Appendix A to Part 271—Freedom of Information Fee Schedule

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

Special Services:

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

Fee Waivers

1. For qualifying educational and noncommercial scientific institution requesters and representatives of the news media, the Committee will not assess fees for review time, for the first 100 pages of reproduction, or, when the records sought are reasonably described, for search time. For other noncommercial use requests, no fees will be assessed for review time, for the first

100 pages of reproduction, or the first two hours of search time. For requesters qualifying for 100 free pages of reproduction, the fees for duplicate microfiche will be prorated to eliminate the charge for 100 frames.

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

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

By order of the Federal Open Market Committee, February 6, 1991.

Donald L. Kohn,

Secretary of the Committee.

[FR Doc. 91–3289 Filed 2–12–91; 8:45 am]

BILLING CODE 6210–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans, Referral Fees

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule; withdrawal.

SUMMARY: Notice is hereby given that SBA is withdrawing from consideration or implementation a proposed regulation which would have given the Agency oversight responsibilities on the payment by lenders of referral fees.

DATE: This action is effective on February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 1441 L Street, NW., Washington, DC 20416. Tel. 202–653–6574.

SUPPLEMENTARY INFORMATION: On April 24, 1990, SBA published in the **Federal Register** (55 FR 17280) a notice of proposed rulemaking which would allow SBA participating lenders in the SBA guaranteed loan program to pay referral fees to third parties who refer applicant borrowers to such lenders. The Agency received over 300 letters during the comment period. The comments were divided, with slightly more than half opposed.

In view of the opposition to such proposed rule, and considering that the present regulations do not permit such fees to be charged to the borrower, we are withdrawing the proposed rule change.

Dated: January 30, 1991.

Susan S. Engeleiter,

Administrator.

[FR Doc. 91–3191 Filed 2–12–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR–91–4]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 15, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Ida Klepper, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9688.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 6, 1991.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26427.

Petitioner: Aircraft Owners and Pilots Association, Experimental Aircraft Association, Montana Aeronautics Board, Montana Chapter of International 99's, Montana Flying Farmers and Ranchers Association, and the Montana Pilots Association.

Regulations Affected: 14 CFR 91.215(b)(5)(ii).

Description of Petition: To amend § 91.215(b)(5)(ii) to delay the transponder equipage date for Billings, Montana, for the requirement for transponders with Mode C capability until the airspace reclassification rule is finalized.

Petitioner's Reason for the Request: The petitioners believe that the airspace reclassification final rule will probably eliminate the current requirements that are scheduled to go into effect on December 30, 1990. Also, virtually, all of the aircraft (99.9 percent) using the airspace located at Billings are communicating with the controllers, providing them with the aircraft position and altitude information. This information is providing the highest degree of safety. This is evidenced by the fact that there have been no recorded near mid-air collisions in the Billings, Montana, airspace.

[FR Doc. 91–3430 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–CE–44–AD]

Airworthiness Directives; Beech F90, 200, B200, and 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to certain Beech F90, 200, B200, and 300 series airplanes. The proposed action would require the inspection and the eventual replacement of each cast acrylic cockpit "D" side window with a stretched acrylic

window. There have been numerous cases of window crazing, cracking and delamination, and four failures (blowouts) of these "D" side windows in the flight compartment (cockpit) of these airplanes. The actions specified in this proposal are intended to reduce the possibility of these blowouts and the possible decompression injuries that could result.

DATES: comments must be received on or before April 12, 1991.

ADDRESSES: Beech Service Bulletin No. 2208, Revision 1, dated July 1990, and Beech Service Bulletin No. 2273, Revision 1, dated April 1990, that are discussed in this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085; Telephone (316) 681–7111. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–44–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–44–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Certain Beech Models F90, 200, 200C, 200CT, 200T, B200, B200C, B200CT, B200T, and 300 airplanes were manufactured with all of the windows made from cast acrylic materials. The durability of cast acrylic materials are adversely affected by contact with gasoline, benzene, alcohol, acetone, methyl ethyl ketone, carbon tetrachloride, paint thinner, glass cleaner, fire extinguishing agents, or anti-ice fluid. As a result of such contact, numerous cases of window crazing, cracking and delamination, and five failures (blowouts) of "D" side windows in the flight compartment (cockpit) have been reported on the affected airplanes. Service difficulties have only been reported on the cast acrylic "D" side windows in the flight compartment on the affected airplanes.

Beech has issued Service Bulletin (SB) No. 2208, Revision 1, dated July 1990, that specifies the replacement of each cast acrylic cockpit "D" side window with a stretched acrylic window. Based upon the adverse service experience for these windows, the FAA has determined that an unsafe condition exists or is likely to develop on Beech Models F90, 200, 200C, 200CT, 200T, B200, B200C, B200CT, B200T, and 300 airplanes unless these "D" side windows are replaced.

Accordingly, an AD is being proposed that is applicable to the above mentioned Beech Model airplanes. It would require the inspection and the eventual replacement of each cast acrylic cockpit "D" side window with one made of stretched acrylic in accordance with Beech SB 2208, Revision 1, dated July 1990.

Beech Service Bulletin No. 2273, Revision 1, dated April 1990, specifies installation procedures for stretched acrylic windows on the Beech Model 300 airplanes. If the affected Model 300 airplanes have stretched acrylic "D" side windows installed in accordance with Beech SB No. 2273 or received stretched acrylic "D" side windows at manufacture, no further action would be required by this AD. No nondestructive testing method exists for determining whether the windows are cast acrylic. If the stretched acrylic "D" side windows were installed at manufacture or by replacement, they will be identified by a placard on the window indicating the applicable part number. If the window is missing such a placard, it must be replaced.

Stretched acrylic "D" side windows are available from Beech at the present time. If the supply of stretched acrylic windows is depleted and the replacement windows are on order, then the airplane may be operated unpressurized until the stretched acrylic windows are installed provided that warning placards are installed in clear view of the pilot's position in accordance with the instructions on page 10 of Beech SB No. 2208, Revision 1, dated July 1990.

The FAA has determined that the initial inspection should be performed within the next 150 hours time-in-service. In addition, the FAA has determined that, within the next 12 calendar months, all cast acrylic "D" side windows should be replaced with stretched acrylic windows. This 12-calendar month compliance requirement has been proposed because the durability of these cast acrylic "D" windows is affected by general maintenance chemicals regardless of whether the airplane is in operation. This calendar time requirement also sets forth the same compliance criteria as Beech SB No. 2208, Revision 1, dated July 1990. In addition, yearly operational times of these airplanes vary greatly throughout the fleet. To avoid inadvertent grounding of and to assure the airworthiness of the affected airplanes, hours TIS is proposed for the initial inspections of paragraph (a) of this AD, and it is proposed that all cast acrylic "D" side windows be replaced within 12 calendar months per the requirements of paragraph (b)(3)(iii) of this AD.

It is estimated that 1,608 airplanes will be affected by the proposed AD, that it will take approximately 10.5 hours per airplane to accomplish the required actions at $40 an hour, and that the cost of parts to accomplish the required modification is estimated to be $1,366 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,871,888.

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

would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Beech: Docket No. 90–CE–44–AD.

Applicability: Model F90 airplanes (serial number (S/N) LA–2 through LA–236); Models 200 and B200 airplanes (S/N BB–2 through BB–1212); Models 200C and B200C airplanes (S/N BL–1 through BL–72); Models 200CT and B200CT airplanes (S/N BN–1 through BN–4); Models 200T and B200T airplanes (S/N BT–1 through BT–30); and Model 300 airplanes (S/N FA–2 through FA–56), certified in any category. Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent cracking and possible blowout of cast acrylic cockpit "D" side windows that could result in decompression injuries, accomplish the following:

(a) With in the next 150 hours time-in-service after the effective date of this AD, accomplish the following:

(1) Determine if the airplane "D" side window contains a placard bearing one of the part numbers presented below. If it does, then the window is made of stretched acrylic and no further action per this AD is required.

Model	Part No.
F90, 200, 200C, 200CT, 200T, B200, B200C, B200CT, and B200T.	101–420081–5 through 101–420081–10; 50–420066–419, 50–420066–420, 50–420066–437, or 50–420066–438.
300	101–420081–9 through 101–420081–12

(2) If a Model 300 airplane has a "D" side window installed in accordance with Beech Service Bulletin (SB) 2273, Revision 1, dated April 1990, then the window is stretched acrylic and no further action per this AD is required.

(3) If a cast acrylic "D" side window is installed or if the window material cannot be determined, prior to further flight, inspect the window for cracks, chips, stress crazes, fissure scratches, or other damage in accordance with part I of Beech SB No. 2208, Revision 1, dated July 1990.

(i) If cracks, chips, stress crazes, fissure scratches, or other damage that exceeds the limits specified in Beech SB No. 2208, Revision 1, dated July 1990, is found, prior to further flight, except as noted in paragraph (b) of this AD, replace the window with the applicable stretched acrylic window listed in paragraph (a)(1) of this AD.

(ii) If no cracks, chips, stress crazes, fissure scratches, or other damage that exceeds the limits specified in Beech SB No. 2208, Revision 1, dated July 1990, is found, within the next 12 calendar months, except as noted in paragraph (b) of this AD, replace each cast acrylic "D" side window in the crew compartment with the applicable stretched acrylic window listed in paragraph (a)(1) of this AD.

(b) If stretched acrylic windows are not available, but have been ordered, the airplane may be operated unpressurized until the stretched acrylic windows are installed provided that the placards specified on page 10 of Beech SB No. 2208, Revision 1, dated July 1990, are installed in clear view of the pilot's position.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(d) An alternate method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport road, room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201–0085 or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 1, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–3436 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Trade Regulation Rule; Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Notice of reopening of record for receipt of additional evidence on Advance Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission is reopening the record for receipt of additional evidence on an Advance Notice of Proposed Rulemaking for possible amendments to its trade regulation rule concerning franchises and business opportunity ventures (16 CFR part 436). Having reviewed the comments, the Commission has determined that additional evidence not yet available would be useful and relevant to an informed decision on whether or not an amendment proceeding should be initiated.

DATES: Additional evidence will be accepted until August 6, 1992.

ADDRESSES: Evidence should be submitted to the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580. It should be captioned: "Record Evidence for Advance Notice of Proposed Rulemaking—Franchise Rule—Earnings Claim Disclosures, FTC File No. R011007.

FOR FURTHER INFORMATION CONTACT: Craig Tregillus, Franchise Rule Coordinator, PC–H–238, Federal Trade Commission, Washington, DC 20580. (202) 326–2970.

SUPPLEMENTARY INFORMATION: In an Advance Notice of Proposed Rulemaking ("ANPR") published on February 16, 1989 (54 FR 7041), the Commission requested written public comment on whether it should consider amending the earnings claim and preemption provisions of its trade regulation rule on franchises and business opportunity ventures ("Franchise Rule") (16 CFR part 436). The comment period closed on June 16, 1989 [54 FR 14662]. The record was

subsequently reopened for receipt of supplemental comments until November 21, 1989 (54 FR 39000).

Having reviewed the comments, the Commission has determined that additional evidence not yet available would be useful and relevant to an informed decision on whether or not an amendment proceeding should be initiated. The Commission has therefore decided to reopen the record for receipt of such evidence. The Commission wishes to thank all the interested parties who have provided comments for their assistance, and although further written comments will be accepted, the Commission wishes to stress that it is now seeking data, research and similar evidence.

The record reflects the nearly unanimous recommendation of all interested parties who commented on the question that the Commission should conduct an amendment proceeding to consider revising the Rule's earnings claim provisions to adopt requirements like those of the Uniform Franchise Offering Circular ("UFOC"). The UFOC is a disclosure format for complying with the pre-sale disclosure requirements of state franchise law.

The North American Securities Administrators' Association ("NASAA") adopted revisions of the earnings claim requirements in Item 19 of the UFOC in November 1986, and the Commission approved use of the revised UFOC for compliance with the Franchise Rule on June 15, 1987, at NASAA's request (52 FR 22686). The revisions, which were adopted by all but two states by January 1, 1989, streamlined Item 19 in an effort to encourage franchisors to make reliable earnings information available to prospective investors. Previous studies had indicated that only about 12 percent of all franchisors had attempted to comply with the former UFOC earnings claim requirements.

The comments on the ANPR provide no clear evidence that the new Item 19 requirements have actually enhanced the availability of earnings information in the marketplace as intended. The Commission therefore would like to review data on the impact of the new requirements before deciding whether or not to initiate a proceeding to amend the Rule's earnings claim provisions in the same or a similar manner.

The state franchise law administrators who commented were able to provide only preliminary figures, based on disclosure filings, of the number and percentage of franchisors providing earnings information after January 1, 1989. The figures they provided showed a slight increase, typically of 1 or 2 percent, over the prior year. State and industry comments indicated that the full impact of the change would not be evident until revised Item 19 has been in effect in all the states for at least one year.

Since one of the states had not completed its adoption of the revised Item 19 requirements by January 1, 1990, the impact of the change is not likely to be evident until April 30, 1991, the date by which many franchisors must file their annual registration renewals. In order to provide sufficient time for the studies to be conducted, the Commission will leave the record open for receipt of additional evidence on the impact of the Revised Item 19 requirements for a period of eighteen months until August 6, 1992.

The Commission is interested in receiving data, reports and studies of the number of franchisors making earnings claims pursuant to the new Item 19 requirements, the old Item 19 requirements and the Rule requirements, compared to the total number of UFOC and Franchise Rule filings, for each of the states with franchise laws requiring a filing. It is the Commission's hope that the states that do not already maintain such records will be able to do so for the new filings they receive during the next year and a half, and that they will submit their most recent data at regular intervals during that time.

Since the record will be held open for earnings claim data, the Commission has also decided to leave it open for receipt of pertinent data on the one subject about which the comments were sharply divided. Franchisors and their representatives advocated amendment of the Rule's preemption standard to reduce conflicts and inconsistencies in state registration and disclosure requirements. Franchisees and state officials opposed any change in the Rule's present provision for dual federal-state regulation of franchise sales on the grounds, among others, that there are few inconsistencies, and that only state registration and review of disclosure documents ensures adequate compliance with federal and state disclosure requirements.

The Commission is interested in obtaining the best evidence available of the inadequacies in disclosure documents filed with the states, and of the nature and pervasiveness of any inconsistencies in state requirements. The Commission understands that the states either send comment letters to franchisors and their counsel that detail any disclosure deficiencies, or notify them of the deficiencies by telephone. The Commission therefore would like to encourage both state officials and franchisors to submit copies of deficiency letters and memoranda of telephone conversations for the record, together with relevant excerpts of the disclosures at issue. The Commission will be most interested in letters or memoranda that postdate this Notice.

In order to encourage the submission of this information for the public record, the Commission will accept only submissions that are redacted to delete the identity of the state examiner or other official who notes the deficiencies, and the identity of the attorney, law firm, franchisor or its employees affected by the communication. The Commission will also consider requests to place such evidence on the public record even though additional portions of it have been withheld, provided the nature of the information withheld is identified, the reason for doing so is stated, and granting the request would not frustrate possible future review and analysis of the data.

The Commission invites all interested parties to review the submissions periodically while the record is open, to prepare or obtain academic or other professional studies and reports on the data, and to submit such studies and reports for the record.

All submissions should be identified as "Record Evidence on Advance Notice of Proposed Rulemaking—Franchise Rule, FTC File No. R011007," and two copies should be submitted, if possible.

List of Subjects in 16 CFR Part 436

Franchising, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 91-3416 Filed 2-12-91; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 60

[Docket No. 89N-0169]

RIN 0905-AD16

Patent Term Restoration Regulations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its patent term restoration regulations to implement the patent term restoration provisions of the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) (the

Animal Drug Act). Current FDA regulations address patent term restoration, also known as patent term extension, for certain patents claiming human drug products (including biologics and antibiotics), medical devices, food additives, and color additives subject to regulation under the Federal Food, Drug, and Cosmetic Act (the act) and the Public Health Service Act (PHSA). The proposed rule would expand the scope of the regulations to include patents claiming new animal drug products.

DATES: Comments by April 15, 1991. The agency proposes that any final rule that may be issued based upon this proposal shall become effective 30 days after the date of publication of the final rule in the **Federal Register.**

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

FOR FURTHER INFORMATION CONTACT: Nancy E. Pirt, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Term Restoration Act (the Animal Drug Act). Title I of the Animal Drug Act amended the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301–392) to authorize abbreviated new animal drug applications (ANADA's). Title II of the Animal Drug Act amended the patent term restoration provisions at 35 U.S.C. 156 to include patents claiming certain animal drug products.

A U.S. patent is effective for 17 years from the date of issuance. A patent does not permit an inventor to make, use, or sell his or here invention; instead, the patent enables the inventor to prevent others from making, selling, or using the patented invention. Federal statutes and regulations require some products, such as drugs and medical devices, to be approved by the Federal Government before they may be marketed. For these products, patent time may be lost awaiting that approval.

In September 1984, the Drug Price Competition and Patent Term Restoration Act (Pub. L. 98–417) (the PTR Act) became law. Title II of the PTR Act provided patent term restoration to patent holders whose patents claimed human drug products (including biologics and antibiotics), medical devices, food additives, or color additives. Basically, patent holders could add as much as 5 years to their patent terms to compensate for the time elapsed during regulatory review. In no case, however, could the effective patent life for the product (the time between marketing approval and the expiration of the patent term) be extended to exceed 14 years.

The PTR Act's provisions, however, did not encompass animal drug products. Consequently, several bills were introduced during the 99th and 100th Congresses to extend patent term restoration to animal drug products. The Animal Drug Act (Pub. L. 100–670) achieved this goal in November 1988 by amending the existing patent term restoration provisions at 35 U.S.C. 156 to include animal drug products and biologics.

FDA, the U.S. Patent and Trademark Office (PTO), and the U.S. Department of Agriculture (USDA) share responsibility for implementing the patent term restoration provisions. PTO has primary responsibility over the program. PTO accepts applications, determines whether a patent is eligible for patent term extension, and, if appropriate, issues a certificate of extension. FDA assists PTO in its eligibility determination for products regulated under the act and determines the patented product's regulatory review period, which is the basis of any patent term extension. If necessary, FDA also hold informal hearings to determine whether the marketing applicant acted with due diligence during the review period.

USDA has patent term restoration authority similar to FDA's. USDA determines regulatory review periods relating to products approved under the Virus-Serum-Toxin Act and is authorized to hold hearings to determine whether applicants acted with due diligence.

The proposed regulation set forth in this document expands the scope of the existing patent term restoration regulations at 21 CFR part 60 to encompass animal drug products regulated under the act. The proposal also makes several technical and editorial changes to the existing regulations.

II. Provisions of This Proposal

A. Scope

FDA proposes to amend 21 CFR 60.1(a) to add animal drug products to the list of products for which patent term restoration is available. The proposal also adds to the text the "Public Health Service Act" (42 U.S.C. 262) as an additional regulatory authority.

B. Definitions

The agency proposes to amend several definitions in 21 CFR 60.3 to include animal drug products.

Active ingredient (21 CFR 60.3(b)(2)) would be redefined as any component that is intended to "furnish pharmacological activity or other direct effects in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or of animals."

Clinical investigation or study (21 CFR 60.3(b)(5)) would be amended to remove the adjective "human" from the existing regulation. This change is necessary since clinical studies on animal drug products do not involve human subjects.

The definitions of *marketing applicant* at 21 CFR 60.3(b)(11) and *Marketing applications* at 21 CFR 60.3(b)(12) would be revised to include applications for FDA premarket approval submitted under section 512 of the act (21 U.S.C. 360b).

The definition of "product" at 21 CFR 60.3(b)(14) would be revised to include animal drug products.

The proposed rule also contains a new § 60.3(b)(16) defining "animal drug product." The definition excludes products that are primarily manufactured using biotechnology, as provided in Public Law 100–670.

C. Eligibility Assistance

FDA proposes to amend 21 CFR 60.10 by adding new paragraph (a)(3) to provide that, upon written request from PTO, the agency will assist PTO in determining whether a patent related to an animal drug product is eligible for commercial marketing or use of the animal drug product is the first permitted commercial marketing or use of the drug under the provision of law under which the regulatory review period occurred. If permission was for commercial marketing or use in food-producing animals, FDA will notify PTO whether the permission for use in food-producing animals is the first permitted commercial marketing or use of the drug for administration to a food-producing animal under the provision of law under which such regulatory review period occurred. This proposal implement 35 U.S.C. 156(a)(5)(C), which enables patent holders to extend the term of a patent whose claims pertain to a food-producing animal use, notwithstanding previous approval of animal drug products containing the same active ingredient for use in nonfood-producing

animals, provided that the patent was not extended on the basis of a use in nonfood-producing animals. This proposal also would amend 21 CFR 60.10(a)(3) by redesignating it as 21 CFR 60.10(a)(4) and revising it to indicate that the application for patent extension for an animal drug is to be filed within 60 days of the first approval for marketing or use, or of the first approval by FDA for administration to food-producing animals, whichever is applicable, and to accommodate the proposed amendment discussed above.

FDA also proposes in 21 CFR 60.10 to amend paragraph (a)(2) to emphasize its applicability to human drug products, food additives, color additives, and medical devices, and to redesignate existing paragraph (a)(4) as new paragraph (a)(5) to accomodate the proposed amendments discussed above.

D. Regulatory Review Period Determinations

Proposed paragraphs (d) and (e) in 21 CFR 60.22 incorporate the statutory definition (35 U.S.C. 156(g)(4)) of an animal drug product's regulatory review period. The regulatory review period consists of the sum of the lengths of a testing phase and an approval phase. Proposed § 60.22(d) defines the testing phase for an animal drug as the period beginning on the date when the marketing applicant began a major health or environmental effects test or the effective date for a notice of claimed investigational exemption for a new animal drug (INAD), whichever is earlier, and ending when the marketing applicant initially submitted a new animal drug application (NADA). The approval phase is the time between initial submission of the NADA and its approval.

FDA believes that the date on which the agency acknowledges the filing of an INAD should constitute the "effective date" for an INAD. The date on which a NADA will be considered to have been initially submitted with respect to the animal drug product under section 512(b) of the act will be the date of FDA's official acknowledgment letter assigning a number to the NADA. FDA intends to adhere to current agency policy regarding NADA approval dates. In brief, the approval date for a NADA depends upon the type of new animal drug product. If the product is a dosage form drug, i.e., tablet, capsule, or soluble powder, or a Category I Type A medicated article that is not to be mixed with a Category II Type A medicated article, the NADA is approved when FDA sends a letter to the marketing applicant notifying it of the approval. If the product is a Category II Type A medicated article, approval is effective upon publication of the notice of approval in the **Federal Register.**

The regulatory review period for animal drugs, like that for food and color additives, can begin when a major health or environmental effects test is begun. 21 CFR 60.22(b)(1) defines a "major health or environmental effects test". Rather than repeat this definition in a separate section corresponding to an animal drug product's regulatory review period, FDA proposes to transfer the existing definition to a new § 60.22(e) which would be applicable to animal drug products as well as food and color additives.

FDA also proposes in § 60.22 to redesignate existing paragraph (d) as new paragraph (f) to accommodate the proposed amendments discussed above. FDA further proposes to add a sentence to the end of new paragraph (f) to clarify the meaning of the term "regulatory review period" for animal drugs.

III. Economic Assessment

The agency has considered the economic impact of this rule and the relationship of its requirements to Public Law 100–670. The patent term restoration provisions in Public Law 100–670 will result in economic consequences for affected patent holders and their competitors.

The agency concludes, however, that this rule is not a "major rule" as defined by Executive Order 12291 and does not require a regulatory impact analysis. Similarly, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–611, Pub. L. 96–354).

IV. Environmental Impact

The agency has determined that under 21 CFR 25.24(a)(8), this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1980

This proposed rule does not add any information collection requirements to 21 CFR part 60 although, pursuant to law, it does expand the scope of eligible products.

VI. Request for Comments

Interested persons may, on or before April 15, 1991, submit to the Dockets Management Branch (address above), written comments on this recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and 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 though Friday.

List of Subjects in 21 CFR Part 60

Administrative practice and procedure, Drug, Food additives, Inventions and patents, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, the Drug Price Competition and Patent Term Restoration Act, and the Generic Animal Drug and Patent Term Restoration Act, it is proposed that 21 CFR part 60 be amended as follows:

PART 60—PATENT TERM RESTORATION

1. The authority citation for 21 CFR part 60 is revised to read as follows:

Authority: Secs. 409, 505, 507, 515, 520, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348, 355, 357, 360e, 360j, 371, 376); sec. 351 of the Public Health Service Act (42 U.S.C. 262); 35 U.S.C. 156.

2. Section 60.1 is amended in the introductory text of paragraph (a) by revising the second sentence to read as follows:

§ 60.1 Scope.

(a) * * * Patent term restoration is available for certain patents related to drug products (as defined in 35 U.S.C. 156(f)(2)), and to medical devices, food additives, or color additives subject to regulation under the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act. * * *

* * * * *

3. Section 60.3 is amended by revising the first sentence in paragraph (b)(2), the first sentence in paragraph (b)(5), and paragraphs (b)(11) (ii) and (iii), by adding new paragraph (b)(11) (iv), by revising paragraphs (b)(12) (ii) and (iii), by adding new paragraph (b)(12)(iv), by revising paragraph (b)(14), and by adding new paragraph (b)(16), to read as follows:

§ 60.3 Definitions.

* * * * *

(b) * * *

(2) *Active ingredient* means any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or of animals. * * *

* * * * *

(5) *Clinical investigation or study* means any experiment that involves a test article and one or more subjects and that is either subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), 512(j), or 520(g) of the Federal Food, Drug, and Cosmetic Act, or is not subject to the requirements for prior submission to FDA under those sections of the Federal Food, Drug, and Cosmetic Act, but the results of which are intended to be submitted later to, or held for inspection by, FDA as part of an application for a research or marketing permit. * * *

* * * * *

(11) * * *

(ii) Section 515 of the Act (medical devices);

(iii) Section 409 or 706 of the Act (food and color additives); or

(iv) Section 512 of the Act (animal drug products).

(12) * * *

(ii) Medical devices submitted under section 515 of the Act;

(iii) Food and color additives submitted under section 409 or 706 of the Act; or

(iv) Animal drug products submitted under section 512 of the Act.

* * * * *

(14) *Product* means a human drug product, animal drug product, medical device, food additive, or color additive, as those terms are defined in this section.

* * * * *

(16) *Animal drug product* means the active ingredient of a new animal drug (as that term is used in the Act) that is not primarily manufactured using recombinant deoxyribonucleic acid (DNA), recombinant ribonucleic acid (RNA), hybidoma technology, or other processes involving site-specific genetic manipulation techniques, including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient.

3. Section 60.10 is revised to read as follows:

§ 60.10 FDA assistance on eligibility.

(a) Upon written request from PTO, FDA will assist PTO in determining whether a patent related to a product is eligible for patent term restoration as follows:

(1) Verifying whether the product was subject to a regulatory review period before its commercial marketing or use;

(2) For human drug products, food additives, color additives, and medical devices, determining whether the permission for commercial marketing or use of the product after the regulatory review period is the first permitted commercial marketing or use of the product either:

(i) Under the provision of law under which the regulatory review period occurred; or

(ii) Under the process claimed in the patent when the patent claims a method of manufacturing the product that primarily uses recombinant deoxyribonucleic acid (DNA) technology in the manufacture of the product;

(3) For animal drug products, determining whether the permission for commercial marketing or use of the product after the regulatory review period:

(i) Is the first permitted commercial marketing or use of the product; or

(ii) Is the first permitted commercial marketing or use of the product for administration to a food-producing animal, whichever is applicable, under the provision of law under which the regulatory review period occurred;

(4) Informing PTO whether the patent term restoration application was submitted within 60 days after the product was approved for marketing or use, or, if the product is an animal drug approved for use in a food-producing animal, verifying whether the application was filed within 60 days of the first approval for marketing or use in a food-producing animal; and

(5) Providing PTO with any other information relevant to PTO's determination of whether a patent related to a product is eligible for patent term restoration.

(b) FDA will notify PTO of its findings in writing, send a copy of this notification to the applicant, and file a copy of the notification in the docket established for the application in FDA's Dockets Management Branch (HFA–305), Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

4. Section 60.22 is amended by revising paragraph (b)(1), by redesignating existing paragraph (d) as paragraph (f), by adding new paragraphs (d) and (e), and by removing the period at the end of newly redesignated paragraph (f) and adding the following text to read as follows:

§ 60.22 Regulatory review period determinations.

* * * * *

(b) * * *

(1) The testing phase begins on the date a major health or environmental effects test is begun and ends on the date a petition relying on the test and requesting the issuance of a regulation for use of the additive under section 409 or 706 of the Act is initially submitted to FDA.

* * * * *

(d) For animal drugs:

(1) The testing phase begins on the date a major health or environmental effects test is begun or the date on which the agency acknowledges the filing of a notice of claimed investigational exemption for a new animal drug, whichever is earlier, and ends on the date a marketing application under section 512 of the Act is initially submitted to FDA.

(2) The approval phase begins on the date a marketing application under section 512 of the Act is initially submitted to FDA and ends on the date the application is approved.

(3) For purposes of this section, a "major health or environmental effects test" may be any test which:

(1) Is reasonably related to the evaluation of the product's health or environmental effects, or both;

(2) Produces data necessary for marketing approval; and

(3) Is conducted over a period of no less than 6 months duration, excluding time required to analyze or evaluated test results.

(f) * * *, or, in the case of a new animal drug in a Category II Type A medicated article, on the date of publication in the **Federal Register** of the notice of approval pursuant to section 512(i) of the Act. For purposes of this section, the regulatory review period for an animal drug shall mean either the regulatory review period relating to the drug's approval for use in nonfood-producing animals or the regulatory review period relating to the drug's approval for use in food-producing animals, whichever is applicable.

Dated: November 26, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 91–3429 Filed 2–12–91; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 185

[OPP-300226; FRL-3841-1]

RIN 2070-AC18

Dichlorvos; Revocation of Tolerance and Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke the tolerance for residues of the pesticide dichlorvos (2,2-dichlorovinyl dimethyl phosphate), also known as DDVP, in or on figs and the food additive regulation for dried figs. EPA is initiating this action because there are no remaining domestic registrations for the use of DDVP on figs.

DATES: Written comments, identified by the document control number (OPP-300226), must be received on or before April 1, 1991.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m until 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Sepehr Haddad, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Rm. 2N5, Westfield Building, 3rd Floor, 2805 Jefferson Davis Hwy., Arlington, VA, (703)–308–8027.

SUPPLEMENTARY INFORMATION: EPA is proposing to revoke the tolerance in or on figs, and the food additive regulation for dried figs, under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), for the pesticide dichlorvos (2,2-dichlorovinyl dimethyl phosphate), also known as DDVP. This revocation is being proposed because DDVP is no longer registered for use on figs, and a tolerance is generally not necessary for a pesticide chemical which is not registered for the particular food use. Tolerances for residues of DDVP, expressed in parts per million (ppm) in or on raw agricultural commodities, are codified in 40 CFR 180.235. A tolerance of 0.1 ppm is set for residues of DDVP in or on figs. A food additive tolerance of 0.5 ppm for residues of DDVP in or on dried figs is codified in 40 CFR 185.1900.

Dichlorvos (DDVP) is an insecticide registered for use on a number of sites including a variety of food crops, in stored foods and processed foods, in commercial, institutional, and industrial buildings, as well as domestic use in homes. EPA initiated a Special Review (previously referred to as a Rebuttable Presumption Against Registration) for pesticide products containing dichlorvos which was published in the **Federal Register** on February 24, 1988 (53 FR 5542). Dichlorvos has been classified as a possible human carcinogen based on effects observed in mice and rats. EPA initiated the Special Review after it had determined that exposure to dichlorvos from the registered uses may pose a carcinogenic risk and result in inadequate margins of exposure for cholinesterase inhibition and liver effects for exposed individuals. During the on-going Special Review, EPA is examining the risks and benefits of using dichlorvos and will determine whether such uses should be cancelled or otherwise regulated.

The use of dichlorvos on figs was cancelled in October 1989 (54 FR 42936). EPA believes sufficient time has passed since the last use of dichlorvos on figs to permit revocation of the tolerances at this time without risking potential seizure of properly treated commodities in channels of trade. EPA believes there would be insignificant or no adverse economic impact related to the revocation of the tolerance for figs or the revocation of the food additive regulation in dried figs. For these reasons, EPA is proposing to revoke this tolerance and food additive regulation.

Any person who has registered or submitted an application for the registration of a pesticide under FIFRA, as amended, which contains dichlorvos for use on figs may request within 30 days after publication in the **Federal Register** that this proposed rule be referred to an advisory committee in accordance with section 408(e) of FFDCA.

Interested persons are invited to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by April 1, 1991. Comments must bear a notation indicating the document control number (OPP- 300226). Three copies of the comments should be submitted to the address listed above under "Addresses." All written comments filed pursuant to this document will be available for public inspection in Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis specified by Executive Order 12291 and the Regulatory Flexibility Act, EPA has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 246 at the address given above.

Executive Order 12291

Under Executive Order 12291, EPA must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a major regulatory action, i.e., it will not cause a major increase in prices and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

Because there is no existing registration for the use of dichlorvos on figs, and because it is estimated that all existing stocks have been exhausted, EPA anticipates little or no economic impact would occur at any level of business enterprise if these tolerances are revoked.

Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by the

Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (section 408(m) of the FFDCA (21 U.S.C. 346a(m)).

List of Subjects in 40 CFR Parts 180 and 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 2, 1991.

Linda J.Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR parts 180 and 185 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.235 [Amended]

b. In § 180.235 *2,2-Dichlorvinyl dimethyl phosphate*, by amending paragraph (a) by removing from the table therein the entry for figs.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 185.1900 is revised to read as follows:

§ 185.1900 2,2-Dichlorvinyl dimethyl phosphate.

The food additive 2,2-dichlorovinyl dimethyl phosphate may be present as a residue, from application as an insecticide on packaged or bagged nonperishable processed food (see: 21 CFR 170.3 (j)) in an amount in such food not in excess of 0.5 part per million (ppm). To assure safe use of the insecticide, its label and labeling shall conform to the label and labeling registered by the U.S. Environmental Protection Agency, and the usage employed shall conform with such label or labeling.

[FR Doc. 91-3226 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-F

NATIONAL SCIENCE FOUNDATION

45 CFR Part 689

Misconduct in Science and Engineering

AGENCY: National Science Foundation.

ACTION: Proposed rule.

SUMMARY: The National Science Foundation proposes to amend 45 CFR part 689 regarding misconduct in science and engineering. The amendments clarify the scope of the misconduct regulations and the procedures followed by the Office of Inspector General in misconduct cases; they also conform the regulations to the authority of the Office of Inspector General over the duties of the former Division of Audit and Oversight in NSF's Office of Budget, Audit, and Control.

DATES: Comments must be received on or before March 15, 1991.

ADDRESSES: Interested persons may submit written comments to Linda G. Sundro, Inspector General, Office of Inspector General, NSF, Washington, DC 20550 (202-357-9457).

FOR FURTHER INFORMATION CONTACT: Monte Fisher, Ph.D. (Assistant Counsel to the Inspector General), 202-357-9457.

SUPPLEMENTARY INFORMATION: Amendment of 45 CFR part 689 is necessary to make technical changes and clarify certain procedures regarding the handling of allegations of misconduct in science or engineering by the National Science Foundation. This amendment has been coordinated with the Office of Science and Technology Policy of the Office of the President, the Office of Scientific Integrity of the Public Health Service, HHS, and the Office of Scientific Integrity Review of the Public Health Service.

References to the Predecessor of the Office of Inspector General

The Office of Inspector General (OIG) of the National Science Foundation (NSF) was established on February 10, 1989, pursuant to the 1988 Inspector General Act Amendments, Public Law 100-504. Before then, NSF's Division of Audit and Oversight (DAO) in the Office of Budget and Control was responsible for audit and oversight of the financial, administrative, and programmatic aspects of NSF's activities. DAO responsibilities which were transferred to OIG included overseeing and coordinating NSF activities related to misconduct, conducting NSF inquiries and investigations into suspected or alleged misconduct, and, except where otherwise provided, speaking and acting for NSF with affected individuals and institutions, under 45 CFR part 689.

Under the proposed amendment, all references to the Division of Audit and Oversight or DAO in part 689 are replaced with Office of Inspector General or OIG.

Recognition of OIG's Legal Capability

The current regulations in part 689 require the former Division of Audit and Oversight (DAO) to seek the aid of NSF's Office of the General Counsel on occasions requiring legal advice, because DAO possessed no internal legal capability. Now that part 689 is under the aegis of OIG, which has its own Office of Counsel, seeking the advice of NSF's counsel is neither necessary nor appropriate. Under the proposed amendment, the references to OGC are deleted.

Clarification of the Definition of Misconduct

The National Science Foundation was established to promote and advance scientific progress, which it does primarily by sponsoring scientific and engineering research and education. Under the proposed amendment, part 689 is revised to clarify that it applies to misconduct, not just in research, but in any activity funded by NSF.

The second and third clauses of the definition of misconduct in paragraph 689.1(a) are unnecessary, because they either are subject to other enforcement procedures and penalties, or are covered by the "other serious deviation from accepted practices" language in the first clause of the definition of misconduct, and they are deleted under the proposed amendment. As a consequence, paragraph 689.1(b) is revised under the proposed amendment to conform with the revised definition of misconduct in § 689.1(a).

NSF has always interpreted "serious deviation from accepted practices" as including retaliation against an individual who in good faith reports misconduct. In order to emphasize NSF's intention to encourage and protect good faith whistleblowers, under the proposed amendment retaliation against good faith whistleblowers is explicitly included in the definition of misconduct.

Inquiries and Investigations

Under the proposed amendment, the definition of "inquiry" in paragraph 689.1(c) is revised to emphasize the extremely preliminary nature of that undertaking. Under the proposed amendment, an investigation must be undertaken if the inquiry determines the

allegation or apparent instance of misconduct has substance.

The definition of "investigation" in paragraph 689.1(c) is revised under the proposed amendment by deleting "NSF" from the phrase "appropriate NSF action". This clarifies that any appropriate action may be considered after misconduct has been confirmed.

Reference to Debarment and Suspension Regulations

Paragraph 689.1(e) provides that "Debarment, suspension, or termination of an award for misconduct will be imposed only after further procedures described in applicable debarment and suspension regulations", which are found at 45 CFR part 620. The misconduct regulations in part 689 were promulgated on July 1, 1987 (52 FR 24468), before the debarment and suspension regulations in part 620 were finalized on May 26, 1988 (53 FR 19160 at 19200–201). Ambiguity that existed when the misconduct regulations were promulgated is not absent, necessitating several technical amendments. Amendments are also required to clarify the sequence of procedures to be followed when a misconduct matter under part 689 requires reference to the regulations governing debarment or suspension under part 620.

Technical revisions: Under the proposed amendment, paragraphs 689.1(e) and 689.2(a)(3)(i) are revised to reflect the fact that termination of an award is not specifically addressed by the debarment and suspension, or any other, regulations. Paragraph 689.1(e) is further revised under the proposed amendment to reflect the fact that misconduct proceedings under part 689 merely borrow the procedures, but not the substance, of the debarment and suspension regulations in part 620.

Procedural clarifications: Under the proposed amendment, the applicable procedures of part 620 are explicitly referred to in the misconduct regulations. Misconduct cases under part 689 in which suspension is required are referred to the suspension procedures of part 620, cases in which debarment is a likely disposition are referred to the debarment procedures in part 620, and all other cases advance wholly via the procedures in part 689.

Under the proposed amendment, § 689.7, which deals with interim administrative actions, contains a reference to the suspension procedures in part 620 appropriate cases. The suspension procedures in part 620 are followed and the suspending official will be either the Deputy Director or the Deputy's designee.

Under the proposed amendment, paragraph 689.8(c), which describes procedures to be followed when an investigation has confirmed misconduct, contains a reference to the debarment procedures in part 620 for appropriate cases. The debarment procedures in part 620 are followed and (1) The debarring official is the Deputy Director or the Deputy's designee, (2) the investigation report will generally be provided to the subject, and (3) if debarred, the subject will be instructed how to pursue and appeal to the Director.

Appeals: Under the proposed amendment, §§ 689.8 and 689.9 are revised to clarify that all cases are entitled to an appeal to the Director.

Determinations

I have determined, under the criteria set forth in Executive Order 12291, that this rule is not a "major rule" requiring a regulatory impact analysis. I also certify, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, that this rule will not have a significant economic impact on any substantial number of small entities.

List of Subjects in 45 CFR Part 689

Misconduct, Debarment and suspension, Fraud.

For the reasons set out in the preamble, title 45, chapter VI of the Code of Federal Regulations, is amended as set forth below. Text that is added under the proposed amendment is shown enclosed in arrows (i.e. "►text to be added◄"), and text to be removed under the proposed amendment is shown enclosed in brackets (i.e. "[text to be removed]").

1. The title of part 689 is revised to read as follows:

PART 689—MISCONDUCT IN SCIENCE AND ENGINEERING [RESEARCH]

2. The authority for part 689 would continue to read as follows:

Authority: Sec. 11(a), National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(a))

3. Section 689.1 is amended by revising paragraphs (a) through (c), (e), and (f) to read as follows:

§ 689.1 General policies and responsibilities.

(a) *Misconduct* means:

(1) Fabrication, falsification, plagiarism, or other serious deviation from accepted practices►,◄ in proposing, carrying out, or reporting results from►, activities funded by NSF◄ [research]; ►or◄

(2) ►Retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith◄ [material failure to comply with Federal requirements for protection of researchers, human subjects, or the public or for ensuring the welfare of laboratory animals; or

(3) Failure to meet other material legal requirements governing research].

(b) The NSF will take appropriate action against individuals or institutions upon a determination that misconduct has occurred ►in proposing, carrying out, or reporting results from, activities funded by NSF◄ [under an NSF award]. It may also take interim action during an investigation. Possible actions are described in § 689.2.

(c) NSF will find misconduct only after careful inquiry and investigation by an awarded institution, by another Federal agency, or by NSF. An "inquiry" consists of ►preliminary◄ information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct ►has substance◄ [warrants an investigation]. ►An investigation must be undertaken if the inquiry determines the allegation or apparent instance of misconduct has substance.◄ An "investigation" is a formal examination and evaluation of relevant facts to determine whether misconduct has taken place or, if misconduct has already been confirmed, to assess its extent and consequences or determine appropriate [NSF] action.

* * * * *

(e) Debarment[,] ►or◄ suspension[, or termination of an award] for misconduct will be imposed only after further procedures described in applicable debarment and suspension regulations►, as described §§ in 689.8 and 689.7, respectively. Severe misconduct, as established under these regulations, is an independent cause for debarment or suspension under the procedures established by the debarment and suspension regulation◄. [Nothing in these regulations shall preclude integrated and concurrent procedures under these regulations and the debarment and suspension regulations.]

(f) The ►Office of Inspector General (OIG)◄ [Division of Audit and Oversight (DAO) in the Office of Budget, Audit, and Control,] oversees and coordinates NSF activities related to misconduct, conducts any NSF injuries and investigations into suspected or alleged misconduct, conducts any NSF inquiries and investigations into suspected or alleged misconduct, and except where otherwise provided, speaks and acts for NSF with affected

individuals and institutions. [The Office of the General Counsel (OGC) advises DAO and represents NSF on any current or potential criminal prosecution, current or potential litigation, or significant legal questions that arise.]

4. Section 689.2 is amended by revising paragraph (a)(3)(i) to read as follows:

§ 689.2 Actions.

(a)* * *

(3) Group III Actions. (i) Immediately suspend or terminate an active award [under appropriate NSF regulations.]

* * * * *

5. Section 689.4 is amended by revising paragraphs (a), (c), (d) introductory test, (e) and (f) to read as follows:

§ 689.4 Initial NSF handling of misconduct matters.

(a) NSF staff who learn of alleged misconduct will promptly and discreetly inform ►OIG◄ [DAO] or refer informants to ►OIG◄ [DAO].

* * * * *

(c) If alleged misconduct may involve a crime, ►OIG◄ [DAO will promptly consult with OGC, which] will determine whether any criminal investigation is already pending or projected. If not, ►OIG◄ [OGC and DAO] will determined whether the matter should be referred to the Department of Justice.

(d) Otherwise ►OIG◄ [DAO] may:

* * * * *

(e) if ►OIG◄ [DAO] proceeds with its own inquiry it will normally complete the inquiry no more than 60 days after initiating it.

(f) On the basis of what it learns from an inquiry and in consultation as appropriate with other NSF offices, ►OIG◄ [DAO] will decide whether a formal NSF investigation is warranted.

6. Section 689.5 is amended by revising paragraphs (a) through (c) and (f) to read as follows:

§ 689.5 Investigations.

(a) When an awardee institution or another Federal agency has promptly initiated its own investigation, ►OIG◄ [DAO] may defer any NSF inquiry or investigation until it receives the results of that external investigation. If it does not receive the results within 180 days, ►OIG◄ [DAO] will ordinarily proceed with its own investigation.

(b) if ►OIG◄ [DAO] decides to initiate an NSF investigation, it must give prompt written notice to the individual or institutions to be investigated, unless notice would prejudice the investigation or unless a criminal investigation is underway or under active consideration. If notice is delayed, it must be given as soon as it will no longer prejudice the investigation or contravene requirements of law or Federal law-enforcement policies.

(c) If a criminal investigation by the Department of Justice, the Federal Bureau of Investigation, or another Federal agency is underway or under active consideration by these agencies or the NSF, ►OIG will determine◄ [OGC will advise DAO] what information, if any, may be disclosed to the subject of the investigation or to other NSF employees.

* * * * *

(f) ►OIG◄ [DAO] will make every reasonable effort to complete an NSF investigation and to report within 120 days after initiating it. If ►OIG◄ [DAO] cannot report within 120 days, it should submit to the Deputy Director within 90 days an interim report and an estimated schedule for completion of the final report.

7. Section 689.6 is revised to read as follows:

§ 689.6 Pending proposals and awards.

(a) Upon learning of alleged misconduct ►OIG◄ [DAO] will identify potentially implicated awards or proposals and, when appropriate, will ensure that program and DGC officials handling them are informed (subject to § 689.5(c)).

(b) Neither a suspicion or allegation of misconduct nor a pending inquiry or investigation will normally delay review of proposals. To avoid influencing reviews, reviewers or panelists will *not* be informed of allegations or of ongoing inquiries or investigations. However, if allegations, inquiries, or investigations have been rumored or publicized, the responsible Assistant Director may, in consultation with ►OIG◄ [DAO], either defer a review or inform reviewers of the status of the matter.

8. In § 689.7, paragraphs (b) through (d) are redesignated as paragraphs (c) through (e) and revised, paragraph (a) is revised, and new paragraph (b) is added to read as follows:

§ 689.7 Interim administrative actions.

(a) After the inquiry or during an external or NSF investigation the Deputy Director may order that interim actions (as described in § 689.2(c)) be taken to protect Federal resources or to guard against continuation of any suspected or alleged misconduct. Such an order will normally be issued on recommendation from ►OIG◄ [DAO] and in consultation with DGC [OGC,] the responsible Directorate, and other parts of the Foundation as appropriate.

►(b) When suspension is determined to be appropriate, the case will be referred to the suspending official pursuant to 45 CFR 620.410(a), and the suspension procedures of 45 CFR part 620 will be followed, but the suspending official (see 620.105(t)) will be either the Deputy Director or an official designated by the Deputy Director.◄

►(c)◄ [(b)] Such interim actions may be taken whenever information developed during an investigation indicates a need to do so. Any interim action will be reviewed periodically during an investigation and modified as warranted. An interested party may request a review and modification of any interim action.

►(d)◄ [(c)] The Deputy Director will make and ►OIG◄ [DAO] will retain a record of interim actions taken and the reasons for taking them.

►(e)◄ [(d)] Interim administrative actions are not final agency actions subject to appeal.

9. In § 689.8, paragraphs (c)(1), (c)(2), and (d) are redesignated as paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) and revised, new paragraph (c)(1) is added; and paragraphs (a) and (b)(1) are revised to read as follows:

§ 689.8 Dispositions.

(a) After receiving a report from an external investigation by an awardee institution or another Federal agency►, OIG◄ [DAO] will assess the accuracy and completeness of the report and whether the investigating entity followed usual and reasonable procedures. It will either recommend adoption of the findings in whole or in part or, normally within 30 days, initiate a new investigation.

(b) * * *

(1) ►OIG◄ [DAO] will notify the subject of the investigation and, if appropriate, those who reported the suspected or alleged misconduct. This notification may include the investigation report.

* * * * *

(c) When any satisfactory investigation confirms misconduct,

►(1) In cases in which debarment is considered by OIG to be an appropriate disposition, the case will be referred to the debarring official pursuant to 45 CFR 620.311, and the procedures of 45 CFR part 620 will be followed, but:

(i) The debarring official (see § 620.105(g)) will be either the Deputy Director, or an official designated by the Deputy Director.

(ii) Except in unusual circumstances, the investigation report will be included among the materials provided to the subject of the investigation as part of the

notice of proposed debarment (see § 620.312).

(iii) The notice of the debarring official's decision (see § 620.314(d)) will include instructions on how to pursue an appeal to the Director.

(2) In all other cases,

►(i)◄ [(1)] Except in unusual circumstances, the investigation report will be provided by ►OIG◄ [DAO] to the subject of the investigation, who will be invited to submit comments or rebuttal. Comments or rebuttal submitted within the period allowed, normally thirty days, will receive full consideration and may lead to revision of the report or of a recommended disposition.

►(ii)◄ [(2)] Normally within 45 days after completing an NSF investigation or receiving the report from a satisfactory external investigation, ►OIG◄ [DAO] will submit to the Deputy Director the investigation report, any comments or rebuttal from the subject of the investigation, and a recommended disposition. The recommended disposition will propose any final actions to be taken by NSF. Section 689.2 lists possible final actions and considerations to be used in determining them.

►(iii)◄ [(d)] The Deputy Director will review the investigative report and ►OIG's◄ [DAO's] recommended disposition. Before issuing a disposition the Deputy Director may initiate further hearings or investigation. Normally within thirty days after receiving ►OIG◄ [DAO]'s recommendations or after completion of any further proceedings, the Deputy Director will send the affected individual or institution a written disposition, specifying actions to be taken. The decision will include instructions on how to pursue an appeal ►to the Director◄.

10. Section 689.9 is amended by revising paragraph (a) to read as follows:

§ 689.9 Appeals.

(a) [In case of debarment, suspension, or termination of an award for misconduct, the appeals provided for in NSF regulations will be available. In all other cases, an] ►An◄ affected individual or institution may appeal to the Director in writing within 30 days after receiving the Deputy Director's written decision. The Deputy Director's decision becomes a final administrative action if it is not appealed within the 30 day period.

* * * * *

Dated: February 7, 1991.

Frederick M. Bernthal,

Acting Director, National Science Foundation.

[FR Doc. 91-3426 Filed 2-12-91; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Trailer Conspicuity Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement concerning a rulemaking proceeding that would impose new requirements regarding conspicuity of certain large vehicles.

SUMMARY: This notice announces the forthcoming publication of a notice of proposed rulemaking addressed to making large trailers more visible on that road, following upon NHTSA's ANPRM published in 1980 and its Request for Comments published in 1987.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Rulemaking, NHTSA, Washington, DC (202-366-6346).

SUPPLEMENTARY INFORMATION:

The Motor Carrier Safety Act of 1990

In the Motor Carrier Safety Act of 1990 (section 15, Pub. L 101-500), Congress directs the Secretary of Transportation "to initiate a rulemaking proceeding on the need to adopt methods of making trucks or any category of trucks more visible to motorists * * *" not later than February 3, 1991, and to complete the rulemaking proceeding not later than November 3, 1992. NHTSA, whose previous notices and research under the National Traffic and Motor Vehicle Safety Act concerning the visibility of large vehicles predate the 1990 Act by as much as 10 years, has been developing a notice of proposed rulemaking for some time. The purpose of this notice is to announce that NHTSA expects to publish the proposal during the first half of 1991.

NHTSA's Concern With Visibility of Large Vehicles

On May 27, 1980, the agency issued an ANPRM (45 FR 35405) requesting comments on methods to reduce collisions involving heavy trucks and truck trailer combinations by improving the conspicuity of large commercial vehicles that could lead to the issuance of a proposal. Forty-two comments were received, most of which favored the concept.

NHTSA Fleet Study

Between 1980 and 1985, the agency sponsored a fleet study in which retroreflective material was placed on truck-van trailer combinations in a manner designed to increase their conspicuity. The material was placed on each trailer so as to outline the perimeter of its rear and delineate the lower edge of its side. No reflectorized mud flaps were used. The study contractor concluded that truck-trailer combinations equipped with this material were involved in 15 percent fewer crashes in which a trailer was struck in the side or rear by another vehicle than combinations lacking the material.

1987 Request for Comments

The agency published a Notice of Request for Comments on September 18, 1987 (52 FR 35345) concerning the use of reflective material to increase the conspicuity of large trucks and trailers. The Notice recited the results of the fleet study and sought comments on the test results as well as the experiences others may have had with the use of reflective material to enhance conspicuity. Forty-one comments were received, most agreeing that an effectiveness of 15 percent could be expected when all large vehicles were so equipped with reflective material.

The forthcoming notice of proposed rulemaking will respond to those comments and set forth the agency's tentative conclusions as to which large vehicles should be made more conspicuous to other motorists during darkness and under other conditions of reduced visibility and as to how the improved conspicuity should be accomplished.

Issued on Feburary 7, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-3342 Filed 2-12-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

Shrimp Fishery of the Gulf of Mexico

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

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

SUMMARY: NOAA announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 5 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) for review by the Secretary of Commerce (Secretary). Written comments are requested for the public.

DATES: Written comments must be received on or before April 11, 1991.

ADDRESSES: Copies of the amendment are available from the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida 33609. Comments should be sent to Michael E. Justen, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended, requires that a Council-prepared fishery management plan or amendment be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary immediately publish a notice that the document is available for public review and comment. The Secretary will consider public comment in determining approvability of the document.

In July 1989, NOAA published revised guidelines interpreting the Magnuson Act's national standards for fishery management plans. In compliance with the revised guidelines, Amendment 5 proposes to add to the FMP a definition of overfishing and measures to restore the shrimp resource should overfishing occur. In addition, Amendment 5 would (1) change the commencement date of the closure to trawl fishing of the executive economic zone off Texas (Texas closure) from June 1 to May 15 and extend the maximum allowable Texas closure to 90 days; and (2) remove seabobs and rock shrimp from the management unit but retain them in the fishery for data collection purposes.

Proposed regulations to implement Amendment 5 are scheduled to be published within 15 days.

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

Dated: February 8, 1991.

David S. Crestin,

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

[FR Doc. 91–3474 Filed 2–8–91; 2:44 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 30
Wednesday, February 13, 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.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Interpreters in Courts of the United States; Announcement of Spanish/English Certification Examination

AGENCY: Administrative Office of the United States Courts.

ACTION: Notice of Spanish/English Certification Examination for Court Interpreters.

SUMMARY: The Administrative Office of the United States Courts will conduct the written portion of the certification examination for individuals who desire to be certified to serve as Spanish/English interpreters in courts of the United States in accordance with the Court Interpreters Act, Public Law No. 95–539, 92 Stat. 2040 (1978) (28 U.S.C. 1827). To sit for the examination, an individual must file a written application.

DATES: The agency will administer the written portion of the examination April 13, 1991, at 1 p.m. The deadline for filing of application is 4 p.m. on April 1, 1991.

ADDRESSES: Mailed applications along with a $40 money order, cashier's check, or personal check payable to University of Arizona Federal Court Project are to be sent to: Federal Court Interpreters Certification Project, Modern Language Building, room 456, University of Arizona, Tucson, Arizona 85721.

FOR FURTHER INFORMATION CONTACT: Dr. Roseann Gonzalez, University of Arizona, telephone (602) 621–3687 (mountain time).

SUPPLEMENTARY INFORMATION:

I. Background

The Director of the Administrative Office of the United States Courts (AOUSC) is responsible for the establishment of a program to facilitate the use of Interpreters in courts of the United States. He must prescribe, determine, and certify the qualifications of persons who may serve as certified Interpreters in bilingual proceedings and proceedings involving the hearing impaired (28 U.S.C. 1827(b)). Whenever an Interpreter is required for a person in any criminal or civil action initiated by the United States, the presiding judicial officer must utilize the services of a certified interpreter, unless no certified interpreter is reasonably available.

The AOUSC will provide the courts with a roster of certified court interpreters selected on the basis of the successful completion of written and oral examinations in English and a foreign language.

II. This Examination

This examination will be a comprehensive written and oral examination for bilingual proficiency in Spanish and English, developed and administered under contract by the University of Arizona.

The written portion of the examination does not necessarily require the special knowledge of legal vocabulary. Each applicant who completes successfully the written portion will be eligible for the oral examination. Successful applicants will receive notice of the time and place of the oral portion of the examination.

The oral portion of the examination will test, in simulated settings, the applicant's ability to: (1) Interpret precisely from Spanish to English, in consecutive, simultaneous, and summary modes; (2) interpret from English to Spanish in consecutive, simultaneous, and summary modes; (3) perform sight interpretation. The oral portion of the examination does not necessarily require previous experience in court interpreting.

Testing Sites

Applicants may sit for the written examination at any of the locations identified below. Applicants must identify the city for taking both the written and oral portions. For 1991, oral examination sites are limited to Phoenix, AZ; Los Angeles and San Francisco, CA; Washington, DC; Miami, FL; Atlanta, GA; Chicago, IL; New Orleans, LA; Boston, MA; Albuquerque, NM; New York City, NY; San Juan, PR; Houston and San Antonio, TX.

Written Testing Sites

Alabama: Mobile.
Alaska: Anchorage.
Arizona: Phoenix, Tucson.
California: Fresno, Los Angeles, Monterey, Sacramento, San Diego, San Francisco.
Colorado: Denver.
Connecticut: Hartford.
District of Columbia.
Florida: Miami, Orlando.
Georgia: Atlanta.
Hawaii: Honolulu.
Illinois: Chicago.
Louisiana: New Orleans.
Massachusetts: Boston.
Missouri: Kansas City.
Nevada: Las Vegas, Reno.
New Jersey: Newark, Trenton.
New Mexico: Albuquerque, Las Cruces, Santa Fe.
New York: Brooklyn, Buffalo, Manhattan.
Ohio: Cincinnati, Cleveland.
Puerto Rico: San Juan.
Texas: Brownsville, Corpus Christi, Dallas, Houston, Laredo, San Antonio.
Utah: Salt Lake City.
Washington: Seattle.

Filing

Written applications are preferred, but phone applications will be accepted if the fee is sent by April 1, 1991. If you do not have an application form, type or print the following information on 8½×11 paper:

1. Name.
2. Mailing address, incl. zip code.
3. Daytime telephone number.
4. Evening telephone number.
5. City for written examination.
6. City for oral examination.
7. Date of birth.
8. Social Security number.
9. Special arrangements necessary because of physical disability or keeping of the Sabbath.
10. I did/did not take the written and/or oral examination in 1989.
11. I.D. number of exam (if known).
12. Enclosed money order/check number.

Exam Procedures

You will receive an admission ticket to the exam shortly before the exam date. It will list the exact location of the exam. Present the admission ticket and a photo identification; driver's license, passport, work/student identification, etc., to be admitted to the exam.

III. Qualifications

There are no formal educational requirements for certification, either in languages or interpreting. However, the difficulty of the examination is at the college degree level of proficiency. Successful completion of the oral portion of the examination normally would require prior training or professional experience in simultaneous, consecutive, and summary interpreting.

IV. Duties

Successful completion of the examination will not necessarily lead to full-time employment. Interpreters satisfy most court needs as independent contractors. However, where full-time interpreters are needed, only certified interpreters will be eligible for appointment.

As the federal courts require full-time salaried interpreters, these interpreters will be chosen from the eligibility lists. The annual salary rante is JSP–10 to JSP–14 ($28,321–$52,406) for full-time salaried interpreters. For certified interpreters who provide services as independent contractors, the fee is presently $210 per day. (The fee may be increased to $250 this year.)

Court interpreters perform all or some of the following duties: (1) Interpret verbatim in simultaneous, consecutive, or summary mode a foreign language into English, and vice versa, at arraignments, preliminary hearings, pretrial hearings, trials, and other court proceedings; (2) transcribe for electronic sound recordings; and (3) translate technical, medical, and legal documents and correspondence for introduction as evidence.

L. Ralph Mecham,

Director.

[FR Doc. 91–3453 Filed 2–12–91; 8:45 am]

BILLING CODE 2210–01–M

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 noon, on March 6, 1991, at the Waikiki Trade Center, 2255 Kuhio Avenue, 11th Floor Conference Room, Honolulu, Hawaii 96815. The purpose of the meeting is to review current civil rights developments in the State and plan future program activities.

Persons desiring additional information, or planning a presentation to the committee, should contact Committee Chairperson Andre S. Tatibouet, or Philip Montez, Director of the Western Regional Division, (213) 894–3437, TDD (213) 894–0508. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, February 6, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–3353 Filed 2–12–91; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–816]

Antidumping Duty Order: Benzyl p-hydroxybenzoate from Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that Benzyl p-hydroxybenzoate (benzyl paraben) from Japan was being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that the establishment of an industry in the United States is materially retarded by reason of imports of benzyl paraben from Japan..

We will direct the U.S. Customs Service to terminate the suspension of liquidation for entries made before the date on which the ITC publishes its final affirmative determination and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries. We will also direct the Customs Service to require a cash deposit of estimated antidumping duties on all entires of benzyl paraben from Japan made on or after the date of publication in the **Federal Register** of the ITC's final determination.

EFFECTIVE DATE: February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Vicent Kane or Gary Bettger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; (202) 377–2815 or (202) 377–2239.

SCOPE OF INVESTIGATION: The product covered by this investigation is benzyl paraben. Benzyl paraben is currently classified under HTS item number 2918.29.50 (previously classified under item number 404.47 of the Tariff Schedules of the United States). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the investigation.

SUPPLEMENTARY INFORMATION: In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act), on November 15, 1990, the Department made its final determination that benzyl paraben from Japan is being sold at less than fair value (55 FR 48879, November 23, 1990). On February 5, 1991, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially retard the establishment of an industry in the United States.

Therefore, in accordance with sections 736 of the Act (19 U.S.C. 1673e), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of benzyl paraben from Japan. In accordance with section 736(b)(2), these antidumping duties will be assessed on all unliquidated entires to benzyl paraben from Japan entered, or withdrawn from warehouse, for consumption on or after the date on which the ITC publishes notice of its final affirmative determination in the **Federal Register**. Because the ITC found material retardation of the establishment of an industry in the United States, we will direct the U.S. Customs Service to terminate the suspension of liquidation for all entries of benzyl paraben from Japan entered, or withdrawn from warehouse, for consumption before the date on which the ITC publishes its final affirmative determination in the **Federal Register**, the and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entires. For entries made on or after publication of the ITC's final determination in the **Federal Register**, we will direct the Customs Service to require a deposit of estimated

antidumping duties in the amount specified below on all entries of benzyl paraben from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication in the **Federal Register** of the ITC's final determination.

Manufacturers/producers/exporters	Margin percentage
Ueno Fine Chemicals Industry, Ltd.	126.00
All others	126.00

This notice constitutes the antidumping duty order with respect to benzyl paraben from Japan, pursuant to sections 735(d) and 736(a) of the Act (19 U.S.C. 1673(d) and 1763e(a)). Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with sections 735(d) and 736(a) of the Act (19 U.S.C. 1673d(d) and 1673e(a)).

Dated: February 7, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-3473 Filed 2-12-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Intent To Revoke in Part Antidumping Duty Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of intent to revoke in part antidumping duty finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke in part the antidumping finding on roller chain, other than bicycle, from Japan with respect to Honda Motor Co., Ltd. Interested parties who object to this revocation in part must submit their comments in writing not later than 30 days from the date of publication of this notice in the **Federal Register**.

EFFECTIVE DATE: February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Jackie Johnson or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1973, the Department of Treasury ("Treasury") published an antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9926). The administering authorities have twice published tentative revocations of the antidumping finding with respect to Honda Motor Co., Ltd. ("Honda"). The first tentative revocation was made by Treasury on August 17, 1977 (42 FR 41517). The Department of Commerce ("the Department") subsequently published a second tentative revocation of the finding with respect to Honda on October 8, 1982 (47 FR 44597).

On October 23, 1985, the petitioner, American Chain Association ("ACA"), submitted an administrative review request covering Honda during the period April 1, 1981, through March 31, 1985. This review request covered a portion of the "gap period" between the end of the base period of no dumping, which was the basis for the issuance of the tentative revocation, and the date on which the tentative revocation was published in the **Federal Register**, as well as several subsequent review periods. On July 9, 1986, the Department published a notice of initiation of administrative review covering Honda, and the period October 1, 1980 through October 8, 1982 (the "gap period") (51 FR 24883). On October 2, 1990, the ACA withdraw its request for the 1980 through 1983 review periods.

Although generally a request for review must be withdrawn not later than 90 days after the date of publication of the notice of initiation of the requested review, the Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. 19 CFR 353.22(a)(5) (1990). Given the fact that petitioner withdrew its own request, that no significant work has yet been undertaken on these reviews, and that these reviews were initiated prior to the 90-day requirement, we deem it reasonable to extend the time limit in this case and allow withdrawal.

In ordinary circumstances, the Department would have reviewed the "gap period" before making a final determination on revocation, 19 CFR 353.54(f) (1988). However, since there is no longer an outstanding request for review of the gap period, the Department will not do so under these circumstances, and will deem the absence of a request for, or interest in pursuing, an administrative review as tantamount to having actually completed a review. As such, Honda's existing 0.00 percent *ad valorem* rate will be applied to the periods in question. Since the Department has determined that Honda had no sales at less than fair value up to the date of publication of the notice of tentative determination to revoke, we conclude that a final determination on revocation is appropriate in accordance with section 353.54(f) (1988) of the Department's regulations.

We are hereby notifying the public of our intent to revoke in part the antidumping finding on roller chain, other than bicycle, from Japan, with respect to Honda. If this intent to revoke in part is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Honda, and entered or withdrawn from warehouse for consumption on or after the date of the Department's initial publication of the tentative determination to revoke.

Opportunity to Object

Not later than 30 days from the date of publication of this notice in the **Federal Register**, interested parties, as defined in § 353.2(k) (1990) of the Department's regulations, may object to the Department's intent to revoke in part this antidumping finding. Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

This notice is in accordance with 19 CFR 353.54 (1988).

Dated: February 7, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-3471 Filed 2-12-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-090]

Certain Small Electric Motors of 5 to 150 Horsepower From Japan; Determination not to Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended investigation on certain small electric motors of 5 to 150 horsepower from Japan.

EFFECTIVE DATE: February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Bruce Harsh or Linda Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

Under 19 CFR 353.25(d)(4), the Department of Commerce ("the Department") may terminate a suspended investigation if for four consecutive annual anniversary months no interested party has requested an administrative review. On November 13, 1990, the Department published in the **Federal Register** (55 FR 47370) its notice of opportunity to request an administrative review of the agreement suspending the investigation on certain small electric motors of 5 to 150 horsepower from Japan (November 6, 1980; 53 FR 52358). The Department has not received a request to conduct such an administrative review for five consecutive annual anniversary months.

On November 1, 1990, the Department published in the **Federal Register** (55 FR 46092) its notice of intent to terminate the suspended investigation on certain small electric motors of 5 to 150 horsepower from Japan. Interested parties who objected to the proposed termination were provided the opportunity to submit their comments on or before November 30, 1990.

The Department received letters from Reliance Electric Company ("Reliance") and Siemens Energy & Automation, Inc. ("Siemens"), dated November 29, 1990, objecting to the Department's intent to terminate this suspended investigation. On December 13, 1990, the Department requested these companies to provide information demonstrating their status as "interested parties" in accordance with 19 CFR 353.2(k)(3). This regulation defines an interested party as "a producer in the United States of the like product or seller (other than a retailer) in the United States of the like product produced in the United States. On December 21, 1990, both Reliance and Siemens provided the Department with information demonstrating that they satisfied this regulatory definition. Since we determine that both companies possess standing to object to the Department's intent to terminate, the Department no longer intends to terminate the suspended investigation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: February 6, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91–3472 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Association, Department of Commerce, room 1600H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 91–00002." A summary of the application follows:

Summary of the Application

Applicant: Automotive Service Industry Association ("ASIA"), 444 North Michigan Avenue, Chicago, Illinois 60611, Contact: Louis R. Marchese, Attorney, Telephone: 312/782–1829.

Application No.: 91–00002.

Date Deemed Submitted: January 29, 1991.

Members (in addition to the applicant): Berryman Products, Inc., Arlington, TX; Federal-Mogul Corporation, Southfield, MI; Fel-Pro Incorporated, Skokie, IL; A.E. Clevite, Inc., Ann Arbor, MI (a subsidiary of T&N plc of Manchester, England); JS Products, Inc., Las Vegas, NV; KSG Industies, Inc., Wayne, PA; Kwik-Way International, Inc., Marion, IA; Sealed Power Technologies Limited Partnership Sealed Power Division, Muskegon, MI; Standard Motor Products, Inc., Long Island City, NY; Triangle Auto Parts Co., Inc., Cleveland, OH; Truck-Lite, Co. Inc., Falconer, NH; Wayburn-Bartel, Inc., Ann Arbor, MI (a subsidiary of T&N plc of Manchester, England).

Export Trade

1. Products

Automotive aftermarket products including replacement parts, accessories, tools and equipment.

2. Services

Engineering, design and related services related to Products and to contracts that substantially incorporate Products; servicing of Products; and training with respect to the use of Products.

3. Technology Rights

Proprietary rights to all kinds of technology associated with Products or Services including but not limited to patents, trademarks, service marks, trade names, copyrights (including neighboring rights), trade secrets, know-how, semiconductor mask works, utility models (including petty patents), plant breeders rights, industrial designs, and *sui generis* forms of bio-technology protection and computer software protection.

4. Export Trade Facilities Services (as they relate to the export of Products, Services and Technology Rights)

Marketing, selling, brokering, shipping, handling, common marketing and identification, consulting, international market research, advertising and sales promotion, trade show participation, insurance, product research and design, legal assistance,

services related to compliance with customs requirements, transportation, trade documentation and freight forwarding, communication and processing of sales leads and export orders, warehousing, foreign exchange, financing, taking title to goods, and liaison with foreign government agencies, trade associations and banking institutions.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) and Canada.

Export Trade Activities and Methods of Operation

1. ASIA and/or one or more of its Members may:

(a) Engage in joint bidding or other joint selling arrangements for Products, Services, and/or Technology Rights in Export Markets and allocate sales resulting from such arrangements;

(b) Establish export prices for sales of Products, Services, and/or Technology Rights by the Members in Export Markets, with each Member being free to deviate from such prices by whatever amount it sees fit;

(c) Discuss and reach agreements relating to the interface specifications and engineering requirements demanded by specific potential customers for Products for Export Markets;

(d) With respect to Products, Services, and/or Technology Rights, refuse to quote prices for, or to market or sell in, Export Markets;

(e) Solicit Member Supplies to sell their Products, Services and/or Technology Rights, and/or offer their Export Trade Facilitation Services through the certified activities of ASIA and/or its Members.

(f) Coordiante with respect to the installation and servicing of Products in Export Markets, including the establishment of joint warranty, service, and training centers in such markets;

(g) Licensed associated Technology Rights in conjunction with the sale of Products, but in all instances the terms of such licenses shall be determined solely by negotiations between the licensor Member and the export customer without coordination with ASIA or any other Member.

(h) Engage in joint promotional activites, such as advertising and trade shows, aimed at developing existing or new Export Markets; and

(i) Bring together from time to time groups of Members to plan and discuss how to fulfill the technical Product and Service requirements of specific export customers or particular Export Markets.

2. ASIA and/or its Members may enter into agreements wherein ASIA and/or one or more Members agree to act in certain countries or markets as the Members' exclusive or non-exclusive Export Intermediary for products and/or Services in that country or market. In such agreements, (i) ASIA or the Member(s) acting as an exclusive Export Intermediary may agree not to represent any other Supplier for sale in the relevant country or market; and (ii) Members may agree that they will export for sale in the relevant country or market only through ASIA or the Member(s) acting as exclusive Export Intermediary, and that they will not export independently to the relevant country or market, either directly or through any other Export Intermediary. When acting as an Export Intermediary, ASIA shall make its services available to any Member on non-discriminatory terms.

3. ASIA and/or its Members may exchange and disucss the following types of information solely about Export Markets:

(a) Information (other than information about the costs, output capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or United States business plans, strategies or methods) that is already generally available to the trade or public;

(b) Information about sales and marketing efforts for Export Markets; activities and opportunities for sales of Products and Services in Export Markets; selling strategies for Export Markets; pricing in Export Markets; projected demands in Export Markets; customary terms of sale in Export Markets; the types of Products available from competitors for sale in particular Export Markets, and the prices for such Products; and customer specifications for Products in Export Markets;

(c) Information about the export prices, quality, quantity, source, and delivery dates of Products available from Members for export, provided however that exchanges of information and discussions as to Product quantity, source, and delivery dates are on a transaction-by-transaction basis only;

(d) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by ASIA and its Members;

(e) Information about joint bidding, selling, or servicing arrangements for Export Markets and allocation of sales resulting from such arrangements among the Members;

(f) Information about expenses specific to exporting to and within Export Markets, including without limitation transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties and taxes;

(g) Information about U.S. and foreign legislation and regulations affecting sales in Export Markets; and

(h) Information about ASIA's or its Members' export operations, including without limitation sales and distribution networks established by ASIA or its Members in Export Markets; and prior export sales by Members (including export price information).

4. ASIA may provide its Members Suppliers the benefit of any Export Trade Facilitation Service to facilitate the export of Products by Export Markets. This may be accomplished by ASIA itself, or by agreement with Members or other parties.

5. ASIA and/or its Members may meet to engage in the activities described in paragraphs one through four above.

6. ASIA and/or its Members may forward to the appropriate individual Member requests for information received from a foreign government or its agent (including private pre-shipment inspection firms) concerning that Member's domestic or export activities (including prices and/or costs), and if such individual Member elects to respond, it shall respond directly to the requesting foreign government or its agent with respect to such information.

Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitiation Services.

2. "Members" means the member companies of ASIA listed above and subject to the provisions of this proposed certificate. New ASIA members may be incorporated in this certificate through an abbreviated amendment procedure.

An abbreviated amendment shall consist of a written notification to the Secretary of Commerce and the Attorney General identifying all ASIA members that desire to become a Member under this certificate pursuant to the abbreviated amendment procedure, and certifying for each ASIA member so identified its sales of individual products and/or technology

rights in its prior fiscal year. Notice of the members so identified shall be published in the **Federal Register.** However, ASIA may withdraw one or more individual members from the application for the abbreviated amendment. If 30 days or more following publication in the **Federal Register** the Secretary of Commerce, with the concurrence of the Attorney General, determines that the incorporation in the certificate of these members through the abbreviated amendment procedure is consistent with the standards of the Act, the Secretary of Commerce shall amend the certificate of review to incorporate such members, effective as of the date on which the application for amendment is deemed submitted. If the Secretary of Commerce does not within 60 days of publication in the **Federal Register** so amend the certificate of review, such amendment must be sought through the nonabbreviated amendment procedure.

3. "Supplier" means a person who produces, provides, or sells a Product, Service, Technology, and/or Export Trade Facilitation Service.

Dated: February 8, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-3469 Filed 2-12-91; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (OETCA), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-A0006."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90-00006, which was issued on July 9, 1990 (55 FR 28801, July 13, 1990).

Summary of the Application

Applicant: Forging Industry Association ("FIA"), 25 Prospect Avenue West, Suite 300 LTV Building, Cleveland, Ohio 44115.

Contact: Robert W. Atkinson, Executive Vice President, Telephone: (216) 781-6260.

Application No.: 90-A0006.

Date Deemed Submitted: January 31, 1991.

Request For Amended Conduct: FIA seeks to amend its Certificate to:

1. Add the following ten companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Airfoil Forging Textron Inc., Cleveland, OH (controlling entity: Textron Inc., Providence, RI); Anchor-Harvey Components, Inc., Freeport, IL; Cleveland Hardware & Forging Co., Cleveland, OH (including Fox Valley Forge Div., Aurora, IL and Green Bay Drop Forge Div., Green Bay, WI); Cornell Forge Company, Chicago, IL; Coulter Steel & Forge Co., Emeryville, CA; Eaton Corporation, Cleveland, OH (Eaton Corporation Forge Division, Marion, OH); Endicott Forging & Manufacturing Co., Endicott, NY; Erie Forge & Steel, Inc., Erie, PA; Park Ohio Industries, Inc., Cleveland, OH (controlling entity: Park-Ohio Industries, Inc., Cleveland, OH); and Viking Metallurgical Corporation, Verdi, NV (controlling entity: Quanex Corp., Houston, TX); and

2. Replace Ajax Rolled Ring Company, Wayne, MI, with Ovako Ajax, Inc., because Ovako Ajax, Inc. has acquired Ajax Rolled Ring Company since the original certificate was issued; and

3. Replace two members (The American Welding & Manufacturing Company and Standard Steel) with Freedom Forge Corporation, Burnham, PA, of which the two members are divisions (American Welding & Manufacturing Division and Standard Steel Division, respectively).

Dated: February 8, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-3470 Filed 2-12-91; 8:45 am]

BILLING CODE 3510-DR-M

Short-Supply Review; Certain Steel Plate

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Review and Request for Comments; Certain Steel Plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 21,097.34 net tons of certain steel plate for the second and third quarters of 1991 under Article 8 of the U.S.-EC steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 40.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and section 357.104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain steel plate for use in the manufacture of large diameter pipe (LDP). On February 4, 1991, Berg Steel Pipe Corporation submitted an adequate petition to the Secretary requesting a short-supply allowance 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, for 21,097.34 net tons of American Petroleum Institute grade X-70 (modified) steel plate 73.786 to 74.175 inches in width and 0.494 to

0.61" inch in thickness, to be delivered dur.ng the second and third quarters of 1991. Berg is requesting a short-supply allowance because it believes this product is not produced in the United States and its potential foreign suppliers have no regular licenses available.

Section 4(b)(4)(B)(ii) of the Act and section 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (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 none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than March 6, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than February 20, 1991, to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after February 20, 1991. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible or Norbert Gannon, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230; (202) 377–0159 or (202) 377–4037.

Dated: February 7, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–3476 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 910104–1004]

RIN 0693–AA87

Proposed Federal Information Processing Standard (FIPS) for Key Management Using ANSI X9.17

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMMARY: A Federal Information Processing Standard (FIPS) is proposed for Key Management Using ANSI X9.17. The proposed FIPS will adopt ANSI X9.17, a voluntary industry standard for Financial Institution Key Management (Wholesale), and will specify a set of options for using the protocols of ANSI X9.17 in the automated distribution of keying materials needed for data encryption, decryption and authentication.

Prior to the submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications for the set of options selected from ANSI X9.17 from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, Room B–64, Gaithersburg, MD 20899, telephone (301) 975–2816. For copies of ANSI X9.17, contact American Bankers Association, Attn: Order Processing Department, 10 Jay Gould Court, Waldorf, MD 20602–2725, telephone (202) 663–5087. For placing quantity orders or questions concerning ANSI X9.17, contact Kristen Lamb, American Bankers Association, telephone (202) 663–5312.

DATES: Comments on this proposed FIPS must be received on or before May 14, 1991.

ADDRESSES: Written comments concerning the proposed FIPS should be sent to: Director, National Computer Systems Laboratory, ATTN: Proposed IFPS for Key Management Using ANSI X9.17, Technology Building, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2911.

Dated: February 6, 1991.

John W. Lyons,

Director.

Federal Information Processing Standards Publication XX (Draft)

Announcing the Standard for Key Management Using ANSI X9.17

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Pub. L. 100–235.

1. *Name of Standard.* Key Management Using ANSI X9.17.

2. *Category of Standard.* ADP Operations, Computer Security.

3. *Explanation.* ANSI X9.17 is a voluntary industry standard that defines procedures for the manual and automated management of the data (e.g., keys and initialization vectors) necessary to establish and maintain cryptographic keying relationships. This data is known as keying material. ANSI X9.17 specifies the minimum requirements for:

- Control of the keying material during its lifetime to prevent unauthorized disclosure, modification or substitution;
- Distribution of the keying material in order to permit interoperability

between cryptographic equipment or facilities;

• Ensuring the integrity of keying material during all phases of its life, including its generation, distribution, storage, entry, use and destruction; and

• Recovery in the event of a failure of the key management process or when the integrity of the keying material is questioned.

ANSI X9.17 utilizes the Data Encryption Standard (DES) to provide key management solutions for a variety of operational environments. As such, ANSI X9.17 contains a number of options. Systems which are built to conform to all options of ANSI X9.17 are likely to be complex and expensive. This document adopts ANSI X9.17 and specifies a particular selection of options for the automated distribution of keying material by the Federal Government using the protocols of ANSI X9.17. Interoperability between systems built to conform to this selection of options will be more likely, and the cost of building and testing such systems will be reduced.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* National Computer Systems Laboratory, National Institute of Standards and Technology.

6. *Cross Index.*

a. FIPS PUB 1–2, Code for Information Interchange, Its Representations, Subsets and Extensions.

b. FIPS PUB 46–1, Data Encryption Standard.

c. FIPS PUB 81, DES Modes of Operation.

d. FIPS PUB 113, Computer Data Authentication.

e. ANSI X9.17 Financial Institution Key Management (Wholesale).

f. ANSI X9.9, Financial Institution Message Authentication (Wholesale).

Other FIPS and Federal Standards may be applicable to the implementation and use of this standard. A list of currently approved FIPS may be obtained from the National Institute of Standards and Technology, National Computer Systems Laboratory, Gaithersburg, MD 20899.

7. *Objectives.* The objective of this standard is to provide an interoperable key management system when the protocols of ANSI X9.17 are used, and the same option set is selected. The options selected in this standard were chosen with regard to the degree of cryptographic protection that can be provided for the data with which the keys will be used, as well as a decision to reduce the complexity and cost of ANSI X9.17 implementations by limiting the number of options which are implemented and tested.

8. *Applicability.* This standard shall be used by Federal departments and agencies when designing, acquiring, implementing and managing keying material using the manual and automated procedures of ANSI X9.17. In the future, other key management methods may be approved by NIST for Federal Government use (e.g., public key based key management methods).

In addition, this standard may be adopted and used by non-Federal Government organizations. Such use is encouraged when it is either cost effective or provides interoperability for commercial and private organizations.

9. *Applications.* This standard, along with ANSI X9.17, provides a key management system for:

• A Point-to-Point environment in which each party to a key exchange shares a secret key encrypting key which is used to distribute other keys between the parties,

• A Key Distribution Center environment in which each party shares a secret key encrypting key with a center who generates keys for distribution and use between pairs of parties, and

• A Key Translation Center environment in which each party shares a secret key encrypting key with a center who translates keys generated by one party which will be distributed to another party, the ultimate recipient.

10. *Implementations.* This standard covers key management implementations which may be in software, hardware, firmware or a combination thereof. Key management implementations that are validated by NIST will not be considered as complying with this standard. Information about the key management validation program can be obtained from the National Institute of Standards and Technology, National Computer Systems Laboratory, Gaithersburg, MD 20899.

11. *Specifications.* The specifications for Federal Information Processing Standard (FIPS) XX, Key Management Using ANSI X9.17 (affixed) are contained in ANSI X9.17, Financial Institution Key Management (Wholesale), as modified by the technical specification section of this document.

12. *Implementation Schedule.* This standard became effective six months after publication of a notice in the **Federal Register** of its approval by the Secretary of Commerce.

13. *Export Control.* Certain cryptographic devices and technical data regarding them are deemed to be defense articles (i.e., inherently military in character) and are subject to Federal government export controls as specified in title 22, Code of Federal Regulations, parts 120–128. Some exports of cryptographic modules conforming to this standard and technical data regarding them must comply with these Federal regulations and be licensed by the Office of Munitions Control of the U.S. Department of State. Other exports of cryptographic modules conforming to this standard and technical data regarding them fall under the licensing authority of the Bureau of Export Administration of the U.S. Department of Commerce. The Department of Commerce is responsible for licensing cryptographic devices used for authentication, access control, proprietary software, automatic teller machines (ATMs), and certain devices used in other equipment and software. For advice concerning which agency has licensing authority for a particular cryptographic device, please contact the respective agencies.

14. *Patents.* Cryptographic devices used to implement this standard and ANSI X9.17 may be covered by U.S. and foreign patents.

15. *Waiver Procedure.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such an agency may redelegate this authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when compliance with a standard would:

a. Adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions; Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, a notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee of

Government Operations of the House of Representatives and the Committee of Government Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination of a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the "Commerce Business Daily" as a part of the solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment of that notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

16. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 46–1 (FIPS PUB XXX), and identify the title. Payment may be made by check, money order, credit card or deposit account.

[FR Doc. 91–3350 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–CN–M

Malcolm Baldrige National Quality Award's Board of Overseers; Public Meeting

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldridge National Quality Award on Thursday, February 28, 1991, from 9:15 a.m. to 5:15 p.m. The Board of Overseers consists of seven members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meeting on Febraury 28 will be for the Board of Overseers to receive and then discuss reports from the National Institute of Standards and Technology (NIST) and the Panel of Judges of the Malcolm Baldrige Natioanl Quality Award. These reports will cover the following topics: 9:15–10:15 a.m.—NIST reports on conclusions from data on eligibility applications for 1991, summary of improvements in the award process for 1991, and status of NIST staffing; 10:30 a.m.–12:30 p.m.—discussion of issues on evaluation system load capacity (Should number of awards be increased? Should runnerup category be established? Should new award categories be established?); 1:30–3:15 p.m.—discussion of issues on process improvements and timing of announcements, role or Overseers, and funding; 3:30–5:15 p.m.—discussion of issues on technology transfer, advertizing, logo use, and relationship between Baldrige, ISO 9000, DOD quality standards, and other quality standards.

DATES: The meeting will convene February 28, 1991, at 9 a.m., and adjourn at approximately 5:15 p.m. on February 28, 1991.

ADDRESSES: The meeting will be held at the O'Hare Hilton, Room 2055, O'Hare International Airport, Chicago, Illinois 60666.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

Dated: February 7, 1991.

John Lyons,

Director.

[FR Doc. 91–3348 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–13–M

Malcolm Baldrige National Quality Award's Panel of Judges; Public Meeting

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that there will be a public meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award on Wednesday, February 27, 1991, from 9 a.m. to 5 p.m. The Panel of Judges is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The Panel of Judges will meet to review the 1990 Award selection process and to prepare plans for the 1991 Award. The tentative agenda schedules discussion as follows: from 9:15 a.m. to 10:15 a.m.—data on eligibility applications; process flow; improvement in 1991 award process; results of examiner selection process for 1991; and status of the National Institute of Standards and Technology staffing; from 10:30 a.m. to 12:30 p.m.—examiners' selection process, assignments/conflict of interest, and final selection; from 1:30 p.m. to 2:30 p.m. on Subcommittee reports (based upon previous applications); from 2:45 p.m. to 5:30 p.m.—the new ethics statement; regional conferences; the Conference Board; articles in the press; and how to utilize retired judges.

DATES: The meeting will convene February 27, 1991, at 9 a.m., and adjourn at approximatley 5:30 p.m.

ADDRESSES: The meeting will be held at the O'Hare Hilton, Room 2055, O'Hare International Airport, Chicago, Illinois 60666.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

Dated: February 7, 1991.

John Lyons,

Director.

[FR Doc. 91–3349 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Pelagic Fisheries of the Western Pacific Region; Hearing

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

ACTION: Notice of public hearings.

SUMMARY: NOAA issues this notice that the Southwest Region, NMFS, and the Western Pacific Fishery Management Council (Council) will jointly hold a public hearing to obtain information and the views of fishermen and the public on the need for area closures and other measures to protect Hawaiian monk seals and other protected animals that may be adversely affected by longline fishing or other fisheries in the northwestern Hawaiian Islands.

DATES: Comments should be submitted on or before February 26, 1991, to the addresses below. See "**SUPPLEMENTARY INFORMATION**" for date, time, and location of the hearing.

ADDRESSES: Oral and written statements will be taken at the hearing. Additional comments should be sent to, E.C. Fullerton, Regional Director, Southwest Region, Pacific Area Office, 2570 Dole Street, Honolulu, Hawaii 968221; and William B. Paty, Chairman, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, Hawaii 96813.

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; or Kitty Simonds, Western Pacific Fishery Management Council, Honolulu, Hawaii (808) 523–1368.

SUPPLEMENTARY INFORMATION: Under the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Western Pacific Fishery Management Council has prepared and the Secretary of Commerce has approved a Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). The FMP regulates, among other things, the longline fishery for swordfish, marlin, and other pelagic species in the northwestern Hawaiian Islands (NWHI).

At the request of the Council, the Secretary promulgated an emergency interim rule that went into effect November 27, 1990 (55 FR 49285), establishing requirements for the longline fishery in the NWHI. Owners and operators must, among other things, notify the NMFS if they intend to fish with a vessel in a 50-mile study zone around the NWHI. Vessel operators must carry observers when fishing in that zone unless they have received an exemption from carrying an observer from the Southwest Regional Director, NMFS. The intent of observer placements is to document the nature and extent of interactions between the fishery and such protected species as Hawaiian monk seals. Information at the time was inadequate to determine the extent of such interactions and possible measure to prevent or minimize any such events.

In January 1991, it became apparent that additional measures were necessary to ensure protection of Hawaiian monk seals. On a survey of seals at French Frigate Shoals in late January 1991, two seals were found with longline hooks in their months and five seals were found to have head injuries inconsistent with natural causes. In addition, the operator of a vessel near the atoll reported seeing a seal with a hook in its mouth and monofilament line trailing behind it. These incidents indicate that interactions are occurring, although none have been directly observed and documented to date.

The Hawaiian monk seal is an endangered species. The population is only about 1,200 animals. The species is protected under the Endangered Species Act (ESA) and Marine Mammal Protection Act. Federal agencies are required under the ESA to use their authority to further the purposes of the ESA. Based on the new information recently obtained, the NMFS, Council, U.S. Fish and Wildlife Service, U.S. Coast Guard, and the State of Hawaii have assembled a special task force to consider the need for additional protective measures. Among the proposals being considered are area closures, additional reporting requirements, the use of transponders to monitor fishing vessels' locations, special gear marking requirements, and other enforcement measures.

The NMFS and the Council recognize that there is a serious concern about the effects of the longline fishery on Hawaiian monk seals and are taking a series of actions to address this concern. First, the NMFS has notified permit holders that effective immediately, no longline vessel will be permitted to fish in the study zone without an observer on board. Second, the NMFS will increase aerial surveillance of the NWHI to ensure better enforcement of the observer and reporting requirements. Third, the NMFS and the Council will jointly hold a public hearing in Honolulu, Hawaii, on February 26, 1991, to present proposals and to obtain information and views of fishermen, government agencies, and the public on the need for and usefulness of alternative measures to monitor the fishery effectively and protect Hawaiian monk seals and other protected species in the NWHI.

The public hearing will be held on February 26, 1991, 6:30 p.m., at the Dole Cannery Ballroom, 735 Iliwei Road, Honolulu, Hawaii.

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

Dated: February 8, 1991.

David S. Crestin,

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

[FR Doc. 91–3443 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council's Shrimp Advisory Panel (SAP) will hold a public meeting on February 26, 1991, and the Reef Fish Advisory Panel (RFAP) will hold a public meeting on February 27, 1991, at the New Orleans Airport Quality Inn, 1021 Airlie Highway, Kenner, LA. The SAP's meeting will begin at 10 a.m., and adjourn at 4 p.m. and the RFAP's meeting will begin at 8 a.m., and adjourn at 5 p.m.

Shrimp Panel

The SAP will discuss alternative ways to reduce shrimp trawler bycatch of red snapper without violating recent amendments to the Magnuson Act, and consider removing white shrimp from the management unit in the Fishery Management Plan.

Reef Fish Panel

The RFAP will discuss: Geographical allocations of the recreational bag limit that consider past fishing practices and catches; differential bag limits for various sectors of the recreational fishery; seasonal closures of segments of the red snapper recreational fishery that might enable bag limits to increase during specific periods without exceeding anticipated harvest levels; changes in size limits (including no size limit) that might lead to increased bag limits and quotas; and deductions from the directed commercial landing quota to offset incidental fishing mortality after the commercial quota has been reached.

For more information contact Terrance R. Leary or Douglas R. Gregory, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: February 8, 1991.

David S. Crestin,

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

[FR Doc. 91–3475 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meeting

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

TIME AND DATE: Meeting will convene at 8:30 a.m., March 12, 1991, and adjourn at 3:30 p.m., March 13, 1991.

PLACE: The Tyson Corner Marriott Hotel, 8028 Leesburg Pike, Vienna, Virginia.

STATUS: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are

adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academic, and other national interests.

MATTERS TO BE CONSIDERED: March 12, 1991, 8:30 a.m.–5:30 p.m., (1) habitat, (2) marine mammals, (3) conservation engineering/bycatch, (4) status of stocks, (5) observer program, and (6) east coast highly migratory species. March 13, 1991, 8:00 a.m.–3:30 p.m., (1) seafood inspection, (2) legislation, and (3) NMFS strategic planning and budget.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, Policy and Coordination Office, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Telephone: (301) 427–2259.

Dated: February 1, 1991.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service, NOAA.

[FR Doc. 91–3354 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Marine Mammals; Application for Permit; All-Union Scientific Research Institute of Fisheries and Oceanography (P194E)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* All-Union Research Institute of Marine Fisheries and Oceanography, U.S.S.R. Ministry of Fisheries, 17 V. Krasnoselskaya, Moscow, Bp140, 107140, USSR.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:* Pacific walrus (*Odobenus rosmarus*), 200; Bearded seal (*Erignathus barbatus*), 200.

4. *Type of Take:* The applicant proposes to take by killing Pacific walrus and boarded seals for scientific study. The project will study the abundance, distribution, and dynamics of rookeries under ice conditions, and the age-sex composition and reproductive capacity of walrus and bearded seals.

5. *Location and Duration of Activity:* Bering and Chukchi Seas between 25 March and 1 September 1991.

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 application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., Room 7234, Silver spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By Appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Suite 7324, Silver Spring, Maryland 20910, (301) 427–2289; Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802 (907) 586–7221; and

Chief, Permit Branch, Office of Management Authority, U.S. Fish and Wildlife Service, Department of the Interior, 4401 N. Fairfax Drive, Suite 432, Arlington, Virginia 22203 (703) 358–2104.

Dated: February 5, 1991.

Nancy Foster,

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

Dated: February 7, 1991.

Richard K. Robinson,

Chief, Permit Branch, Office of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 91–3357 Filed 2–12–91; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Advisory Group for the Air Force Communications Agency (AFCA) Standard Systems Center will meet on 28 February to 1 March 1991, from 8 a.m. to 5 p.m. at the Standard Systems Center Headquarters, Building 888, Gunter AFB, Alabama.

The purpose of this meeting is to review the activities of the Software Center of Excellence that AFCA has established at the Standard Systems Center.

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

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

Patsy J. Gunner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–3425 Filed 2–12–91; 8:45 am]

BILLING CODE 3910–01–M

Privacy Act of 1974; Amend a System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Air Force proposes to amend an existing record system in its inventory of records systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: This action will be effective March 15, 1991, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330–1000. Telephone (202) 697–3491 or Autovon 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record system notices subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22332—May 29, 1985 (DoD Compilation, changes follow).
50 FR 24672—June 12, 1985.
50 FR 25737—June 21, 1985.
50 FR 46477—Nov. 8, 1985.
50 FR 50337—Dec. 10, 1985.
51 FR 4531—Feb. 5, 1986.
51 FR 7317—Mar. 5, 1986.
51 FR 16735—May 6, 1986.
51 FR 18927—May 23, 1986.
51 FR 41382—Nov. 14, 1986.
51 FR 44332—Dec. 9, 1986.
52 FR 11845—Apr. 13, 1987.
53 FR 24354—June 28, 1988.
53 FR 45800—Nov. 14, 1988.
53 FR 50072—Dec. 13, 1988.
53 FR 51301—Dec. 21, 1988.
54 FR 10034—Mar. 9, 1989.
54 FR 43450—Oct. 25, 1989.
54 FR 47550—Nov. 15, 1989.
55 FR 21770—May 29, 1990.
55 FR 21900—May 30, 1990 (Air Force Address Directory).
55 FR 27868—July 6, 1990.
55 FR 28427—July 11, 1990.
55 FR 34310—Aug. 22, 1990.
55 FR 38126—Sep. 17, 1990.
55 FR 42625—Oct. 22, 1990.

55 FR 42629—Oct. 22, 1990.
55 FR 52072—Dec. 19, 1990.
56 FR 1990—Jan. 18, 1991.

The amendment is not within the purview of subsection (r) of the Privacy Act of 1974, as amended (5 U.S.C. 552) which requires the submission of an altered system report.

The specific changes to the record system are set forth below followed by the record system notice published in its entirety, as amended.

Dated: February 8, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F035 AF MP C

SYSTEM NAME:

F035 AF MP C—Military Personnel Records System (56 FR 1990, January 18, 1991).

CHANGES:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete the following paragraph "Information may also be provided to the US Department of Agriculture for investigative and audit procedures."

* * * * *

F035 AF MP C

SYSTEM NAME:

F035 AF MP C—Military Personnel Records System.

SYSTEM LOCATION:

Headquarters, United States Air Force, Washington, DC 20330–5060; Air Force Military Personnel Center, Randolph AFT TX 78150–6001; Air Reserve Personnel Center, Denver, CO 802980–5000; National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–2001.

Headquarters of major commands and separate cooperating agencies; consolidated base personnel offices; State Adjutant General Office of each respective state, District of Columbia and Commonwealth of Puerto Rico, and at Air Force Reserve and Air National Guard units. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military, Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC) and Headquarters, United States Air Force (HQ USAF); Selection Record Group at HQ USAF, Assistant for General Officer Matters; Retired Air Force General Officers Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for Senior Officer Management; C&M at AFMPC Air Force active duty officer personnel; MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency; Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBPO); Air Force active duty enlisted personnel MPeRGp at AFMPC and FRGp at respective servicing CBPO; Senior Noncommissioned Officer Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls MPeRGp at AFMPC; Reserve Officers MPeRGp at Air Reserve Personnel Center (ARPC); OCSR at the respective Air Force major command when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRPO); Reserve airmen MPeRGp at ARPC and FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSR at the respective State Adjutant General Office, and FRGp at the respective unit of assignment; ANGUS airmen MPeRGp at the respective State Adjutant General Office and FRGp at the respective unit of assignment; Retired and discharged Air Force military personnel MPeRGp at National Personnel Records Center and Air Force Academy cadets MPeRGp at unit of assignment CBPO. System contains substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS, enlistment/reenlistment/ extension of enlistment, assignment, Permanent Change of Station, Temporary Duty (TDY), promotion and demotion; identification card requests; casualty; duty status changes—Absent Without Leave/MIA/POW/Missing/ Deserter; military test administration/ results; service dates; separation; discharge/ retirement; security; training; Professional Military Education (PME); On-The-Job Training; Technical, General Military Training; commissioning; driver; academic education; performance/effectiveness reports; records corrections; formal/informal medical or dental treatment/ examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proceedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Career Reserve applications/ cancellations; traffic safety; Unit Military Training; travel voucher for TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention card; Federal insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs, and Personnel Data System products.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; as implemented by Air Force Regulation 35–44, Military Personnel Records System, and Executive Order 9397.

PURPOSE(S):

Military personnel records are used at all levels of Air Force personnel management within the agency for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records may be disclosed to the Veterans Administration for research, processing and adjudication of claims, and providing medical care.

To dependents and survivors for determination of eligibility for identification card privileges.

To the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for determination of eligiblility and benefits.

To local Immigration/Naturalization ofice for accountability and audit purposes.

To State Unemployment Compensation offices for vertification of military service related information for unemployment compensation claims; Respective local state government offices for vertification of Vietnam "State Bonus" eligibility.

To the Office of Personnel Management for verification of military service for benefits, leave, or Reduction in Force purposes, and to establish Civil Service employee tenure and leave accrual rate.

To the Social Security Adminstration to substantiate applicant's credit for social security compensation; Local state office for vertification of military service relative to the Soldiers and Sailors Civil Relief Act. Information as to name, rank, Social Security Number, salary, present and past duty assignment, future assignments that have been finalized, and office phone number may be provided to military financial institutions who provide services to DoD personnel. For personnel separated, discharged or retired from the Air Force, information as to last known address may be provided to the military financial institutions upon certification by a financial institution officer that the facility has a dishornored check or defaulted loan.

To the Selective Service Agencies for computation of service obligation.

To the American National Red Cross for emergency assistance to miltary members, dependents, relatives or other persons if conditions are compelling.

To the Department of Labor for claims of civilian employees formerly in military service, verification of service-related information for unemployment compensation claims, investigations of possible violations of labor laws and for pre-employment investigations.

To the National Research Council for medical research purposes.

To the U.S. Soldiers' and Airman's Home to determine eligibility.

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file folders/ binders, cabinets and on computer and computer output products.

RETRIEVABILITY:

Information in the system is retrieved by last name, first name, middle initial and Social Security Number.

Records stored at National Personnel Records Center are retrieved by registry number, last name, first name, middle initial and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the records system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records stored in locked room, cabinets, and in computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

Those documents designated as temporary in the prescribing directive remain in the records until their obsolenscence (superseded, member terminates status, or retires) when they are removed and provided to the individual data subject.

Those documents designated as permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel, Randolph AFB, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Assistant Deputy Chief of Staff/ Manpower and Personnel, Randolph AFB, TX 78150–6001.

Individuals may also appear in person at the responsible official's office or the respective repository for records for personnel in a particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. The system manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to the Assistant Deputy Chief of Staff/ Manpower and Personnel, Randolph AFB, TX 78150–6001.

Individuals may also appear in person at the responsible official's office or the respective repository for records for personnel in a particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. The system manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the subject of the file, supervisors, correspondence generated within the agency in the conduct of official business, educational institutions, and civil authorities.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 91–3466 Filed 2–12–91; 8:45 am]

BILLING CODE 3810–01–M

Defense Logistics Agency

Privacy Act of 1974; Addition of a Record System

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Notice of a New System of Records.

SUMMARY: The Defense Logistics Agency proposes to add a new record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on March 15, 1991, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA–XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100. Telephone (703) 274–6234 or Autovon 284–6234.

FOR FURTHER INFORMATION CONTACT: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** as follows:

50 FR 22897—May 29, 1985 (DoD Compliation, changes follow).
50 FR 51898—Dec. 20, 1985.
51 FR 27443—Jul. 31, 1986.
51 FR 30104—Aug 22, 1986.
52 FR 35304—Sep. 18, 1987.
52 FR 37495—Oct. 7, 1987.
53 FR 04442—Feb. 16, 1988.
53 FR 09965—Mar. 28, 1988.
53 FR 21511—Jun. 8, 1988.
53 FR 26105—Jul. 11, 1988.
53 FR 32091—Aug. 23, 1988.
53 FR 39129—Oct. 5, 1988.
53 FR 44937—Nov. 7, 1988.
53 FR 48708—Dec. 2, 1988.
54 FR 11997—Mar. 23, 1989.
55 FR 21918—May 30, 1990 (DLA Address Directory).
55 FR 32284—Aug. 8, 1990.
55 FR 32947—Aug. 13, 1990.
55 FR 34050—Aug. 21, 1990.
55 FR 42755—Oct. 23, 1990.
55 FR 53178—Dec. 27, 1990.

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on January 30, 1991, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals", dated December 12, 1985 (50 FR 52738, December 24, 1985).

February 8, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.05 DMDC

SYSTEM NAME:

Noncombatant Evacuation and Repatriation Data Base.

SYSTEM LOCATION:

W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943. Information may be accessed by remote terminals at the repatriation centers. The location of the repatriation centers can be obtained from the Headquarters Department of the Army, Office of Deputy Chief of Staff for Personnel, DAPE–MO, Washington, DC 20310–0300. Telephone (703) 614–4766.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All noncombatant evacuees including service members, their dependents, DoD and non-DoD employees and dependents, U.S. residents abroad, foreign nationals and corporate employees and dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social Security Number, name, date of birth, passport number, country of citizenship, marital status, sex, employer, destination address and type of assistance needed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12656, Assignment of Emergency Preparedness Responsibilities, November 18, 1988; DoD Directive 5100.51, Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad and Executive Order 9397.

PURPOSE(S):

To the Headquarters Department of the Army, Office of Deputy Chief of Staff for Personnel, DAPE-MO, for the purposes of tracking evacuees from emergency situations in foreign countries to ensure location and receipt of necessary relocation services and to provide information to all of DoD, Federal, state, and local agencies on an as-requested basis.

To the Office of the Secretary of Defense (Force Manpower and Personnel) for the purposes of identifying and coordinating DoD civilian employees who have been evacuated and for job placement of evacuated Federal employees.

To the Joint Staff, as executors of evacuation operations when called upon to do so, for the purposes of assessing costs of services provided and recovering the cost of evacuation from the appropriate agency.

To each military service for the purposes of accounting for its respective military members and their families who have been evacuated. Each family is assigned a U.S. sponsor who is responsible for assisting the evacuated family in a safe haven status.

To the Department of the Army for purposes of assigning a sponsor to each family and tracking all DoD dependents and family members who have been evacuated from a country and arrived in the U.S.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To individuals who have been evacuated but who have been separated from their family and/or spouse. Information will be released to the individual indicating where the family member was evacuated from and final destination.

To Department of State to plan and monitor evacuation effectiveness and need for services and to verify the number of people by category who have been evacuated.

To the American Red Cross so that upon receipt of information from a repatriation center that a DoD family has arrived safely in the U.S., the Red Cross may notify the service member (sponsor) still in the foreign country that his/her family has safely arrived in the United States.

To the Immigration and Naturalization Service to track and make contact with all foreign nationals who have been evacuated to the U.S.

To the Department of Health and Human Services for purposes of giving financial assistance and recoupment of same. To identify individuals who might arrive with an illness which would require quarantine.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and hard copy storage.

RETRIEVABILITY:

Retrieved by name, Social Security Number, or location of evacuation point or repatriation center.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter.

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subject of the information or their authorized representative. Access to personal information is further restricted by the use of passwords.

RETENTION AND DISPOSAL:

Records are maintained on-line for one year and are then archived as an historical data base.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

Written inquiry should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determination are contained in DLA Regulation 5400.12; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The Military Services, DoD Components, from individuals via application.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 91–3467 Filed 2–12–91; 8:45 am]

BILLING CODE 3810–01–M

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 20, 1991 beginning at 1:00 p.m. in the Goddard Conference Room of its offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be open for public observation at 9:30 a.m. at the same location and will include discussion of the upper Delaware ice jam project; Delaware Estuary use attainability proposals; Comprehensive Plan amendments involving recreational projects; retroactive water charges; project review filing fee schedule proposal and a Commission interbasin transer policy.

The subjects of the hearing will be as follows:

A Proposal to Adopt the 1990 Water Resources Program

A proposal that the 1990 Water Resources Program and the activities, programs, initiatives, concerns, projections, and proposals identified and set forth therein be accepted and adopted, in accordance with the requirements of section 13.2 of the Delaware River Basin Compact. This hearing continues that of December 12, 1990.

Application for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Warminster Municipal Authority D–80–51 CP Renewal–2.* An application for the renewal of a ground water withdrawal project to supply up to 5.4 million gallons (mg)/30 days of water to the applicant's water distribution system from Well No. 36. Commission approval on November 26, 1985 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 98.46 mg/30 days. The project is located in Warminister Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

2. *Village of Monticello D–81–5 CP Renewal–2.* An application for the renewal of a ground water withdrawal project to supply up to 17.1 mg/30 days of water to the applicant's distribution system from Well Nos. 1 and 2. Commission approval on February 26, 1986 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 17.1 mg/30 days. The project is located in the Village of Monticello, Sullivan County, New York.

3. *Grand Central Sanitary Landfill D–88–52.* An application to construct a 0.06 million gallons per day (mgd) wastewater treatment plant to treat leachate from the Grand Central Sanitary Landfill. Currently, leachate is pretreated in an aeration lagoon, then hauled to local publicly owned treatment plants for final processing. Discharge will be to the Little Bushkill Creek. A determination of the allowable total dissolved solids concentration in the project effluent has been requested. The landfill occupies 53 acres of a 102 acre tract located in Plainfield Township, Northampton County, Pennsylvania.

4. *Interstate Storage and Pipeline Corporation D–89–12.* An application for approval of a project to withdraw up to 6.48 mg/30 days of water for the applicant's ground water decontamination project from new Well No. RW–1, and to limit the withdrawal from all wells to 6.48 mg/30 days. The project is located in Burlington Township, Burlington County, New Jersey.

5. *Wampler-Longacre, Inc. D–89–65.* An application to expand an existing industrial wastewater treatment plant (IWTP), serving the applicant's poultry processing facilities. The IWTP will be expanded from 0.15 mgd to 0.30 mgd. The tertiary treated effluent will continue to discharge to a swale which flows to Indian Creek, a tributary of the East Branch Perkiomen Creek. The project is located at Allentown Road and Route 113 in Franconia Township, Montgomery County, Pennsylvania.

6. *Moorestown Township D–90–53 CP.* A project to modify and upgrade the applicant's existing 2.5 mgd sewage treatment plant. The STP serves Moorestown Township and discharges treated effluent to the North Branch Pennsauken Creek, adjacent to the plant site near Pine Road in Moorestown Township, Burlington County, New Jersey.

7. *Mahoning Township Board of Supervisors D–90–59 CP.* A sewage treatment plant (STP) project to construct a 0.07 mgd package treatment facility with its outfall to discharge treated effluent to the Lehigh River. The STP will provide secondary treatment and serve the Packerton and Jamestown sections of Mahoning Township. The STP will be located in Mahoning Township; just east of State Route 209 adjacent to the west bank of the Lehigh River, and just north of the Borough of Lehighton's corporate boundary in Carbon County, Pennsylvania.

8. *Hatfield Quality Meats, Inc. D–90–70.* An application for approval of a ground water withdrawal project to supply up to 5.4 mg/30 days of water to the applicant's processing plant from new Well No. 8, and to increase the existing withdrawal limit of 4.75 mg/30 days from all wells to 9.5 mg/30 days. The project is located in Hatfield Township, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

9. *Moyer Packing Company D–90–76.* An application for approval of a ground water withdrawal project to supply up to 2.25 mg/30 days of water to the applicant's processing from new Well No. 6, and to increase the existing withdrawal limit of all wells from 5.72 to 6.4 mg/30 days. Commission approval of Docket D–83–31 on August 28, 1985 was limited to five years and has expired for Well Nos. 1–5. The applicant has requested the renewal of Well Nos. 3, 4 and 5. The project is located in Franconia Township, Montgomery County, in the Southeastern Pennsylvania Ground Water Protected Area.

10. *Seaview Oil Company D–90–81.* An industrial wastewater treatment plant (IWTP) project to modify an existing wastewater treatment system at the applicant's petroleum refinery plant site. The modified IWTP will treat up to

0.108 mgd on an average monthly basis and discharge to Mantua Creek approximately 2000 feet upstream of its confluence with the Delaware River. The treatment modifications include pH adjustment, equalization and clarification, and installation of two biological treatment units. The project is located on the east bank of Mantua Creek in West Deptford Township, Gloucester County, New Jersey.

11. *Nesquehoning Borough D–90–107 CP.* A project to construct a 0.65 mgd sewage treatment plant (STP) to serve the Borough of Nesquehoning and portions of Rush Township in the Lake Hauto area. Secondary biological treatment will be provided with the extended aeration process and discharge will be to the Nesquehoning Creek just north of the STP. The STP will be located approximately 1000 feet northeast of the intersection of Routes 209 and 93 in the Borough of Nesquehoning, Carbon County, Pennsylvania.

12. *Stroudsburg Municipal Authority D–91–1 CP.* An application for approval of a ground water withdrawal project to supply up to 86 mg/30 days of water to the applicant's distribution system from new Well Nos. PW–1 and 2, and to limit the withdrawal from all wells to 86 mg/30 days. The project is located in Stroud Township, Monroe County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: February 5, 1991.

Susan M. Weisman,

Secretary.

[FR Doc. 91–3355 Filed 2–12–91; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. 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. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: March 14, 1991, 9 a.m.—4:45 p.m. and March 15, 1991, 9 a.m.—Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Carrol B. Kindel, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400e, Washington, DC 20208–5574, telephone: (202) 219–1329.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following.

- Commissioner's Report
- Resources—Projects, Staff and Program Dollars
- NCES Statistical Standards: Major Areas of Concern and Detailed Discussion of Problematical Standards
- Council Business
- Work in Progress: NAEP, National Forum on Education Statistics, and Confidentiality

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, NW., room 400e, Washington, DC 20208–5574.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91–3351 Filed 2–12–91; 8:45 am]

BILLING CODE 4000–01–M

National Council on Vocational Education; Meeting; Correction

AGENCY: National Council on Vocational Education, Education.

ACTION: Notice of public meeting of the council; correction.

SUMMARY: On Thursday, February 7, 1991 (56 FR 4986), the Department of Education published a notice of a public meeting for the National Council on Vocational Education, we inadvertently omitted the time of the meeting. This notice corrects that error. The meeting will be held from 9 a.m. to 4 p.m. on February 25, 1991.

DATES: February 25, 1991.

ADDRESSES: Embassy Suites Hotel (Ambassador Room), 1250 22nd St., NW., Washington, DC 20037, (202) 857–3388.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street, SW., MES—suite 4080, Washington, DC 20202–7580, (202) 732–1884.

Dated: February 8, 1991.

Joyce Winterton,

Executive Director.

[FR Doc. 91–3427 Filed 2–12–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Thursday, February 21, 1991, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the OECD offices on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the agenda
2. Summary Record of SEQ meeting on January 25, 1991
3. Gulf situation and possible IEA emergency responses, including preparation and implementation of IEA contingency plans
4. Any other business

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of members of the IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the

Congress, representatives of the IEA, representatives of members of the SEQ, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, February 8, 1991.

Stephen A. Wakefield,

General Counsel.

[FR Doc. 91-3483 Filed 2-12-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-91-NG]

Fuel Services Group, Inc., Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, DOE.

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

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Fuel Services Group, Inc., blanket authorization to import up to 14.6 Bcf of Canadian natural gas over a two year period beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 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, Ofice of Fossil Energy.

[FR Doc. 91-3479 Filed 2-12-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-03-NG]

Hadson Gas Systems, Inc.; Application To Import Natural Gas From Canada

AGENCY: Ofice of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 8, 1991, of an application filed by Hadson Gas Systems, Inc. (Hadson), requesting blanket authorization to import up to 50 Bcf of natural gas from Canada for short-term or spot market sales, bringing March 3, 1991, the date Hadson's existing import authorization expires. Hadson intends to use existing facilities in the United States and states that it will notify DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., March 15, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

John S. Boyd, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4523

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Hadson, a Oklahoma corporation with its principal place of business in Irving, Texas, is a wholly owned subsidiary of Hadson Corporation. Hadson gathers, aggregates and markets natural gas to commercial and industrial customers as well as local distribution companies, acting on its own behalf or as agent or broker for others. Sales of natural gas under the proposed authorizations would be freely negotiated at arms length including price, duration, volume, renegotiation provisions and take-or-pay provisions, if any.

Hadson Canada, Inc., Hadson's wholly-owned subsidiary, was granted blanket authority by DOE/ERA Opinion and Order No. 144, (Order 144) ERA ¶70,667, to import and export natural gas over separate two-year terms beginning on the dates of first import and export. This import/export authority was transferred to Hadson by DOE/ERA Opinion and Order No. 144-A, 1 ERA ¶70,692. DOE/ERA Opinion and Order No. 288, 1 ERA ¶70,830, extended Hadson's blanket import authority through March 2, 1991. Although Hadson also requests "reinstatement of the prior export authorization", it is noted Hadson's separate export authority under Orders 144 and 144-A, which has never been used, has not expired, and therefore is effectively withdrawn from consideration in this proceeding.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed import authority would be in the public interest because it will help ensure the efficient allocation of natural gas in the U.S. market place. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Consent Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written

comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provide to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Hadson's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 6, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 91–3480 Filed 2–12–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–02–NG]

JMC Fuel Services, Inc.; Application for Blanket Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 7, 1991, of an application filed by JMC Fuel Services, Inc. (JMC Fuel) for blanket authorization to import up to 50 Bcf of Canadian natural gas for a two-year term beginning on the date of first delivery. JMC Fuel intends to use existing pipeline facilities for the transportation of the imported gas.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., March 15, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence, Avenue, SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: JMC Fuel, a Delaware corporation with its principal place of business in Boston, Massachusetts, is a wholly owned subsidiary of J. Makowski Company, Inc. JMC Fuel was formed for the purpose of purchasing and marketing natural gas in the United States and Canada.

JMC Fuel intends to import natural gas on behalf of Canadian producers, pipelines or marketers for short-term sales to U.S. purchasers including, but not limited to, industrial end-users, electric generation projects and local distribution companies. The terms of each transaction, including price and volume, will depend on the market demand for natural gas and will be structured to meet competition in the marketplace.

JMC Fuel states that all short-term or spot import sales contracts would be for two years or less and requests authority to import gas volumes at any point on the international border where existing facilities exist. In support of its application, JMC Fuel states that its plan to negotiate for short-term supplies assures that the terms of the proposed imports will be responsive to existing market conditions and thus will remain competitive for the duration of the arrangements.

The decision on this import application will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request

that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of the JMC Fuel's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 6, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 91–3481 Filed 2–12–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–09–NG]

Natural Gas Pipeline Co. of America; Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 28, 1991, of an application filed by Natural Gas Pipeline Company of America (Natural) to import up to 171,325 Mcf per day of natural gas from Canada beginning on the date authorization is granted through October 31, 2000. The gas would be purchased from Western Gas Marketing Limited (Western), the marketing agent for TransCanada Pipelines Limited (TransCanada), and used for system supply. It would enter the United States near Emerson, Manitoba, at the existing interconnection of the pipeline systems of TransCanada and Great Lakes Gas Transmission Company (Great Lakes). Great Lakes would then transport the gas to an interconnection with ANR Pipeline Company (ANR) in Fortune Lake, Michigan, and ANR would redeliver it to Northern's system near Woodstock and Joliet, Illinois. No new domestic pipeline construction would be required to implement the proposed import.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., March 15, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:
P.J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–4819.
Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Natural's transmission system includes two main gas pipelines and extensive underground storage fields. The Amarillo Line extends from points near Amarillo, Texas, northward to Chicago Illinois. The other mainline system, the Gulf Coast Line, extends from gas producing areas in Louisiana and the Texas Gulf Coast to Chicago, Illinois, where the two systems interconnect. Natural serves municipalities and public utilities throughout the Midwest in nine states. The majority of Natural's sales are made in Illinois.

Natural imports Canadian gas directly from ProGas Limited, and, over the past twenty years, has received gas from Great Lakes which has imported and resold Canadian gas to Natural. According to its application, Natural purchased 171,325 Mcf per day of Canadian gas from Great Lakes; however, Great Lakes' authority to import a substantial portion of this amount expired November 1, 1990. The proposed import from Western is expected to account for 16 percent of Natural's total gas supply; 23 percent of which comes from Canada.

This application was initiated because Natural and Great Lakes agreed that Great Lakes would "unbundle" its imports of gas which it purchases from TransCanada and resells to Natural, and Natural would purchase the gas directly from Canada. Natural's proposal culminates a transition that Great Lakes began several years ago to unbundle its sales and transportation functions. It is noteworthy that on September 13, 1990, the Federal Energy Regulatory Commission (FERC) issued an order (52 FERC Para. 61,255) permitting Great Lakes to abandon sales service to Natural provided DOE's authorization is obtained for the imports proposed by Natural in this proceeding.

Pursuant to a letter of agreement between Natural and Western dated October 31, 1990, Natural would purchase a daily contract quantity (DCQ) of up to 171,325 Mcf of gas for an initial term beginning April 1, 1991, and ending October 31, 2000, with a provision for automatic year to year extension thereafter. The agreement is subject to certain conditions precedent, including receipt of all U.S. and Canadian regulatory approvals and approval from the producers from whom Western intends to purchase the gas for resale to Natural. Natural asserts all conditions precedent have been satisfied except its receipt of import authorization from DOE.

Natural would pay an import price composed of a monthly demand charge and a commodity charge. The monthly demand charge is equal to the sum of the tolls and charges for firm transportation on the Nova Corporation of Alberta and TransCanada systems to the Emerson, Manitoba import point and a supply reservation fee. The supply reservation fee is contractually set at approximately $0.15 (U.S.) per Mcf. The commodity component of the import price is determined by subtracting a transportation allowance of $0.32 (U.S.) per Mcf from a spot reference price. The transportation allowance is subject to adjustment and generally represents a portion of transportation costs incurred to get the Canadian gas to Natural's system. The spot reference price is the arithmetic average of index prices reported by Inside FERC's Gas Market Report for spot gas deliveries to Natural in Oklahoma, Louisiana, and its Gulf

Coast Line in Texas. Natural states that the import price in November and December 1990 would have been $2.21 (U.S.) per Mcf and $2.33 (U.S.) per Mcf, respectively, using a 100 percent load factor.

The agreement contains both minimum daily and minimum seasonal take provisions. If Natural takes less than 75,000 Mcf per day for the months December through February and 50,000 Mcf per day for the months March through November, then Natural would make a deficiency payment of $0.10 (U.S.) per Mcf on the portion not taken. Natural is required to purchase at least 70 percent of the aggregate DCQ in the winter period November—March and 50 percent of the aggregate DCQ in the summer period April—October (approximately 18,109 and 18,332 MMcf, respectively). The payment for seasonal deficiencies is $0.20 (U.S.) per Mcf.

The parties would have a one-time right to terminate the contract after five years. Before the end of the fifth contract year, either party may seek renegotiation of the pricing or volumetric terms to be effective beginning in the sixth year. Absent agreement, the contract would terminate.

In support of the application, Northern asserts that the requested authorization simply continues a service historically provided to it through the importation of Canadian gas by Great Lakes. The total volume of gas imported from Canada would be the same volume that Natural had previously been entitled to receive in sales from Great Lakes.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that its proposed import arrangement is and would remain competitive over the term of the requested authorization and that the gas supply is secure. Parties opposing the proposed import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the application is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and purchase price in order to facilitate monitoring of the operation of the DOE's natural gas import program. In addition, Great Lakes current authorization would be modified to eliminate volumes imported by Great Lakes for Natural.

NEPA Compliance

The Natural Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of Northern's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 7, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 91–3482 Filed 2–12–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 1394–004, California]

Southern California Edison Co.; Availability of Environmental Assessment

February 5, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for license for the continued operation and maintenance of the existing Bishop Creek Project located on Bishop Creek, in Inyo County, California, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the continued operation and maintenance of the project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices

at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3389 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-80-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 31, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective February 15, 1991

First Revised Sheet No. 20
Original Sheet No. 67-90
Original Sheet No. 91
Original Sheet No. 94-99
First Revised Sheet No. 674
Original Sheet No. 674A
Original Sheet No. 674B
Original Sheet No. 674C

Algonquin states that it is making the instant filing to establish monthly take-or-pay surcharges to be billed by Algonquin to is customers in order to recover take-or-pay surcharges billed to Algonquin by Texas Eastern Transmission Corporation (Texas Eastern) to flow through Texas Eastern's upstream supplier charges as more completely set forth in the alternate tariff sheets of Texas Eastern's filings in Docket Nos. RP91-72-000, RP91-73-000, RP91-74-000 and RP91-75-000.

Algonquin's states that its filing implements and is consistent with Order No. 528 and flows through Texas Eastern's take-or-pay charges on an as-billed basis. Algonquin proposes to utilize the same basis as Texas Eastern proposes to allocate costs to Algonquin as more completely set forht in Algonquin's instant filing. In its filing, Algonquin proposes to flow through a total of $26,079,754.96 in take-or-pay charges to its customers to be recovered in monthly increments of $1,086,656.46 over a two year period.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3180 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-87-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on February 4, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective March 4, 1991

Original Sheet No. 93
Original Sheet No. 674G
Original Sheet No. 674H
Original Sheet No. 674I
Original Sheet No. 674J
Original Sheet No. 674K
Original Sheet No. 674L
Original Sheet No. 674M
Original Sheet No. 674N
Original Sheet No. 6740

Algonquin states that it is making the instant filing to establish monthly take-or-pay surcharges to be billed by Algonquin to its customers in order for Algonquin to recover take-or-pay charges billed to Algonquin by National Fuel Gas Supply Corporation (National) as detailed in National's filing in Docket No. RP91-47-000, which the Commission accepted, subject to refund on January 11, 1991, with an effective date of January 14, 1991, to flow through its upstream supplier take-or-pay charges to Algonquin.

Algonquin's states that its filing implements and is consistent with Order No. 528 and flows through National's take-or-pay charges on an as-billed basis in the amount of $755,874.51. Algonquin is proposing to utilize the same methodology proposed by National to flow through such take-or-pay charges, as more completely set forth in Algonquin's instant filing.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3374 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-86-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on February 4, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective March 6, 1991

Second Revised Sheet No. 20
Original Sheet No. 92
Original Sheet No. 674D
Original Sheet No. 674E
Original Sheet No. 674F

Algonquin states that it is making the instant filing to establish monthly take-or-pay surcharges to be billed by Algonquin to its customers in order for Algonquin to recover take-or-pay charges billed to Algonquin by CNG Transmission Corporation ("CNGT") as detailed in CNGT's filing in Docket No. RP91-51-000, which the Commission accepted, subject to refund on January 16, 1991, with an effective date of January 17, 1991, to flow through its upstream supplier take-or-pay charges to Algonquin.

Algonquin's states that its filing implements and is consistent with Order No. 528 and flows through CNG Transmission's take-or-pay charges on an as-billed basis amounting to $3,256,020. Algonquin is proposing to utilize the same methodology proposed by CNGT to flow through such take-or-pay charges, as more completely set forth in Algonquin's instant filing.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3368 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–85–000]

Bayou Interstate Pipeline System; Petition for Extension of Waiver

February 6, 1991.

Take notice that on January 31, 1991, Bayou Interstate Pipeline System (Bayou) filed a petition for a one-year waiver of the requirements of § 154.31 and § 385.2011 of the Commission's Regulations that Form No. 542–PGA, Purchased Gas Cost Adjustment Filing be submitted on electronic media. Bayou had previously been granted a one-year waiver by letter order dated March 1, 1990.

Bayou states that it is a very small interstate pipeline with only 1.8 miles of 8-inch pipeline in service. Bayou states that it presently lacks the necessary resources to prepare the software and input the information necessary to comply with the electronic media requirement. Bayou states that it is in contact with a software vendor currently developing the necessary tariff software, but that such software would not be available until sometime during 1991. Bayou further states that obtaining this software would be more efficient than trying to develop the necessary "in house" programing since Bayou's MIS staff consists of only one person.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3383 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–4–61–000]

Bayou Interstate Pipeline System; Proposed Change in Rates

February 6, 1991.

Take notice that on January 31, 1991, Bayou Interstate Pipeline System (Bayou) tendered as part of its FERC Gas Tariff, Original Volume No. 1, (Tariff) Twenty-Third Revised Sheet No. 4 to be effective February 1, 1991.

Bayou states that the proposed tariff sheet is necessitated due to significant reductions in spot market pricing conditions which made the rate of $1.9438 excessive and place Bayou is a significant overrecovered position for the three months ended April 30, 1991. The proposed current PGA adjustment is $0.5256 lower than the rate pending approval in FERC Docket No. TQ91–3–61–000. Bayou states that a copy of this filing is being mailed to Bayou's jurisdictional customer and interested state regulatory agencies.

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 (Commission), 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3365 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–3–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that CNG Transmission Corporation ("CNG"), on January 29, 1991, pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's Regulations, and Section 12 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheet to First Revised Volume No. 1 of CNG's FERC Gas Tariff:

Fourth Revised Sheet No. 31

CNG requests that the Commission allow the proposed tariff revisions to become effective on March 1, 1991, as CNG's regular, quarterly purchased gas adjustment ("PGA") filing.

The filing would decrease CNG's RQ and CD commodity rates by 30.21 cents per dekatherm, increase D–1 demand rates by $1.11 per dekatherm and decrease D–2 demand rates by 6.26 cents per dekatherm from the rates currently in effect. Other rates will change correspondingly.

CNG is also revising the commodity surcharge to reflect the actual gas inventory charges ("GIC") from Texas Eastern Transmission Corporation for the contract year ending October 31, 1990. This revision, a reduction of 0.14 cents per dekatherm, is being done to comply with Ordering paragraph (E) of the Commission's suspension order in Docket No. TA90–1–22–000.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commisison, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All 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 wish to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3388 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91-79-000]

East Tennessee Natural Gas Co.; Rate Filing

February 6, 1991.

Take notice that on January 30, 1991, East Tennessee Natural Gas Company (East Tennessee), filed the following revised tariff sheets to amend First Revised Volume No. 1 of its FERC Gas Tariff to be effective March 1, 1991:

Appendix A

Third Revised Sheet No. 4
Third Revised Sheet No. 5
First Revised Sheet No. 6
First Revised Sheet No. 7
Third Revised Sheet No. 113
Third Revised Sheet No. 114
Original Sheet No. 114A

Appendix B

Alternate First Revised Sheet No. 6
Alternate First Revised Sheet No. 7
Alternate Third Revised Sheet No. 113
Alternate Third Revised Sheet No. 114

East Tennessee states that the tariff revisions were submitted in response to the Commission's Order No. 528. The tariff sheets in Appendix A represent East Tennessee's preferred method of recovery of take-or-pay costs allocated by Tennessee Gas Pipeline Company (Tennessee). East Tennessee's preferred proposal reflects continuation of recovery under the present allocation of take-or-pay costs and recovery of 50% of the new cost allocation based on July 1988 contract demand. The demand surcharges will be amortized over a period of three years, but may be paid in lump sum at any time. East Tennessee further proposes to collect the remaining 50% of the revised take-or-pay allocation via a volumetric surcharge based on an estimated annual throughput of 100 MMdth.

As an alternate to the tariff sheets in Appendix A, East Tennessee has also provided tariff sheets in Appendix B. The alternate tariff sheets reflect a direct billing of the take-or-pay costs to be recovered from East Tennessee's customers on an as-billed basis, based on each customer's relative contract demand level as of July 1, 1988. The alternate tariff sheets reflect an annuity recovery of the direct-billed costs, adjusted to reflect amounts already paid, over a 36-month period, all as more fully explained in the application on file with the Commission.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such petitions 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; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3384 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-5-24-000]

Equitrans, Inc.; Proposed Change in FERC Gas Tariff

February 6, 1991.

Take notice that Equitrans, Inc. (Equitrans) on January 29, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Effective March 1, 1991: Twenty-Fourth Revised Sheet No. 10; Fourteenth Revised Sheet No. 34

Effective April 1, 1991: Fifteenth Revised Sheet No. 34.

Equitrans hereby submits its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with §§ 154.308 and 154.304 of the Commission's regulations and Section 19 of Equitrans' FERC Gas Tariff, Original Volume No. 1.

The changes proposed in this filing to the purchased gas cost adjustment under Rate Schedule PLS is an increase in the demand cost of $0.0064 per dekatherm (Dth) and a decrease in the commodity cost of $0.0115 per Dth. The purchased gas cost adjustment to Rate Schedule ISS is a decrease of $0.0113 per Dth for March 1991 and $0.0963 per Dth for April 1991.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest will the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3375 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-5-51-000]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

February 6, 1991.

Take notice that Great Lakes Gas Transmission Limited Parnership ("Great Lakes") on January 29, 1991 tendered for filing the following tariff sheets to its FERC Gas Tariff:

Item 1: *First Revised Volume No. 1:* Second Substitute Thirty-Third Revised Sheet No. 57(i); Second Substitute Thirty-Third Revised Sheet No. 57(ii); Second Substitute Nineteenth Revised Sheet No. 57(v).

Item 2: *First Revised Volume No. 1:* First Revised Thirty-Third Revised Sheet No. 57(i); First Revised Thirty-Third Revised Sheet No. 57(ii); First Revised Nineteenth Revised Sheet No. 57(v).

Item 3: *Original Volume No. 3:* First Revised Sheet No. 2; First Revised Sheet No. 3.

Item 4: *Amended Schedule G2 (FERC Form 542-PGA), Docket Nos. TQ91-2-51-000 and TQ91-3-51-000.*

The tariff sheets referred to in Item 1 were filed to correct the inadvertent inclusion of current adjustment rates contained in Great Lakes GRI filing on December 21, 1990 in Docket Nos. TQ91-3-51-000 and RP90-120-000. Great Lakes states that the tariff sheets referred in Item 1 are similar to those filed on December 21, 1990 adjusted only to reflect the elimination of the current adjustment. Great Lakes states the instant filing does not impact the cumulative adjustment rates previously filed with the Commission in Docket No. TQ91-3-51-000 and RP90-120-000.

The tariff sheets referred to in Item 2 were filed to reflect revised current PGA

rates for the month of January, 1991. The tariff sheets were filed as an Out-of-Cycle PGA to reflect the latest estimated gas cost as provided to Great Lakes by its sole supplier of natural gas, TransCanada PipeLines Limited ("TransCanada"). These pricing arrangements are the result of contract renegotiation between each of Great Lakes' resale customers and the supplier.

The tariff sheets referred to in Item 3 were filed to reflect a GRI charge adjustment of 1.46¢ per Mcf for "Open Access" transportation service rendered by Great Lakes under its FERC Gas Tariff, Original Volume No. 3. The GRI charge adjustment of 1.46¢ per Mcf is consistent with the Gas Research Institute's 1991 Research and Development Program approved by Commission Opinion No. 355, issued October 1, 1990. Great Lakes states at the time the GRI rate change for First Revised Volume No. 1 of its FERC Gas Tariff was filed, the Original Volume No. 3 tariff sheets containing rates were pending Commission acceptance. Such acceptance was issued on December 13, 1990 in Docket Nos. CP89–2198–005 and TM91–1–51–003. The tariff sheets referenced in Item 3 are to be effective January 1, 1991.

Great Lakes states that Item 4 reflects the filing of an amended Schedule G2, FERC Form 542–PGA to correct the Account No. 191 deferral balances reported in Docket Nos. TQ91–2–51–000 and TQ91–3–51–000.

Great Lakes requested Waiver of the Notice Requirements so as to permit the tariff sheets in Item 1 to become effective January 1, 1991 in order to implement the revised GRI funding unit rate. Great Lakes requested Waiver of the Notice Requirements so as to permit the tariff sheets in Item 2 to become effective January 1, 1991 as described in order to implement the gas pricing agreements between Great Lakes' resale customers and TransCanada on a timely basis. Great Lakes requested that the tariff sheets in Item 3 become effective January 1, 1991 in order to implement the revised GRI funding unit rate for service rendered under "Open Access" provisions of its FERC Gas Tariff, Original Volume No. 3.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 14, 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3369 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT91–16–000]

K N Energy, Inc; Proposed Change in FERC Gas Tariff

February 6, 1991.

Take notice that on January 30, 1991, K N Energy, Inc. "K N") tendered for filing and acceptance the following:

FERC Gas Tariff—*Fourth Revised Volume No. 1*— Original Sheet Nos. 1 through 98.

FERC Gas Tariff—*First Revised Volume No. 1–A*—Original Sheet Nos. 1 through 83.

FERC Gas Tariff—*First Revised Volume No. 1–B*—Original Sheet Nos. 1 through 99.

The purpose of this filing is to refile K N's tariff electronically, as required by Order No. 493, *et seq.* Fourth Revised Volume No. 1, First Revised Volume No. 1–A and First Revised Volume No. 1–B will supersede Third Revised Volume No. 1, Original Volume No. 1–A and Original Volume No. 1–B, respectively. K N requests an effective date of March 1, 1991 for the tendered volumes.

KN states that copies of the filing and letter of transmittal have been mailed to KN's jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3370 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–1–53–000]

K N Energy, Inc; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that K N Energy, Inc. ("K N") on January 30, 1991 tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (Section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, First Revised Volume No. 1–B to reflect changes in the Current Adjustment. The filing proposes increases (decreases) to K N's rates per Mcf as set forth in the table below:

	Zone 1	Zone 2
CD, SF and WPS Commodity	$(0.0308)	$(0.0308)
D1 Demand	(0.0009)	(0.0003)
D2 Demand	0.0012	0.0018
WPS Demand	(0.0018)	(0.0006)
IOR Commodity	(0.0305)	(0.0293)

K N states that the filing reflects revision to its base tariff rates to reflect projected weighted average gas costs for the quarter ending May 31, 1991. The proposed effective date for the rate changes is March 1, 1991.

K N states that copies of the filing have been served upon K N's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before February 14, 1991, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a petition to intervene or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–91–3371 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91-4-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

February 6, 1991.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on January 30, 1991, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective March 1, 1991:

	Superseding
Eightieth Revised Sheet No. 3a.	Seventy-Ninth Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Eightieth Revised Sheet No. 3a is to reflect a $.4878 per MCF decrease in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Mid Louisiana states that copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 13, 1991. Protests will be considered by the Commission in determinign the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3366 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-78-000]

Midwestern Gas Transmission Co.; Filing

February 6, 1991.

Take notice that on January 30, 1991, Midwestern Gas Transmission Company (Midwestern) filed the following tariff sheets to amend Volume 1 of its FERC Gas Tariff, to be effective March 1, 1991:

Fifth Revised Sheet No. 7;
First Revised Sheet No. 88;
First Revised Sheet No. 89.

Midwestern states that the tariff revisions were submitted in response to Order No. 528. The revised tariff sheets permit Midwestern to passthrough to its jurisdictional sales customers the take-or-pay charges approved by the Commission to be billed to Midwestern by Tennessee Gas Pipeline Company. Midwestern proposes to recover costs based on the contract demand or maximum delivery obligation of its firm sales customer as of June 15, 1988, the date on which Midwestern filed its original recovery mechanism.

Midwestern states that copies of this filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3373 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

February 6, 1991.

Take notice that on January 31, 1991, Mississippi River Transmission Corporation (MRT) tendered for filing Fifty-Fifth Revised Sheet No. 4, Fourteenth Revised Sheet No. 4.1, and Fourteenth Revised Sheet No. 4.2 to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective March 1, 1991.

MRT states that the instant filing reflects its quarterly purchased gas cost adjustment (PGA), submitted pursuant to § 154.308 of the Commission's Regulations and paragraph 17.2 of MRT's FERC Gas Tariff. MRT states that the impact of the instant filing on its Rate Schedule CD-1 rates is an increase of $.006 per MMBtu in the demand charge, and a decrease of 32.11 cents per MMBtu in the commodity charge from MRT's quarterly PGA effective December 1, 1990. The single part rate under Rate Schedule SGS-1 reflects a decrease of 32.05 cents per MMBtu.

MRT states that a copy of this filing has been served on all of MRT's jurisdictional sales customers and the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3372 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-6-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 29, 1991, certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to (1) storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS, and (2) storage services purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X-28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S-2. The tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule LSS and Section 26 of the General Terms and Conditions of Volume No. 1 of Transco's FERC Gas Tariff.

Included in appendices B and C attached to the filing are explanations of each of the tracking changes, the proposed effective date of such changes and details regarding the computation of the revised LSS and S–2 rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS and S–2 rate changes proposed therein into subsequent intervening rate filings which have been accepted or are currently pending Commission acceptance on the effective dates reflected thereon.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protests said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3381 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–30–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Trunkline Gas Company (Trunkline) on January 29, 1991, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Eighty-Second Revised Sheet. 3–A.

The proposed effective date of this revised tariff sheet is March 1, 1991.

Trunkline states that the revised tariff sheet filed herewith reflects a commodity rate increase of 0.04¢ per Dt in the projected purchased gas cost component.

Trunkline states that the above-referenced tariff sheet is being filed in accordance with Section 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to Section 18 (Purchase Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the change in Truckline's jurisdictional rates effective March 1, 1991.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3367 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–56–000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Valero Interstate Transmission Company ("Vitco") on January 31, 1991, tendered for filing the following tariff sheets as required by Orders 483 and 483–A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

23rd Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

30th Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 482 and 483–A. The change in rates to Rate Schedule S–3 includes a decrease in purchased gas cost of $0.1093 per MMBtu. The change in rate to Rate Schedule E–3 includes a decrease in purchased gas cost of $1.1245 per MMBtu.

The proposed effective date of the above filing is March 1, 1991. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by March 1, 1991.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3376 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR91–10–000]

Wintershall Pipeline Corp.; Petition for Rate Approval

February 6, 1991.

Take notice that on January 28, 1991, Wintershall Pipeline Corporation filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of 1.0 cent per Mcf for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Wintershall's petition states that it is an intrastate natural gas pipeline within the meaning of section 2(16) of the Natural Gas Policy Act of 1978 in the State of Louisiana. Wintershall owns facilities, which are the subject of this petition, that extend from an interconnection with United Gas Pipe Line Company in the Monroe Field area of North Louisiana to a chemical plant owned and operated by IMC Corp. located near Sterlington, Louisiana. Wintershall's previous maximum interruptible transportation rate of 1.0 cent per MMBtu for section 311(a)(2) service was approved by the Commission January 13, 1989 in Docket No. ST88–1898–000.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the

expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 27, 1991. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3386 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-9-000]

Wintershall Pipeline Corp. and Hogan Pipeline Corp.; Petition for Rate Approval

February 6, 1991.

Take notice that on January 24, 1991, Wintershall Pipeline Corporation and Hogan Pipeline Corporation jointly filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of 8.18 cents per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Wintershall-Hogan's petition states that they are intrastate natural gas pipelines within the meaning of section 2(16) of the Natural Gas Policy Act of 1978 each owning discrete facilities in the State of Louisiana. In addition, they jointly own facilities extending from the Cotton Plant Field and Sardis Church Field to an interconnection with Texas Gas Transmission Corporation in Louisiana which are the subject of this petition. Wintershall-Hogan's previous maximum interruptible transportation rate of 7.5 cents per MMBtu for section 311(a)(2) service was approved by the Commission January 13, 1989 in Docket No. ST88-2553-000, *et al.*

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 27, 1991. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3387 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-84-000]

Arkla Energy Resources, a Division of Arkla, Inc.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that on February 1, 1991, Arkla Energy Resources ("AER"), a division of Arkla, Inc., tendered for filing changes in its FERC Gas Tariff, First Revised Volume No. 1-A. AER proposes an effective date of March 3, 1991.

AER states that its tariff changes are changes other than in rate level that are designed in response to customer comments. The changes will ease administration of portions of the Tariff, clarify and abbreviate certain Shipper requirements, and rectify certain technical errors.

AER states that copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission, and those portions for which AER has not sought confidential treatment are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3377 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-5-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that, on February 1, 1991, Carnegie Natural Gas Company ("Carnegie"), tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Fifteenth Revised Sheet No. 8
Fifteenth Revised Sheet No. 9

Carnegie states that pursuant to the PGA clause in its FERC Gas Tariff and § 154.308 of the Commission's regulations, it is proposing to adjust its rates effective March 1, 1991, as part of its scheduled Quarterly PGA filing. Carnegie states that its proposed rates reflect changes in its projected cost of spot gas supplies and in the sales rates of its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), as filed by Texas Eastern on January 31, 1991. The revised rates reflect the following changes from Carnegie's last fully-supported PGA filed in Docket No. TQ91-3-63-000: a $.5940 per Dth decrease in the applicable commodity components of its LVWS and CDS rate schedules; a $.5867 per Dth decrease in the commodity component of its LVIS rate schedule; a $.2228 per Dth increase in the D1 component of its LVWS and CDS rate schedules; no changes in the D2 component of its LVWS and CDS rate schedules; and a $.0073 per Dth increase in the DCA component. Carnegie's filing also reflects a $.2203 increase in the commodity component of its Standby Charge Adjustment.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission, and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3378 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-4-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

February 6, 1991.

Take notice that on January 30, 1991, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered by filing the revised tariff sheets in its FERC Gas Tariff, Second Revised Volume No. 1, listed below, containing changes in rates for effectiveness on January 10, 1990:

Primary Tariff Sheet

Second Revised Sheet No. 25.

Alternate Tariff Sheet

Alternate Second Revised Sheet No. 25

According to Granite State, it provides a storage service for Bay State Gas Company under its Rate Schedule GSS with storage capacity provided in a facility operated by CNG Transmission Corporation (CNG). It is further stated that Granite State's Rate Schedule GSS tracks changes made by CNG under its Rate Schedule GSS pursuant to which Granite State obtains storage capacity from CNG.

According to Granite State, CNG filed revised tariff sheets in Docket No. RP90-143-000, *et al.*, which included, among other changes in rates in its FERC Gas Tariff, First Revised Volume No. 1, a primary proposal and an alternate proposal to change its Rate Schedule GSS rates as of January 10, 1991. Granite State further states that its primary and alternate tariff sheets propose changes in its Rate Schedule GSS rates to track the primary and alternate changes, respectively , proposed by CNG in its Rate Schedule GSS rates.

According to Granite State, copies of its filing were served upon Bay State Gas Company and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3362 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-37-000, RP91-81-000]

Northwest Pipeline Corp.; Proposed Change in Sales Rates Pursuant to Purchased Gas Cost Adjustment

February 6, 1991.

Take notice that on January 30, 1991, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, Second Revised Volume No. 1. Such change in rates is for the purpose of (1) Reflecting changes in Northwest's estimated cost of purchased gas; and (2) reflecting the change in unrecovered purchased gas costs since Northwest's PGA filing dated January 31, 1990.

Northwest hereby tenders the following tariff sheets to be a part of its FERC Gas Tariff:

Second Revised Volume No. 1

Sixth Revised Sheet No. 10
Alternate Sixth Revised Sheet No. 10
Sixth Revised Sheet No. 11
Alternate Sixth Revised Sheet No. 11
First Revised Sheet No. 136

The current adjustment for which notice is given herein, aggregates to a decrease of 4.24¢ per MMBtu in the commodity rate for Rate Schedule ODL-1 and a similar effect on Northwest's other sales Rate Schedules. The proposed change in Northwest's commodity rates for the second quarter of 1991 would decrease sales revenues by approximately $352,090. The instant filing also provides for a decrease in the demand components of Northwest's gas sales rates to reflect changes to the estimates of Canadian demand rates and to reflect a revised Canadian exchange rate factor. Northwest proposes to collect through its commodity surcharge adjustment $4,815,825, which is the total debit balance of Account No. 191.02 as of November 30, 1990 that is subject to the PGA commodity surcharge. Northwest proposes to collect through its D-1 and D-2 surcharge adjustments $454,752, which is the total debit balance of Account No. 191.32 as of November 30, 1990 that is subject to PGA demand surcharges.The aforementioned changes have been reflected on Sheet Nos. 10 and 11 above which have a proposed April 1, 1991 effective date.

Northwest has proposed two new notice provisions in this filing. A notice provision is reflected in footnote two to Sheet Nos. 10 and 11 (primary tariff sheets), which provides notice of a potential future adjustment to Northwest's rates related to the Commission's November 26, 1990 order in Docket No. CP86-578-031, *et al.* Another notice provision reflected on Sheet No. 136 is a proposed formula for allocating the balance in Account No. 191 among Northwest's sales customers should Northwest elect to terminate its PGA in the future. Northwest has proposed a March 1, 1991 effective date for First Revised Sheet No. 136.

Northwest states that a copy of this filing is being served on each designated in the official service list compiled by the Secretary in Docket No. TA90-1-37-000 and upon all jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests in Docket No. RP91-81-000 should be filed on or before February 13, 1991. All such motions or protests in Docket No. TA91-1-37-000 should be filed on or before February 27, 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 this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3385 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-70-000]

Northwest Pipeline Corp.; Waiver

February 6, 1991.

Take notice that on January 7, 1991, pursuant to rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) rules of practice and procedure, 18 CFR 385.207(a)(5), Northwest Pipeline Corporation (Northwest) filed a petition with the Commission for a waiver of the time requirement relating to the use of actual cost data in connection with a base tariff restatement filing. Northwest seeks a waiver of three days in the application of the Commission regulation.

Northwest states that it intends to make a base tariff restatement filing under the provisions of 18 CFR 154.303(e)(1) on or before May 1, 1991, a date which is at least 30 days before the expiration of 36 months after the effective date of the base tariff rates approved in Docket No. RP88-47-000. Northwest states that without a waiver of the Commission's regulations, Northwest would be required to use actual cost data for a 12-month period ending after March 3, 1991 to prepare its filing.

Northwest requests that the Commission grant Northwest a three-day waiver of the requirements of 18 CFR 154.303(e)(1)(ii)(B) found in the regulations to allow Northwest to utilize actual cost data for the 12-month period ending February 28, 1991 in connection with making its base tariff restatement filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before February 14, 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 this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3382 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-2-55-000, TM91-3-55-000 and TM90-2-55-003]

Questar Pipeline Co.; Rate Change

February 6, 1991.

Take notice that on January 29, 1991, Questar Pipeline Company tendered for filing and acceptance certain revised tariff sheets to its FERC Gas Tariff as follows:

Tariff sheet	Proposed effective date
Original Volume No. 1:	
First Revised Sixth Revised Sheet No. 12.	Aug. 1, 1990.
Substitute Seventh Revised Sheet No. 12.	Sept. 1, 1990.
Substitute Eighth Revised Sheet No. 12.	Oct. 1, 1990.
Substitute Ninth Revised Sheet No. 12.	Nov. 1, 1990.
Substitute Tenth Revised Sheet No. 12.	Dec. 1, 1990.
Substitute Eleventh Revised Sheet No. 12.	Jan. 1, 1990.
Twelfth Revised Sheet No. 12	March 1, 1990.
Substitute Original Sheet No. 19...	Jan. 1, 1990.

Questar states that the purpose of this filing is to adjust the purchased gas cost under Questar's sale-for-resale Rate Schedule CD-1 effective March 1, 1991, and to adjust the Pipeline Supplier Charge, pursuant to section 3(e) of Questar's Rate Schedule CD-1, to reflect revised buyout and buydown charges billed to Questar by its former pipeline supplier, Northwest Pipeline Corporation (Northwest).

Questar states that the Twelfth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2,62619/Dth which is $0.14661 higher than the currently effective rate of $2.47958/Dth. The demand base cost of purchased gas as adjusted increased $0.00060/Dth from $0.00541/Dth to $0.00601/Dth.

Questar states that the revised Pipeline Supplier Charge is $177,886/mo. in the Utah zone and $10,680/mo. in the Wyoming/Colorado zone. This is adjusted from previously effective charges of $186,552/mo. in Utah and $11,200/mo. in Wyoming/Colorado.

Questar further states that on December 31, 1990 it refunded $44,747 in Pipeline Supplier Charges and applicable interest to Mountain Fuel Supply Company pursuant to Order No. 528.

Questar states that is has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20002, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before 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 parities to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-3363 Filed 2-12-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-5-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 6, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 29, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Proposed To Be Effective January 10, 1991

2nd Revised 26th Revised Sheet No. 50.2

Proposed To Be Effective February 1, 1991

Twenty-ninth Revised Sheet No. 50.2

Texas Eastern states that these sheets are being filed pursuant to § 4.F of Texas Eastern's Rate Schedules SS-2 and SS-3 to flow through changes in CNG Transmission Corporation's (CNG) Rate Schedule GSS rates which underlie Texas Eastern's Rate Schedules SS-2 and SS-3.

Texas Eastern states that CNG filed tariff sheets on January 9, 1991 in Docket Nos. RP90-143, *et al.*, revising Rate Schedule GSS rates to become effective January 10, 1991.

Texas Eastern states that in the event the Commission accepts CNG's alternative tariff sheets, Texas Eastern submits for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following alternative tariff sheets which track CNG's alternative tariff sheets:

Proposed To Be Effective January 10, 1991

Alt 2nd/26th Revised Sheet No. 50.2

Proposed To Be Effective February 1, 1991

Alt Twenty-ninth Revised Sheet No. 50.2

Texas Eastern states that copies of the filing were served on Texas

Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 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 14, 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3364 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–3–11–000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

February 6, 1991.

Take Notice that on February 1, 1991, United Gas Pipe Line Company (United) tendered for filing the following revised tariff sheets with a proposed effective date of March 1, 1991.

Second Revised Volume No. 1

Second Substitute Eleventh Revised Sheet No. 4
Second Substitute Eleventh Revised Sheet No. 4A
Second Substitute Eleventh Revised Sheet No. 4B
Second Substitute Ninth Revised Sheet No. 4D
Second Substitute Eleventh Revised Sheet No. 4I

The above referenced tariff sheets are being filed pursuant to section 154.308 of the Commission's Regulations to reflect changes in United's purchased gas adjustment as provided in section 19 of United's FERC Gas Tariff, Second Revised Volume No. 1.

United states that it is proposing to reinstate and begin collecting the 18¢ per Mcf PGA Settlement Surcharge applicable to United's Past Period Deferred Costs and Additional Deferred Costs Balances effective March 1, 1991. Since October 1, 1990, United has voluntarily suspended its rights to collect the 18¢ Settlement Surcharge subject to its right to reinstatement as stated in United's Annual PGA filing in Docket No. TA90–1–11 filed August 8, 1990 and pursuant to a Commission Letter Order dated November 2, 1990.

United states that the revised tariff sheets are being mailed to its jurisdictional sales customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such petitions or protests should be filed on or before February 14, 1991.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–3379 Filed 2–12–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed During the Week of January 4 Through January 11, 1991

During the week of January 4 through January 11, 1991, the applications for relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 7, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 4 through January 11, 1991]

Date	Name and location of applicant	Case No.	Type of submission
1/1/91	Gulf/Michael J. Legros, Cordova, Tennessee	RR300–14	Request for Modification/Rescission in the Gulf Second Stage Refund Proceeding. If granted: The May 18, 1990 Decision and Order (Case No. RF300–10353) would be modified regarding the firm's application for refund submitted in the Gulf Second Stage Refund Proceeding.
1/10/91	John J. Hudson, Inc., Washington, DC	RR272–64	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The December 14, 1990 Decision and Order (RF272–21107) issued to John J. Hudson, Inc., would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.

REFUND APPLICATIONS RECEIVED

[Week of January 4 to January 11, 1991]

Name of firm	Case No.	Date received
White's Exxon	RF307–10169	12/26/90
Andrew's Arco	RF304–12166	01/07/91
Calabasas Arco	RF304–12167	01/07/91

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 4 to January 11, 1991]

Name of firm	Case No.	Date received
Southwest Oil Co./ San Antonio.	RF326–207	01/07/91

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 4 to January 11, 1991]

Name of firm	Case No.	Date received
Southwest Oil Co.	RF326–208	01/07/91

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 4 to January 11, 1991]

Name of firm	Case No.	Date received
Dean's Service Co., Inc.	RF326-209	01/07/91
Don's Conoco	RF220-491	01/04/91
Delta Air Lines, Inc	RF304-12168	01/10/91
Northern Air Cargo, Inc.	RF326-210	01/10/91
Tidewater, Inc.	RF326-211	01/10/91
Copper Valley Electric Association.	RF326-212	01/11/91
Pennzoil Products Company.	RF326-213	01/11/91
Crude Oil Refund Applications Received.	RF272-85760 thru RF272-85911	01/04/91 thru 01/11/91
Gulf Oil Refund Applications Received.	RF300-14691 thru RF300-14934	01/04/91 thru 01/11/91
Texaco Oil Refund Applications Received.	RF321-12519 thru RF321-12634	01/04/91 thru 01/11/91

[FR Doc. 91-3478 Filed 2-12-91; 8:45 am]

BILLING CODE 6450-01-M

Change of Filing Deadline in Special Refund Proceeding No. KEF-0119 Involving Texaco, Inc.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Extension of Deadline for Filing Applications for Refund in Special Refund Proceeding KEF-0119, Texaco Inc.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy hereby announces an extension of time for filing Applications for Refund from the oil overcharge monies in escrow resulting from a Consent Order between the Department of Energy and Texaco Inc. The final deadline is extended from February 28, 1991 to September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Elise Snyder, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-4921.

SUPPLEMENTARY INFORMATION: On March 5, 1990, the Office of Hearings and Appeals of the Department of Energy (DOE) issued a Decision and Order setting forth final refund procedures in order to distribute the $120 million of oil overcharge funds in an escrow account established in accordance with the Consent Order entered into by the DOE and Texaco Inc. See Texaco Inc. 20 DOE ¶ 85,147 (1990). That Decision established February 28, 1991 as the filing deadline for the submission of refund applications for direct restitution. (Qualified claimants must have purchased Texaco refined petroleum products during the refund periood of March 6, 1973 through January 27, 1981.) The DOE has received more than 13,000 refund applications to date. However, we continue to receive applications at a considerable rate and frequent telephone and written inquiries. Based on this information and knowledge gained in other refund proceedings, we believe that many potential refund recipients are in the process of gathering information to support their claims, and others have not yet been made aware of this proceeding. We therefore find that extending the application period is appropriate. Accordingly, we are hereby extending the time for filing a refund application in the Texaco proceeding from February 28, 1991 to September 30, 1991. Firms and individuals that apply for refunds after February 28, like all applicants in the Texaco proceeding, must demonstrate that they purchased Texaco refined petroleum products or that the right to obtain a refund was transferred to them. Firms that have already filed an application in this proceeding should not file another application.

Dated: February 6, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-3477 Filed 2-12-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3904-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 15, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Polychlorinated Biphenyls (PCBs): Manufacturing, Processing, and Distribution in Commerce Exemptions. (EPA ICR No.: 0857.04; OMB No.: 20270-0021). This is an extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Abstract: The Toxic Substances Control Act (TSCA) prohibits the manufacture of PCBs, or their processing or distribution in commerce. However, the statute sets conditions under which EPA may grant exemptions to this prohibition. Companies wishing to obtain the exemption must petition EPA by submitting certain information to the Agency. The information includes name and address of the petitioner, and amount and use of PCBs the petitioner wishes to manufacture, process, or distribute in commerce. The petitioner must provide evidence that the use of PCBs will not result in an unreasonable risk of injury to health or the environment. In addition, the petitioner must provide evidence that demonstrates good faith efforts to develop a chemical substitute for PCBs which does not pose an unreasonable risk of injury to health or the environment. EPA uses the information to determine whether petitioners have met exemption requirements precribed by TSCA.

Burden Statement: The burden for the collection of information is estimated to average 8 hours per response for reporting. This estimate includes the time needed to review instructions gather the data needed, and review the collection of information.

Respondents: Companies wishing to obtain an exemption from prohibitions against the manufacture of PCBs, or their processing or distribution in commerce.

Estimated No. of Respondents: 6.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 48 hours.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street SW., Washington, DC 20460 and Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW. Washington, DC 20530.

Dated: February 6, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91-3450 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL—3904-8]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected cost and burden; where appropriate, they include the actual data collection instruments.

DATES: Comments must be submitted on or before March 15, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Wool Fiberglass Manufacturing (subpart PPP)—Information Requirements (EPA ICR # 1160.03; OMB# 2060-0114). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of wool fiberglass insulation manufacturing plants must notify the delegated State authority or EPA of construction, modification, start-up, shutdown, and malfunction of affected facilities, and of the date and results of each performance test. Owners or operators of these facilities are required to install, calibrate, maintain, and operate a continous monitoring system for the measurement of particulate emissions and report periods of excess particulate emissions semiannually. The standards require recordkeeping to document information relating to the gas pressure drop across each scrubber and the scrubbing liquid flow rate to each scrubber, or the primary and secondary current and voltage in each electrical field and the inlet water flow rate for an electrostatic precipitator. Information is used to implement and enforce the standards.

Burden statement: The public burden for this collection of information is estimated to average approximately 24 hours per response for reporting, and 63 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners and operators of wool fiberglass insulation manufacturing plants.

Estimated no. of respondents: 32.

Estimated no. of responses per respondents: 2.

Estimated total annual burden on respondents: 3,511 hours.

Frequency of collection: Once and semiannually.

Title: NSPS for Flexible Vinyl and Urethane Coating and Printing—Information Requirements (Subpart FFF) (EPA ICR # 1157-03; OMB # 2060-0073). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of rotogravure printing lines used to print or coat flexible vinyl or urethane products must notify EPA of construction, modification, start-up, shutdown, and malfunction of affected facilities, and of the date and results of each performance test. Owners or operators of these facilities must install, calibrate, maintain, and operate a continuous monitoring system to measure emissions of volatile organic compounds (VOC), and submit semiannual excess emission reports. The States and EPA use the data to ensure compliance with the standards, to target inspections, and when necessary, as evidence in court.

Burden statement: The public burden for this collection of information is estimated to average approximately 17 hours per response for reporting, and 63 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners and operators of rotogravure printing lines used to print or coat flexible vinyl or urethane products.

Estimated No. of respondents: 6.

Estimated No. of responses per respondent: 2.

Estimated total annual burden on respondents: 575 hours.

Frequency of collection: Once and semiannually.

Title: NSPS for Lead-Acid Battery Manufacturing—Recordkeeping and Reporting Requirements (Subpart KK) (EPA ICR #1072.03; OMB #2060-0081). This is a renewal of a previously approved collection.

Abstract: Owners or operators of lead-acid battery manufacturing plants must notify the delegated State authority or EPA of the construction, modification, and anticipated and actual start-up dates of affected facilities, and the date and results of the initial performance test. For affected facilities using scrubbers, owners or operators must install, calibrate, maintain, and operate a monitoring device that measures and records scrubber pressure drop. Records of the initial performance test results, and of start-ups, shutdowns, and malfunctions, and measurements of scrubber pressure drops, must be maintained. The States and EPA use the data to ensure compliance with the standards.

Burden statement: The public burden for this collection of information is estimated to average approximately 43 hours per response for reporting, and 175 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed, and review the collection of information.

Respondents: Owners and operators of lead-acid battery manufacturing plants that have the capacity to produce in one day, batteries containing at least 6.5 tons of lead.

Estimated No. of respondents: 3 respondents will report and 29 will keep records.

Estimated No. of responses per respondent: 2.

Estimated total annual burden on respondents: 5,331 hours.

Frequency of collection: Once.

Title: Ambient Air Quality Networks—Monitoring and Quality/Precision Data (EPA ICR #0940.07; OMB #2060-0084). This is a reinstatement of a previously approved collection.

Abstract: This information collection request includes a total of nine specific activities conducted by State and local air pollution control agencies. The specific activities include operating ambient air quality sampling devices and conducting sample analyses under 40 CFR part 58 for all pollutants for which National Ambient Air Quality Standards (NAAQS) have been established. Agencies are required to submit ambient and quality assurance data to EPA quarterly from designated sites in urban areas and annual summaries of all ambient air quality data. Most respondents enter the data directly into the Air Quality Subsystem (AQS) of EPA's Aerometric Information Retrieval System (AIRS). The Agency uses the information for compliance determinations, control analyses and for planning and evaluation.

Burden statement: The public burden for this collection of information is estimated to average approximately 42

hours per response for reporting, and 30 hours per recordkeeper annually.

Respondents: State and local air pollution control agencies.

Estimated No. of respondents: 68 respondents will report and 115 will keep records.

Estimated No. of responses per respondent: 380.

Estimated total annual burden on respondents: 1,092,473 hours.

Frequency of collection: Quarterly and annually.

Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burdens, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: February 6, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91-3447 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3904-9]

Underground Injection Control Program Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Cab-O-Sil Division, Cabot Corporation, Tuscola, IL

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final decision on exemption petition.

SUMMARY: Notice is hereby given by the USEPA that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Cab-O-Sil Division, Cabot Corporation (Cabot), of Tuscola, Illinois, for use of Well No. 1. As required by 40 CFR part 148, Cabot has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by Cabot of specific restricted hazardous wastes, including hydrochloric acid and wastewaters contaminated with hydrochloric acid which are hazardous because of its corrosive nature (i.e., pH is less than or equal to 2.0, hence its waste code is D002 under 40 CFR part 261), a multi-source leachate (Code F039) contaminated with small amounts of 1,1-dichloroethylene, 1,2-dichloroethylene, methylene chloride, phenol, tetrachloroethylene, and trichloroethylene from a closed waste storage impoundment, and low concentrations or residual, spent acetone (Code F003) rinsed from laboratory glassware cleaned with solvent, into a Class I hazardous waste injection well, specifically identified as Well No. 1 at the Tuscola facility. This decision constitutes a final USEPA action for which there is no administrative appeal.

BACKGROUND: Cabot submitted a petition on April 14, 1988, requesting exemption for its two injection wells located in Tuscola, Illinois, from the land disposal restrictions for hazardous wastes. USEPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, regional and local geology, seismic activity, penetrations of the confining zone, and the mathematical models submitted by Cabot to demonstrate that no migration from the injection zone would occur. As required under 40 CFR part 148, the USEPA determined that the geological setting at the site as well as the construction and operation of both wells are adequate to prevent fluid migration out of the injection zone within 10,000 years except that the mechanical integrity of Well No. 1 was yet to be demonstrated. A fact sheet containing a complete summary of the draft decision was published in the Federal Register of August 24, 1990.

A proposed approval, with the contingency that the mechanical integrity of Well No. 1 must be demonstrated, was issued on August 10, 1990, pursuant to 40 CFR 124.10, and a public hearing was subsequently held in Tuscola on September 10, 1990. The public comment period expired on September 24, 1990. A number of comments were received and all comments were considered in making the final decision. The USEPA granted Cabot an exemption from land disposal restrictions for the use of Well No. 2 on November 6, 1990. However, Well No. 1 had not demonstrated mechanical integrity as required by 40 CFR 148.20(2)(iv) at that time and, for that reason, the exemption did not include use of Well No. 1.

On November 21, 1990, the demonstration of the mechanical integrity of Well No. 1 was completed. Cabot submitted the results of the testing and petitioned for an exemption from the HSWA land disposal restrictions for the well on December 17, 1990. After reviewing the results of the mechanical integrity testing performed on May 16 and November 21, 1990, the USEPA has determined that Well No. 1 has demonstrated that it has mechanical integrity. To further ensure the continuous, long-term mechanical integrity of Well No. 1, Cabot has agreed to perform additional testing. At the time mechanical integrity tests of Well No. 1 are performed in 1991, Cabot will log Well No. 1 to show that there is no movement of liquid upward outside of the casing and, in the future, temperature logging of Well No. 1 will be conducted annually as part of the mechanical integrity testing program for Well No. 1. Since the lack of demonstrated mechanical integrity was the only impediment to the granting of an exemption for Well No. 1, a final exemption is granted with specific conditions listed in the notice.

CONDITIONS: For this exemption to be effective, Cobat must meet the following conditions:

(1) The monthly average injection rate must not exceed 400 gallons per minute;

(2) The concentrations of the constituents included in the injected leachate will not exceed the amounts listed as proposed maximum allowable concentrations in Table 8-6 in the petition document;

(3) Injection shall occur only into the Franconia, Potosi, and Eminence Dolomites and the Gunter Sandstone;

(4) The injection zone shall consist of the Franconia, Potosi, Eminence, and Oneota Dolomites and the Gunter Sandstone, found between 4421 and 5400 feet in Cabot's Well No. 1;

(5) An oxygen activation log of Well No. 1 will be made as part of the mechanical integrity testing conducted in 1991;

(6) Temperature logging, using procedures satisfactory to Region V, of Well No. 1 will be done in 1991 and in each year thereafter; and

(7) Cabot must be in full compliance with all conditions of its permits and other conditions relating to be exemption found in 40 CFR 148.23 and 148.24.

DATES: This action is effective as of February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, USEPA, Region V, telephone (312) 886-2939. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead

reviewer prior to reviewing the Administrative Record.

Dale S. Bryson,

Director, Water Division.

[FR Doc. 91-3446 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-M

[PF-541; FRL-3877-5]

Pesticide Tolerance Petitions; Initial Filings and Withdrawals; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is correcting a notice of withdrawal of pesticide petition (PP) 4F3121 that was in error. No request has been made to withdraw the petition, and it is still pending.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM-25), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-557-1800.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 16, 1991 (56 FR 1632), EPA issued a notice that American Cyanamid, P.O. Box 400, Princeton, NJ 08540, had requested that its pesticide petition, PP 4F3121, proposing to establish a tolerance in 40 CFR 180.361 for the herbicide [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolites 4-[(1-ethylpropyl)-2-methyl-3,5-dinitrobenzyl alcohol in or on grapes at 0.1 ppm be withdrawn without prejudice to future filing. The notice of filing had appeared in the Federal Register of October 17, 1984 (49 FR 40659).

The notice withdrawing without prejudice PP 4F3121 was in error. American Cyanamid has not requested that the petition be withdrawn, and it remains in effect.

Authority: 7 U.S.C. 136a.

Dated: February 2, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-3457 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180840; FRL 3877-4]

Receipt of Application for an Emergency Exemption to use Bacillus Thuringiensis; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Texas Department of Agriculture (hereafter referred to as "Applicant") to use an encapsulated microbial insecticide, MVP Bioinsecticide, *Bacillus thuringiensis* (B.t. variety kurstaki) derived delta-endotoxin encapsulated within the killed Pseudomonas fluorescens cells, manufactured by the Mycogen Coorporation.

The purpose of the request is to control diamondback moth infestations on cole crops (broccoli, cabbage, and cauliflower) in Texas. Cole crops are grown on approximately 24,500 acres in Starr, Willacy, Cameron, and Hidalgo counties in the Rio Grande Valley of Texas.

EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant this exemption.

DATES: Comments should be received on or before February 28, 1991.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180840" should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Forrest, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of an encapsulated microbial insecticide, MVP Bioinsecticide, *Bacillus thuringiensis* (B.t. variety kurstaki) derived delta-endotoxin encapsulated within the killed Pseudomonas fluorescens cells.

Information in accordance with 40 CFR part 166 was submitted as part of this request. MVP Bioinsecticide is not currently registered in the United States. The Applicant states that the diamondback moth has developed resistance to federally registered products to the point that it is extremely difficult to produce cole crops in Texas. In three previous growing seasons, hundreds of acres of cabbage in the Lower Rio Grande Valley were not harvested due to the depredatory activity of this pest and the lack of effective labeled insecticides. According to the Applicant, many growers were not able to produce a marketable crop even though insecticides were applied as many as 15 times.

The state's cole crops yield during the 1990-91 season is expected to be about 20 percent below the average because of the low crop prices and the difficulty in controlling the diamondback moth. The Applicant estimates that the anticipated economic loss in the absence of MVP would be $4.2 million.

The Applicant proposes to make a maximum of 10 ground applications of MVP to approximately 24,500 acres at a rate of 2 to 3 quarts (0.45 to 0.675 pounds) of delta endotoxin of *Bacillus thuringiensis* variety kurstaki per acre per application. Assuming that the 24,500 acres receive 10 applications of MVP at a maximum rate of 3 quarts, a total of 183,750 gallons of MVP, or 165,375 pounds of delta endotoxin will be used. This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the

Federal Register of receipt of an application for a specific exemption proposing use of a new chemical (i.e. an active ingredient not contained in any currently registered pesticide). The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: February 1, 1991.

Anne E. Lindsay,

Director, Registration Division,

Office of Pesticide Programs.

[FR Doc. 91-3456 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted To Office of Management and Budget for Review

February 6, 1991.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW. Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley Federal Communications Commission, (202) 632-7513. Persons wishing to commment on these information collections should contact Jonas Heihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB number: 3060-0270

Title: Section 90.443, Content of Station Records

Action: Extension

Respondents: Individuals or households, state or local governments, businesses or other for-profit (including small businesses), and non-profit institutions

Frequency of response: Recordkeeping requirement

Estimated annual burden: 57,410 recordkeepers; 0.83 hours average burden per recordkeeper; 4,765 hours total annual burden

Needs and uses: Rule section 90.443 specifies the records required to be maintained by station licensees. These records indicate maintenance performed on the licensee's equipment, and instances of tower light checks and failures, if any, and corrective action taken. The maintenance records could be used by the licensee or FCC field personnel to note any recurring equipment problems or conditions that may lead to degraded equipment performance and/or interference generation. The records regarding tower lighting are required to ensure that the licensee is aware of tower light condition and proper operation, in order to prevent and/or correct any hazards to air navigation.

OMB number: None

Title: 470-512 MHz Mobile Loading

Form number: FCC Form 6027-I

Action: Extension collection in use without an OMB control number

Respondents: Individuals or households, state or local governments, businesses or other for-profit (including small businesses), and non-profit institutions

Frequency of response: On occasion reporting

Estimated annual burden: 600 responses; .25 hours average burden per response; 150 hours total annual burden

Needs and uses: The information on this form is required by 47 CFR 90.313. Licensees are required to notify the Commission, within 8 months of license grant of the actual number of mobile units in operation. The data is used by FCC staff in determining full capacity channel loading, making frequencies available for assignment and modifying or canceling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using.

OMB number: None

Title: Section 74.1251, Technical and equipment modifications

Action: Extension collection in use without an OMB control number

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 25 responses; .25 hours average burden per response; 6 hours total annual burden

Needs and uses: Section 74.1251 requires licensees of FM translators to notify the FCC, in writing, of changes in the primary FM station being retransmitted. The data is used by FCC staff to keep records up-to-date and to ensure compliance with FCC rules and regulations. If this data were not collected, FCC staff could not ensure compliance with section 325(a) of the Communications Act of 1934, as amended, which states that no broadcasting station shall rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

OMB number: None

Title: Section 74.1263, Time of operation

Action: New collection

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: On occasion reporting

Estimated annual burden: 25 responses; .5 hours average burden per response; 13 hours total annual burden

Needs and uses: Section 74.1263 requires licensees of FM translator or booster stations to notify the FCC of its intent to temporarily discontinue operations, its return to operations, and its intent to permanently discontinue operations. The data is used by FCC staff to keep records up-to-date. These notifications inform the FCC staff that frequencies are not being used for a specified amount of time and that frequencies have become available for other users.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-3486 Filed 2-12-91; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Outreach Communications Corp., et al.

1. The Commission has before it the following groups of mutually exclusive applications for three new FM stations:

I.

Applicant, City and State	File No.	MM Docket No.
A. Outreach Communications Corporation; North Palm Beach, FL.	BPED-860603MH	90-640
B. Southwest Florida Community Radio, Inc.; West Palm Beach, FL.	BPED-891212MC	.....

Issue Heading and Applicants

1. Air Hazard, A and B
2. 307(b)—Noncommercial Educational, A and B
3. Contingent Comparative Noncommercial Educational FM, A and B
4. Ultimate, A and B

II.

Applicant, City and State	File No.	MM Docket No.
A. Texas Educational Broadcasting Co-operative, Inc.; Hornsby, TX.	BPED-880401MG	90-639
B. The University of Texas at Austin on behalf of Texas Student Publications; Austin, TX.	BPED-880722MA	.....

Issue Heading and Applicants

1. Air Hazard, B
2. 307(b)—Noncommercial Educational FM, A, B
3. Contingent Comparative—Noncommercial Educational FM, A, B
4. Ultimate, A, B

III.

Applicant, City and State	File No.	MM Docket No.
A. Leibensperger FM, Inc.; Homewood, AL.	BPH-880812MV	90-638
B. SBM Communications, Inc.; Homewood, AL.	BPH-880816MM	.....
C. Homewood Associates; Homewood, AL.	BPH-880816MN	.....
D. Homewood FM Broadcasting; Homewood, AL.	BPH-880816MV	.....
E. Heidi Damsky; Homewood, AL.	BPH-880816MW	.....
F. George W. Barber, Jr.; Homewood, AL.	BPH-880816MY	.....
G. Roxy Communications, Inc.; Homewood, AL.	BPH-880816NB	.....
H. George I. O'Rear; Homewood, AL.	BPH-880816NL	.....
I. Carter-Sigmon, Inc.; Homewood, AL.	BPH-880816NP	.....
J. WEDA, Ltd.; Homewood, AL.	BPH-880816NR	.....
K. Willie Huff, Deborah Huff and Adrienne F. Lee, a partnership d/b/a Homewood Partners; Homewood, AL.	BPH-880816NU	.....
L. Southern Broadcasting Limited Partnership; Homewood, AL.	BPH-880816NW	.....
M. Homewood Community Broadcasters, Ltd.; Homewood, AL.	BPH-880816OQ	.....
N. Pamela R. Jones; Homewood, AL.	BPH-880811MJ (Previously Returned)	.....
O. WYSE Broadcasting Limited Partnership; Homewood, AL.	BPH-880816MP (Dismissed Herein)	.....

Issue Heading and Applicants

1. See Appendix, A
2. See Appendix, A
3. See Appendix, A
4. Financial, J, K
5. Main Studio, D
6. Air Hazard, D, G, I
7. Comparative, A through M

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Homewood, Alabama)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services is an undisclosed party to the applications of A (Leibensperger).

2. To determine whether A's (Leibensperger) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues 1 and 2 above, whether A (Leibensperger) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 91-3344 Filed 2-12-91; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; WPIX, Inc. et al.

1. The Commission has before it the following mutually exclusive applications for renewal of license for station WPIX (TV) and a new commercial television station on Channel 11, New York, New York.

Applicant, and city and state	File No.	MM Docket No.
A. WPIX, Inc., WPIX (TV); New York, NY.	BRCT-890201LL	90-641
B. Challengers of New Jersey, Inc.; New York, NY.	BPCT-890501KH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Comparative, A, B
Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal buisness hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 91-3343 Filed 2-12-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 91-07]

Cartwright International Van Lines, Inc. et al.; Filing of Complaint and Assignment

Notice is given that a complaint was served February 7, 1991, which complaint was filed by Cartwright International Van Lines, Inc.; AAA Forwarding, Inc.; Aberdeen Forwarding Co., Inc.; A C E International Forwarders; Advent Forwarding, Inc.; Air Land Forwarders, Inc.; American Mopac International, Inc.; American Red Ball International, Inc.; American Vanpac Carriers, Inc.; Arpin World Forwarding Corp.; BMC Forwarding, Inc.; Bomar International Forwarding, Inc.; Carmitan Forwarding, Inc.; Cascade International, Inc.; Coco Forwarders Inc.; CTC Forwarding, Inc.; Deere Moving, Inc.; Delcher Intercontinental Moving Service, Inc.; Global Worldwide, Inc.; Great American Forwarders, Inc.; Imi Forwarding, Inc.; International Movements Forwarding, Inc.; Lake Forwarding, Inc.; Miller Forwarding, Inc.; Northwest Consolidators, Inc.; Omni Moving & Storage of Virginia, Inc.; Rebel Forwarding, Inc.; Schulzeco, Inc.; Senate Forwarding, Inc.; Shoreline International, Inc.; Swift International, Inc.; Tri-Star International Forwarding, Inc.; Westpac Moving Systems, Inc.; Wold International, Inc.; and Zenith Forwarders, Inc. (collectively designated Complainants) against Sea-Land Service, Inc. (Respondent). Complainants allege that Respondent has violated sections 10(b)(6)(A), (b)(10), (b)(11) and (b)(12) of the Shipping Act of 1984, 46 U.S.C. app. 1709(b)(6)(A), (b)(10), (b)(11) and (b)(12), by failing to publish a containerload rate for household goods shipments in the Trans-Pacific American Flag Berth Operators (TPAFBO) tariff from Korea to U.S. West Coast ports and denying Complainants the substantially lower containerload rate in the Asia North American Eastbound Rate Agreement (ANERA) tariff for household goods shipments, including military household goods shipments, while charging other shippers the lower ANERA rate and by cancelling out of the TPAFBO tariff a previously effective containerload rate for household goods from Korea to U.S. West Coast ports while continuing to publish such rates for shipments from other Far Eastern origins to U.S. West Coast ports.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan (Presiding Officer). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 7, 1992, and the final decision of the Commission shall be issued by June 8, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 91-3393 Filed 2-12-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Peoples Preferred Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

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

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

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

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Peoples Preferred Bancshares, Inc., Colquitt, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Colquitt, Georgia.

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

1. First Berlin Bancorp, Inc., Berlin, Wisconsin; to become a bank holding company by acquiring 95 percent of the voting shares of The First National Bank of Berlin, Berlin, Wisconsin.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. LNB Financial Corporation, Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Liberty National Bank, Austin, Texas.

2. Liberty Delaware, Inc., Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Liberty National Bank, Austin, Texas.

Board of Governors of the Federal Reserve System, February 7, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-3400 Filed 2-12-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 902 3043]

Strawbridge & Clothier, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Pennsylvania company to provide appropriate origin ad textile fiber product disclosures in textile mail order promotional materials and catalogs under the Textile and Wool Acts.

DATES: Comments must be received on or before April 15, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert Easton, FTC/S-4631, Washington, DC 20580, (202) 326-3029.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

[File No. 902-3043]

Agreement Containing Consent Order To Cease and Desist

In the Matter of Strawbridge & Clothier, Inc., a corporation, doing business as Strawbridge & Clothier.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Strawbridge & Clothier, Inc., a corporation, doing business as Strawbridge & Clothier (hereinafter referred to as Strawbridge & Clothier or proposed respondent) and it now appearing that Strawbridge & Clothier, Inc., is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Strawbridge & Clothier, Inc., by its duly authorized officer and counsel for the Federal Trade Commission that:

1. Proposed respondent Strawbridge & Clothier, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 801 Market Street, Philadelphia, Pennsylvania 19107.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

It is ordered that respondent Strawbridge & Clothier, Inc., a corporation, its successors and assigns, trading under its own name or as Strawbridge & Clothier or under any other name or names, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale or sale by mail order catalog or mail order promotional material of any textile fiber product (as that term is defined in the Textile Fiber Products Identification Act (15 U.S.C. 70)), do forthwith cease and desist from:

1. Offering for sale, selling or advertising any such textile fiber product in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of any such textile fiber product without stating in the description of such textile fiber product in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States of America, or imported, or both; and

2. Offering for sale, selling or advertising any such textile fiber product in any mail order catalog or mail order promotional material, which is used in the direct sale or direct offering for sale of any such textile fiber product and which contains any written advertisement that mentions or implies fiber content, without using the proper generic fiber name in a manner consistent with the Textile Act and the rules and regulations thereunder.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered that respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered that respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Strawbridge & Clothier, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Strawbridge & Clothier, Inc. is a large company that uses the mail as well as retail stores to sell many things to people. The complaint claims that Strawbridge & Clothier, Inc., in selling clothing, towels and other textile products through mail order catalogs, did not tell customers whether the products were made in the United States or imported. Further, the complaint states that Strawbridge & Clothier, Inc. did not use the proper terms such as "polyester" to describe the type of textile fibers used in the goods it sold. The Federal Trade Commission claims that this is illegal because several years ago, in 1984, Congress passed a law that changed the Textile Act and told companies which sell by catalog, like Strawbridge & Clothier, Inc., that they must let people know where textile products are made. Also, the Textile Act requires that certain names be used to describe fiber.

The proposed order tells Strawbridge & Clothier, Inc. that it has to let customers know where the textile products it sells by mail are made and what the correct fiber name is. While Strawbridge & Clothier, Inc. does not admit that it did anything wrong, the company agrees to give the information in the future.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-3415 Filed 2-12-91; 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meetings

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that meetings of the Federal Accounting Standards Advisory Board will be held on February 28 and March 29, 1991, from 8:30 a.m. until 5 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the February meeting will consist of a review of the minutes of the January meeting, further discussion of the draft rules of procedure, continued discussion of title 2 of GAO's Policy and Procedures Manual for the Guidance of Federal Agencies and other current guidance on federal accounting, discussion of plans to study user needs and objectives of federal financial reporting, a discussion of agenda setting, and related matters. The agenda for the March meeting will consist of a review of the minutes of the February meeting, continued discussion of title 2 of GAO's Policy and Procedures Manual for the Guidance of Federal Agencies and other current guidance on federal accounting, and related matters.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 441 G St. NW., room 6023, Washington, DC 20528, or call (202) 275-9578.

DATES: February 28 and March 29, 1991.

ADDRESSES: 441 G St., NW., room 7313, Washington, DC 20548.

Authority: Federal Advisory Committee Act, Pub. L. No. 92-463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. 10(a)(2) (1988)); 41 CFR 101-6.1015 (1990).

Dated: February 7, 1991.

Ronald S. Young,

Staff Director.

[FR Doc. 91-3454 Filed 2-12-91; 8:45 am]

BILLING CODE 1610-01-M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship Annual Report

AGENCY: Herry S. Truman Scholarship Foundation; information collection under OMB Review.

ACTION: Notice.

SUMMARY: The Harry S. Truman Scholarship Foundation has submitted to OMB for approval the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Annual Report for Scholarship Program; OMB Control No.

Type of Request: New.

Average Burden Hours/Minute: 30 minutes.

Frequency of Response: One response per respondent.

Number of Respondents: 600.

Annual Burden Hours: 300.

Annual Responses: 600.

Needs and Uses: The Foundation's annual reports are used by scholars who have either received Foundation support in the past year, expect to receive support in the comming school year, or who have defered Foundation support but expects to receive it in the future.

Affected Public: Active or deferred Truman Scholars.

Frequency: Annually.

Respondent's Obligation: Required to obtain benefits.

OMB Desk Officer: Dan Chenok.

Written comments and recommendations on the proposed information collection should be sent to Louis H. Blair, Executive Secretary, 712 Jackson Place, NW., Washington, DC 20006.

Harry S. Truman Scholarship Foundation Clearance Officer: Louis H. Blair, Executive Secretary.

Dated: February 5, 1991.

Louis H. Blair,

Executive Secretary.

[FR Doc. 91-3484 Filed 2-12-91; 8:45 am]

BILLING CODE 6820-AB-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement No. 108]

Randomized Control Trial in China of the Use of Periconceptional Vitamin Supplements to Prevent Spina Bifida and Anencephaly

Introduction

The Centers for Disease Control (CDC) announces the availability of Fiscal Year 1991 funds for a cooperative agreement with the Beijing Medical University of the People's Republic of China to conduct a randomized controlled trial to determine whether vitamins, taken before pregnancy begins and during the first trimester, prevent spina bifida and anencephaly (SBA).

Authority: The project is authorized under sections 301 and 307 of the Public Health Service Act, section 5 of the International Health Research Act of 1960, and section 104 of the Foreign Assistance Act of 1961.

Eligible Applicant

Assistance will be provided only to the Beijing Medical University (BMU) of

the People's Republic of China (PRC) for this project. No other applications will be solicited or accepted.

The People's Republic of China is the most appropriate country and the Beijing Medical University is the most appropriate organization to conduct the work under this cooperative agreement because:

1. Northern China has the highest known rate of SBA in the world. In rural areas, the rate is about 6 per 1,000 total births, or almost 10 times the U.S. rate.

2. SBA are major causes of stillbirth and infant mortality in northern China. Improving birth outcomes is a high priority at all levels of government and within most Chinese public health and medical organizations.

3. China has a large stable population with virtually no routine access to multivitamins in most rural and many urban areas.

4. Women can be identified early when they register for marriage; premarital pregnancy is uncommon; and 80% of those married become pregnant within one year.

5. To test the hypothesis that vitamins prevent SBA in the general population, a randomized controlled trial of sufficient size is needed to study women who have not previously given birth to an infant with SBA. It is expected that a trial of sufficient size can be selected from Northern China to provide a reliable basis for evaluating the efficacy and safety of periconceptional vitamin supplements in pregnant women. The opportunity to conduct such a randomized controlled trial in China is unique and timely.

6. Well trained and qualified Chinese scientists at the National Center for Maternal and Infant Health, Beijing Medical University, have collaborated with CDC for 8 years on a World Health Organization risk approach project in Beijing Municipality, Shunyi County. This project established a surveillance system—the Perinatal Health Care Delivery System—which monitors all pregnancies and their outcomes. To help plan this trial, this surveillance system has provided accurate current estimates of births and birth-defect rates.

7. In 1988, the PRC Ministry of Public Health designated BMU as the most appropriate and qualified agency within China to undertake the randomized controlled trial.

8. The proposed project involving epidemiology and surveillance is strongly and directly related to the achievement of the United States CDC Center for Environmental Health and Injury Control research and development programs in Birth Defects and Developmental Disabilities.

Availability of Funds

It is anticipated that up to $865,000 will be available in Fiscal Year 1991 to fund the cooperative agreement beginning approximately April 1991. The cooperative agreement will have an initial project period of up to two years that will be divided into twelve-month budget periods. There are no funds currently available to continue the project beyond the initial pilot/feasibility study to a full-scale clinical trial.

Purpose

The purpose of this cooperative agreement is to support a project to be undertaken by the Beijing Medical University (BMU) of the People's Republic of China (PRC). Beijing Medical University will conduct a randomized controlled trial in China to determine whether vitamins, taken before pregnancy begins and through the first trimester, prevent spina bifida and anencephaly (SMA). The project will consist of an initial preparation stage, a one to two year Pilot study, which will document the potential for a full-scale randomized controlled trial.

Program Requirements

To achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below and CDC will be responsible for conducting activities under B. below:

A. Recipient Activities

1. Develop the scientific protocols to be implemented under the cooperative agreement.

2. Plan, design, and conduct a pilot study that will answer several questions:

(a) Will the education campaign be succesful in informing the community about the study and the informed consent?

(b) Will the explanation of the control pill be acceptable to the women and will they agree to participate in a study of this design?

(c) Will the operational plan work in identifying women for recruitment, in recruiting the women, in distributing the pills, and finally, in monitoring complance?

(d) Will the surveillance systems detect the outcomes of interest?

3. Support and oversee the conduct of the pilot study, and prepare and provide regular progress reports and reports of results as required.

4. Implement the epidemiologic and surveillance activities conducted under the cooperative agreement.

5. Develop methods and procedures for collecting, processing and analyzing study data.

6. Coordinate, as necessary, with other health and environmental organizations and political subdivisions within the People's Republic of China.

7. Provide training to personnel working on the project.

8. Collaborate with the Cooperative Oversight Group, Data Monitoring Group, and the Project Operating Group.

B. Centers for Disease Control Activities

1. Assign a medical epidemiologist as CDC Project Director and another epidemiologist to serve as CDC Assistant Project Director to a full-time detail to the RCT project. These CDC staff shall be located on site at BMU.

2. Provide technical and scientific consultation and assistance for the implementation of all epidemiologic and surveillance activities conducted under the cooperative agreement.

3. Provide epidemiologic training/education meterials and on-site consultation to the BMU medical epidemiologist and other scientific staff working on the cooperative agreement activities as needed.

4. Provide guidance on project management and administrative matters related to conduct of the scientific aspects of the cooperative agreement.

5. Collaborate in the development of scientific protocols to be implemented under the cooperative agreement.

6. Collaborate in developing methods and procedures for collecting, processing and analyzing study data.

7. Collaborate in the general design and conduct of the pilot study.

8. Collaborate in the definition and preparation of reports that may result from the cooperative agreement supported activities.

9. Collaborate with the Cooperative Oversight Group, Data Monitoring Group, and the Project Operating Group.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Technical Approach—40%

The adequacy of the decription and plan to carry out the overall environmental epidemiology and surveillance research project specified in the program announcement, including: (1) The specific project to be implemented, (2) the necessary collaborative arrangements with other health and environmental organizations and political subdivisions, and (3) the

identification of the administrative, laboratory, and computer/data processing services necessary to conduct the research project.

2. Understanding of the Problem--30%

The applicant's understanding of the requirements, objectives, research intent, problems, complexities, and interactions required for the conduct of a successful project.

3. Project Personnel—30%

The extent to which the proposal has described: (1) The qualifications and commitment of the applicant professional and support staff, and (2) the allocation of time and effort of key project staff to agreed upon project activities.

Other Requirements

Human Subjects

This project involves research on human subjects, therefore, the applicant must comply with the Department of Health and Human Services regulations regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee within China. The applicant will be responsible for providing assurance in accordance with appropriate guidelines and form provided in the application kit.

Paperwork Reduction Act

Projects funded through a cooperative agreement that involve collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

Executive Order 12372 Review

This project is not subject to the Executive Order 12372 Review.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Application Submission and Deadline

The applicant should follow the guidance provided in the Grant Application Form PHS 398 when preparing the cooperative agreement application. The original and six copies must be submitted on or before March 15, 1991 to Carolyn Russell, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, Georgia 30305.

Where to Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please reference Announcement Number 108, entitled "Randomized Controlled Trial in China of the Use of Periconceptional Vitamin Supplements to Prevent Spina Bifida and Anencephaly," and contact the following:

Technical Assistance

R.J. Berry, M.D., Mr. Anthony S. Fowler, Division of Birth Defects and Developmental Disabilities, Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, Mailstop F-37, Atlanta, Georgia 30333, Telephone: (404) 488-4884.

Business Assistance

Ms. Carolyn J. Russell, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, Mailstop E-14, Atlanta, Georgia 30305, Telephone: (404) 842-6655.

Dated: February 5, 1991.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91-3397 Filed 2-12-91; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91F-0021]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 4-[[5-[[[4-(aminocarbonyl)phenyl]amino]carbonyl]-2-methoxyphenyl]azo]-*N*-(5-chloro-2,4-dimethoxyphenyl]-3-hydroxy-2-naphthalenecarboxamide as a colorant for olefin polymers intended for use in contact with food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that Hoechst Celanese Corp., 500 Washington St., Coventry, RI 02816, has filed a petition (FAP 1B4242), proposing that the food additive regulations in § 178.3297 Colorants for polymers (21 CFR 178.3297) be amended to provide for the safe use of 4-[[5-[[[4(aminocarbonyl)phenyl]amino]carbonyl]-2-methoxphenyl]azo]-*N*-(5-chloro-2,4-dimethoxyphenyl]-3-hydroxy-2-naphthalenecarboxamide (C.I. Pigment 187) as a colorant for olefin polymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agncy finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) .

Dated: February 6, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-3428 Filed 2-12-91; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Consensus Development Conference on Gastrointestinal Surgery for Severe Obesity

Notice is hereby given of the NIH Consensus Development Conference on "Gastrointestinal Surgery for Severe Obesity" which will be held on March 25-27, 1991 in the Masur Auditorium of the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. This conference is sponsored by the National Institute of Diabetes and Digestive and Kidney Diseases and the NIH Office of Medical Applications of Research.

More than 12 million people in the United States are severely overweight according to national survey data. Of these people, approximately 4 million are afflicted with obesity severe enough to interfere appreciably with their health and well-being and to make them candidates for surgical treatment of the condition. The concept of "severe obesity" implies an increased risk of mortality, morbidity, and recidivism (treatment failure with recurrence). An NIH Consensus Conference in 1985 addressed the types of morbidity associated with obesity: Cardiovascular disease, especially hypertension; excess blood lipids; diabetes in those predisposed to the condition; and

socioeconomic and psychosocial impairment.

A 1978 NIH Consensus Conference on surgery for morbid obesity concentrated primarily on intestinal bypass operations, which were shown to be effective in some reported series of cases but also associated with enough undesirable complications that clinical use has all but disappeared. In the last 10 to 15 years many types of new surgical procedures have been developed, using principles of reduction of gastric volume, intestinal malabsorption, or both. Refinements in these procedures have led to reports of successful results superior to those seen with the earlier operations. The time has come to evaluate the objective evidence for these new techniques.

This conference will bring together surgical, medical, nutritional, and other health care and clinical data professionals as well as representatives of the public.

Following a day and a half of presentations by experts and discussion by the audience, a Consensus Panel will weigh the scientific evidence and write a draft statement in response to the following questions:

—What are the nonsurgical treatment options for severe obesity and their consequences?
—What are the surgical treatments and criteria for selection?
—What are the efficacy and risks of surgical treatments for obesity?
—What specific recommendations can be made for the treatment of severe obesity?
—What are the future directions for basic science, clinical research, and epidemiological evaluation of therapy?

On the third day of the conference, following deliberation of new findings or evidence that might have been presented during the meeting, the panel will present its final consensus statement.

Information on the program may be obtained from: Janine Joyce, Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 468–6555.

Dated: February 4, 1991.

William Raub,

Acting Director, NIH.

[FR Doc. 91–3359 Filed 2–12–91; 8:45 am]

BILLING CODE 4140–01–M

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary for Health, HHC.

ACTION: Notice of meeting.

This notice sets forth the schedule and proposed agenda of a forthcoming subcommittee meeting of the President's Council on Physical Fitness and Sports scheduled to be held February 25, 1991, 9 a.m.–4 p.m. The meeting is open to the public

The purpose of this meeting is to review the mission, goals and objectives of the Council.

ADDRESSES: Securities and Exchange Commission, 450 5th Street NW., room 1C30, Washington, DC 20001.

Dated: February 7, 1991.

Wilmer D. Mizell,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 91–3358 Filed 2–12–91; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Supplemental Security Income Modernization Project; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

The Social Security Administration (SSA) announces a meeting of the Supplemental Security Income (SSI) Modernization Project (the Project). This notice also describes the proposed agenda, purpose, and structure of the Project.

DATES: March 12–13, 1991, 8:30 a.m. to 5 p.m.

ADDRESSES: March 12, 1991: Montgomery Civic Center, room B, 300 Bibb St., Montgomery, AL 36104. March 13, 1991: Martin Luther King Jr. Center for Nonviolent Social Change, Freedom Hall Auditorium, 449 Auburn Ave., NE., Atlanta, GA 30312.

FOR FURTHER INFORMATION CONTACT: SSI Modernization Project Staff, room 300, Altmeyer Bldg., 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–3571.

SUPPLEMENTARY INFORMATION: SSA is undertaking a comprehensive examination of the SSI program, reviewing its fundamental structure and purpose. The SSI program has been in operation for over 16 years. The purpose of the Project is to determine if the SSI program is meeting and will continue to meet the needs of the population it is intended to serve in an efficient and caring manner, recognizing the constraints in the current fiscal climate.

The first phase of this Project is intended to create a dialogue that provides a full examination of how well the SSI program serves the needy aged, blind, and disabled.

To begin this dialogue, the Commissioner has involved 24 people who are experts in the SSI program and/or related public policy areas. The experts include a wide range of representatives of the aged, blind, and disabled from private and nonprofit organizations and Federal and State government as well as former SSA staff. Like members of the public attending this meeting, the experts will be able to express their individual views and concerns about the SSI program. Dr. Arthur S. Flemming, former Secretary of Health, Education and Welfare, will chair the meeting. The purpose of this initial dialogue is to exchange ideas and existing information about the program. This exchange will facilitate the sharing of ideas among attendees' constituencies, including advocacy groups, state and local government and academicians. The outcome will be a more informed public that has an interest in bringing individually produced innovative ideas for change in the SSI program to the Modernization Project.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and SSI applicants and recipients may speak and submit written comments on the issues to be discussed. (This is the sixth in a series of meetings to be held throughout the country. Each of these meetings will also be open to the public. All meetings will be announced in the **Federal Register**. If you are interested in the Project but cannot attend the meeting on March 12–13, 1991, please call the Project staff at (301) 965–3571 so we may notify you of future meetings.)

There will be a public comment portion of the meeting beginning in the morning of March 12, 1991. A second public comment session will be held in the morning on March 13, 1991. In order to ensure that as many individuals as possible are given the opportunity to speak in the time allotted for public comment, each individual will be limited to a maximum of 5 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. Each speaker should provide 12 copies of their written comments to ensure full understanding and consideration of their concerns. We welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Individuals

unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Project Staff, at (301) 965–3571, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during the normal working hours; (4) capacity in which presentation will be made; e.g., public official, representative of an organization, or citizen; and (5) which day desired. Requests must be received by March 5, 1991. Late requests to speak will be honored only if time permits.

Summaries of the meeting will be available at no charge. A transcript of the meeting will be available at cost. Summaries and transcripts may be ordered from the Project Staff. The transcript and all written submissions will become part of the record of these meetings.

Dated: February 4, 1991.

Peter Spencer,

Director, SSI Modernization Project Staff.

[FR Doc. 91–3346 Filed 2–12–91; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permits, Melvin E. Sunquist, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 755875

Applicant: Melvin E. Sunquist, Gainesville, FL

The applicant requests a permit to import up to 35 vials of blood samples collected from leopards (*Panthera pardus*) and tigers (*Panthera tigris*) in India for the purpose of genetic study.

PRT 755876

Applicant: San Diego Wild Animal Park, San Diego, CA

The applicant requests a permit to import two captive-bred Manchurian cranes (*Grus japonensis*) from the Hong Kong Zoo for breeding and display purposes.

PRT 755930

Applicant: Los Alamos National Laboratory, Los Alamos, NM

The applicant requests a permit to import 100 peregrine falcon (*Falco peregrinus*) blood samples to be used for genetic research purposes. The samples were obtained from wild populations of peregrine falcons by the Canadian Wildlife Service, Government of Northwest Territories, Northwest Territories, Canada.

PRT 754494

Applicant: Bowmanville Zoo, Ontario, Canada

The applicant requests a permit to import one pair of Asian elephants (*Elepahs maximus*) to Silver Springs, Silver Springs, Florida, for use in educational presentations, designed to educate the public about the ecological role and conservation needs of the species. The elephants will be returned to the Bowmanville Zoo upon completion of the proposed educational presentations.

PRT 754796

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import one male goral (*Nemorhaedus goral arnouxianus*) of wild origin from Tierpark, Berlin, Germany for the purpose of captive propagation.

PRT 754795

Applicant: San Diego Zoo, San Diego, CA

The applicant requests a permit to import 3 male captive-born Arabian oryx (*Oryx leucoryx*) from Tierpark, Berlin, Germany for the purpose of captive propagation.

PRT 755112

Applicant: Indianapolis Zoological Society, Inc., Indianapolis, IN

The applicant requests a permit to import eight captive hatched South American river turtles (*Podocnemis expansa*) from the Emperor Valley Zoo, Trinidad for the purpose of enhancement of propagation and survival of the species.

PRT 755275

Applicant: Charles E. Wood, Monmouth, ME

The applicant requests a permit to import eleven female African elephants (*Loxodonta africana*) of wild origin from Mamibia for the purpose of captive propagation.

PRT 755294

Applicant: Jesse Warren, Suches, GA

The applicant requests a permit to purchase two female captive hatched Hawaiian (=nene) geese [*Nesochen* (=*Branta*) *sandvicensis*] from Nugent's Wild Waterfowl, Kimbolton, Ohio for the purpose of captive propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.), room 432, 4401 N. Fairfax Drive, Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please to the appropriate PRT number when submitting comments.

Dated: February 7, 1991.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 91–3390 Filed 2–12–91; 8:45 am]

BILLING CODE 4310–55–M

[PRT–754–027]

Availability of the Draft Environmental Assessment for Coalinga Cogeneration Co.

On December 27, 1990, the U.S. Fish and Wildlife Service (Service) published notification of receipt of a permit application submitted by Coalinga Cogeneration for issuance of an Endangered Species Act section 10(a)(1)(B) permit. On January 29, 1991, the Service published notice of their amended application and habitant conservation plan. This notice serves as notification of the availability of the draft environmental assessment and the public is invited to comment on it.

The applicant proposes to construct and operate a cogeneration facility approximately 3 miles northeast of Coalinga, California. The construction and operation of the facility would result in the permanent loss of 6.4 acres of already distrubed grassland. The construction of associated steam pipelines, roads, and wells would permanently disturb 43.7 acres of grassland habitat. An additional 43.7 acres would be temporarily disturbed during the construction of the plant.

The applicant proposes on-site and off-site mitigation measures to offset the incidental take of a small number of San Joaquin kit fox (*Vulpes macrotis mutica*) and blunt-nosed leopard lizard (*Gambelia silus*). The measures would include: (1) Off-site acquisition of 179.3 acres of native habitat, (2) transfer of a sum representing $100 per acre to the California Department of Fish and Game for habitat improvement of off-site mitigation lands, (3) maintenance endowment in a sum representing $300 per acre to managed conveyed lands in perpetuity, and (4) various on-site measures to avoid "take" of the species to the maximum extent possible during

the construction and operation of the facility.

FOR FURTHER INFORMATION CONTACT: Ms. Nadine R. Kanim, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement Field Station, 2800 Cottage Way, room E–1803, Sacramento, California 95825–1846 or call 916–978–4855 or FTS 8–460–4866.

TO OBTAIN A COPY OF THE DRAFT ENVIRONMENTAL ASSESSMENT CONTACT: Ms. Kanim or U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203, or call 703–358–2104 or FTS 921–2104.

SUBMISSION OF COMMENTS: Submission of comments for the draft environmental assessment should be submitted in writing to the Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Such comments must be received prior to February 28, 1991.

Dated: February 7, 1991.

Karen W. Rosa,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 91–3391 Filed 2–12–91; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NV–930–91–4212–24; Nev–056322]

Terminate of Segregative Effect of Airport Lease; Nevada

January 30, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice supersedes the document published in the **Federal Register** on January 8, 1991, Volume 56, Page 706–707, as Document 91–310. This action provides for the opening of 1000.00 acres previously covered by an airport lease. The land will be opened to the public land laws generally, including the mining laws. The land has been and remains open to the mineral leasing laws.

EFFECTIVE DATE: March 15, 1991.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, 850 Harvard Way, Reno, NV 89520, 702–785–6526.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2091.4–2(b), the segregative effect of airport lease Nev–056322 is hereby terminated. The following described land is affected:

Mount Diablo Meridian, Nevada

T. 7 S., R. 44 E.,

Sec. 32, E½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, SE¼;

Sec. 33, W½NE¼, SE¼NE¼, W¼, SE¼;

The area contains 1000.00 acres in Nye County.

The airport lease application was filed on October 21, 1960, at which time the land became segregated from all forms of appropriation. A 10-year lease was subsequently issued on May 25, 1962, for public airport purposes pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214). On January 19, 1967, the lease was amended to reduce the acreage to 920 acres. On May 25, 1972, the lease was renewed for an additional 10 years for only 540 acres; a second renewal for the same acreage was effective May 25, 1982 for a period of 20 years. In May 1990, the Federal Aviation Administration declared the airport deactivated and the airport lease was cancelled on September 7, 1990. At 10 a.m. on March 15, 1991, the land will be open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to or at 10 a.m. on March 15, 1991, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10 a.m. on March 15, 1991, the land will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C., 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts. The land remains open to mineral leasing and material sale laws.

Billy R. Templeton,

State Director.

[FR Doc. 91–3438 Filed 2–12–91; 8:45 am]

BILLING CODE 4310–HC–M

[CA–050–4410–08]

Availability of Draft Redding Resource Management Plan and Environmental Impact Statement; Redding Resource Area, CA

SUMMARY: In accordance with regulations (40 CFR parts 1500–1508) of the Council on Environmental Quality for implementing section 102 of the National Environmental Policy Act of 1969, as amended, and regulations (43 CFR part 1610) of the Bureau of Land Management (BLM) for implementing section 202 of the Federal Land Policy and Management Act of 1976, BLM has completed a draft Resource Management Plan and Environmental Impact Statement (RMP/EIS) for the Redding Resource Area in north-central California.

The RMP/EIS describes and analyzes alternatives for management of natural resources on approximately 247,500 acres of public land scattered through portions of Butte, Shasta, Siskiyou, Tehama, and Trinity counties of California. Management alternatives were developed to address four planning issues; i.e., public and tenure, recreation, public access, and forest management. Significant impact topics analyzed include anadromous salmonid habitat, archaeological resources, deer winter range, slender Orcutt grass, scenic, quality, (northern) spotted owl, and wetlands/waterfowl habitat. The decisions of the RMP/EIS will replace those contained within the amended Management Framework Plan for the Redding Resource Area dated 1982.

Copies may be obtained from the Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. Copies will be available for review at the following BLM locations:

Office of Public Affairs, Main Interior Building, room 5600, 18th and "C" Street NE., Washington, DC 20240.

California State Office, 2800 Cottage Way, Sacramento, California 95825.

Ukiah District Office, 555 Leslie Street, Ukiah, California 95482.

Background information and maps used in developing the RMP/EIS can be reviewed at the Redding Area Office.

DATES: Written comments on the Draft RMP/EIS must be submitted or postmarked no later than June 28, 1991. Written or oral comments may also be presented at five public meetings to be held:

7 p.m.—Tuesday, May 21, 1991, Holiday Inn, 685 Manzanita Court, Chico, California

7 p.m.—Wednesday, May 22, 1991, Lowden Park—Recreation Hall, Weaverville, California

7 p.m.—Thursday, May 23, 1991, Holiday Inn, 1900 Hilltop Drive, Redding, California

7 p.m.—Wednesday, May 29, 1991, Sun Country Fairgrounds, Tehama Room, Red Bluff, California

7 p.m.—Thursday, May 30, 1991, Yreba Community Center, 810 North Oregon Street, Yreka, California

ADDRESSES: Written comments on the draft RMP/EIS should be addressed to Mark Morse, Area Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Francis Berg, Redding Resource Area, (916) 246–5325.

SUPPLEMENTARY INFORMATION: The draft RMP/EIS analyzes five land use management alternatives for seven separate geographic units or management areas. The alternatives include: No Action (continuation of existing management), Administrative Adjustment, Enhancement of Natural and Cultural Values, Resource Use, and Resources Use with Natural Values Consideration. Each alternative is a multiple use alternative with emphasis on different resource values, public uses, and management actions. A preferred alternative was selected for each management area. The resultant mixture of preferred alternatives comprise the proposed action of the RMP/EIS.

In addition to the planning issues, land use management alternatives, and significant impact topics analyzed in the RMP/EIS, the document proposes designation of nine Areas of Critical Environmental Concern (ACEC) recommends expansion of one existing ACEC, and assesses fourteen streams for inclusion in the National Wild and Scenic Rivers System. In accordance with 43 CFR 1610.7–2(b), the name, location, and resource use limitations for each proposed ACEC follow:

The Baker Cypress Research Natural Area consists of 120 acres in northeastern Shasta County within Sections 24 and 25, T.34N., R.2.E., MDBM. The proposed ACEC contains the best example of undisturbed *Cupressus Bakeri*, a very uncommon cypress. To protect this unique grove, mineral material disposals are permitted only if such action enhances the Baker cypress habitat, vehicles are limited to existing roads and trails, the area is closed to livestock grazing, and leasable mineral development is permissible with no surface occupancy.

The Deer Creek ACEC encompasses Deer Creek canyon in eastern Tehama County between the Deer Creek Irrigation District dam and the Lassen National Forest boundary near Rock Creek. Approximately 620 acres of pulblic land fall within the 5,000 acre proposed ACEC. The canyon contains a high number of nesting raptors (including Peregrine Falcon), a nationally significant complex of refuge sites of Ishi (and the last members of the Yahi tribe), and outstanding scenic quality. Two hundred acres of the area are designated wilderness. The balance of public lands are closed to vehicles, leasable mineral development is permissible with no surface occupancy, livestock grazing is not allowed and mineral material disposals are not permitted.

The proposed Forks of Butte Creek Outstanding Natural Area includes approximately 2,480 acres of public land extending along Butte Creek between the Forks of Butte Creek and Helltown approximately ten air miles northeast of Chico. The area is an important primitive recreational area known for its vegetative diversity, outstanding scenic quality, and dramatic topography. The existing public lands are currently withdrawn from locatable mineral entry and available for recreational mineral collection under a BLM permit system. As proposed, vehicles would be limited to designated roads and trails, public lands would continue to be withdrawn from mineral entry, the area would be closed to grazing; and, the majority of available commercial forest land would be managed for the enhancement of other resource values.

The proposed Jenny Creek ACEC includes 320 acreas of existing public land spanning lower Jenny Creek canyon south of the Oregon border immediately north of Iron Gate Reservoir in Siskiyou County. The canyon contains nesting Bald Eagles and the rare endemic Jenny Creek Sucker (*Catostomus rimiculus*). Oregon BLM is proposing ACEC designation within Jenny Creek to protect this rare fish. As proposed, public land within the four mile corridor would be withdrawn from mineral entry, withdrawn from the available commercial forest land inventory, offered for leasable mineral development with no surface occupancy and closed to livestock grazing. Vehicle use would be limited to designated roads and trails.

The proposed Minnehaha Mine ACEC is a natural hazard area caused by recent mining and subsequent erosional problems. It consists of 160 acres of public land in Section 8, T.24N., R.3E., MDBM straddling Big Chico Creek approximately twelve air miles north-northeast of Chico. To stabilize the current erosion, improve the water quality and protect the fishery, the ACEC could be withdrawn from locatable mineral entry.

The proposed *Orcuttia tenuis* (Hawes Corner) Research Natural Area includes forty acres of public land in Section 5, T.30N., R.3W., MDBM on the Stillwater Plains about three air miles northeast of Anderson in Shasta County. Ninety-five percent of the original habitat for slender Orcutt grass has been lost. BLM administers some of the last populations of this species. To protect this population public land would be closed to vehicles and grazing.

The Sacramento River Area (Bend area) Outstanding Natural Area includes a stretch of the Sacramento River from the gaging station below Sevenmile Creek to Balls Ferry, the lowest stretches of the tributary streams, and the adjoining upland habitat. This proposed ACEC represents the largest undisturbed area along the river between Sacramento and Redding. The area contains over 25% of the global distribution of *Orcuttia tenuis*, important vernal pool habitat, undisturbed riparian communities, diverse biological values and increasing recreation value. The approximately 8,500 acres of existing public land represent the largest public holding on or adjoining the Sacramento River below Keswick Dam. As proposed, public lands within one mile of the Sacramento River would be available for leasable mineral development with no surface occupancy. Vehicle use would be limited to designated roads and trails. Mineral material disposals will be permitted if no adverse effects would occur to sensitive habitat. Riparian areas would be closed to livestock grazing.

The Sacramento River Island Research Natural Area includes 88 acres of public land lying between the Sacramento River and Knighton Road south of Redding. This proposed ACEC contains the northernmost unaltered native riparian forest along the Sacramento River. The public owned habitat is wedged between private industrial, residential, and commercial uses. To protect this one of the last examples of native riparian forest, public lands would be closed to motorized vehicles and livestock grazing. The ACEC would be withdrawn from mineral entry and offered for leasable mineral development within no surface occupancy. Mineral material disposals would be allowed only if such actions are intended to improve the desired plant community or enhance the native fisheries.

The existing Shasta River ACEC is recommended for expansion to include all public land in the Shasta River canyon within ¼ mile of normal high water and between the Highway 263 bridge below Yreka Creek and the Klamath River. Public land within the 100-year flood zone along this seven mile corridor would be withdrawn from mineral entry and leasable mineral development would be permitted with

no surface occupancy. Vehicle use would be limited to designated roads and trails.

The Swasey Drive ACEC contains approximately 400 acres of public land immediatley west of Swasey Drive on the western outskirts of Redding. This proposed ACEC contains at least eight prehistoric archaeological sites spanning a period of about 3,000 years. Prehistoric sites north and west of Redding have been largely destroyed due to mining, land development, and reservoir construction. These sites represent the only known concentration remaining in good condition. BLM proposes to limit vehicle use to designated roads and trails.

Public participation has continued througout the RMP/EIS development process. Public input from meetings, letters, and personal contacts was considered in the identification of planning issues and recommended ACEC's. Public input was also used in developing land use managment alternatives. A Notice of Intent to Prepare a Resource Management Plan was published in the Federal Register and local media on Decmeber 15, 1988. A Notice of Availability of draft planning criteria and preplanning analysis for the Redding Resource Management Plan was similarly published on June 28, 1989.

Dated: February 4, 1991.

Mark T. Morse,

Area Manager.

[FR Doc. 91-3424 Filed 2-12-91; 8:45 am]

BILLING CODE 4310-40-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-311]

Certain Air Impact Wrenches; Notice of Commission Not To Review an Initial Determination Amending the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 14) issued by the presiding administrative law judge (ALJ) granting complainant Ingersoll-Rand's motion to amend the complaint in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Scott Andersen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington DC 20436, telephone 202-252-1092. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On January 15, 1991, the presiding ALJ issued an ID granting complainant Ingersoll-Rand's motion to amend the complaint to provide a more specific definition of the alleged common law trademark at issue. After reviewing the motion and the opposition of respondents Astro Pneumatic Tool Co. and Kuan-I Gear Co., the ALJ found that the amendment to the complaint was proper because it clarified and limited the common law trademark asserted by complainant, did not constitute a significant expansion of the scope of the complaint, was filed expeditiously following receipt of information providing a basis to amend, and would not prejudice the other parties or the public interest. No petitions for review of the ID or agency comments were filed.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington DC 20436, telephone 202-252-1000.

By order of the Commission.

Issued: February 6, 1991.

Kenneth R. Mason,

Secretary

[FR Doc. 91-3420 Filed 2-12-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-462 (Final)]

Benzyl Paraben From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that the establishment of an industry in the United States is materially retarded by reason of imports from Japan of benzyl p-hydroxybenzoate (benzyl paraben), provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Vice Chairman Brunsdale dissenting.

Background

The Commission instituted this investigation effective October 9, 1990, following a preliminary determination by the Department of Commerce that imports of benzyl paraben from Japan were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. § 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 2, 1990 (55 FR 42912). The hearing was held in Washington, DC, on December 18, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 5, 1991. The views of the Commission are contained in USITC Publication 2355 (February 1991), entitled "Benzyl Paraben from Japan: Determination of the Commission in Investigation No. 731-TA-462 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By Order of the Commission.

Issued: February 6, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-3419 Filed 2-12-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-290 (Modification Proceeding)]

Certain Wire Electrical Discharge Machining Apparatus and Components Thereof; Recommended Determination Terminating Modification Proceeding; Request for Comments

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (ALJ) has issued a recommended determination in accordance with 19 CFR 211.57(b) terminating the above-captioned modification proceeding. That proceeding was instituted to determine whether wire electrical discharge machining apparatus (wire EDMs) imported or sold with modified assemblies are being, or are likely to be,

retrofitted with replacement nozzles of the design used in prior assemblies, thereby putting into service wire EDMs imported or sold by respondents that utilize the prior infringing assemblies.

FOR FURTHER INFORMATION CONTACT: Craig L. McKee, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone 202–252–1117. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–252–1810.

SUPPLEMENTARY INFORMATION: On January 23, 1989, Elox Corporation (Elox) and A.G. fur Industrielle Elektronik (AGIE) filed a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging violation of section 337 in the importation and sale of certain wire EDMs that infringed claims of U.S. Letters Patent 3,928,163 (the '163 patent) owned by AGIE. The Commission instituted an investigation of the complaint and issued a notice of investigation that was published in the **Federal Register** on March 8, 1989 (54 FR 9906). The respondents named in the notice of investigation were Sodick Co., Ltd, Sodick, Inc., KGK Co., KGK International Co., Maruka Machinery Co., Ltd., Maruka Machinery Corporation of America, Yamazen Co., Ltd., Yamazen USA, Inc., and Bridgeport Machines, Inc. The investigation was terminated with respect to Maruka Machinery Co., Ltd. and Maruka Machinery Corporation of America pursuant to a consent order and consent order agreement between complainants Elox and AGIE and respondents Maruka Japan and Maruka USA. The remaining respondents are hereinafter referred to as the Sodick respondents.

On December 7, 1989, the presiding ALJ issued an initial determination (ID) finding a violation of section 337 in the investigation. The Sodick respondents filed a petition for review of the ID. Complainants Elox and AGIE and the Commission investigative attorney (IA) filed responses in opposition to the petition for review.

The Commission determined to review portions of the ID. Complainants, respondents, and the IA filed briefs regarding the issues under review, remedy, the public interest, and bonding.

Upon review, the Commission determined that there was a violation of section 337 in the importation, sale of importation, or sale in the United States of wire EDMs. The Commission also determined that a limited exclusion order and cease and desist orders directed to four U.S. respondents were the appropriate form of relief. The limited exclusion order prohibited the entry of infringing wire EDMs, in assembled or unassembled form, manufactured by Sodick. The Commission further noted that the ALJ did not make determinations on the issues of contributory and induced infringement and, given complainants' failure to seek review of the final ID on those issues, it determined not to issue a limited exclusion order covering replacement parts—specifically, wire guides and guide nozzles. On May 8, 1990, the Commission's order became final at the expiration of the Presidential review period. Respondents, Sodick, Ltd., Sodick, Inc., KGK International Co., Yamazen USA, Inc., and Bridgeport Machines, Inc., however, allegedly imported newly-designed wire electrical discharge machining apparatus ("modified assemblies") in response to the Commission determination.

On May 9, 1990, Judge Milton I. Shadur of the U.S. District Court for the Northern district of Illinois issued a preliminary injunction effectively preventing circumvention of the commission's remedial orders by the importation of wire EDMs incorporating the modified assemblies.

On May 21, 1990, complainants Elox and AGIE filed an emergency petition for modification of ITC relief requesting modification of Commission relief to prevent respondents from circumventing the Commission's existing limited exclusion order and cease and desist orders. Complainants maintained that the availability of the Sodick wire EDMs with the modified wire guide and flushing assemblies constituted a changed circumstance under Commission interim rule 211.57(a). Notwithstanding the district court's order, complainants asserted that wire EDMs imported or sold with modified assemblies could be easily retrofitted with replacement nozzles of the design used in the prior assemblies, thereby putting into service Sodick wire EDMs with the prior, infringing assemblies. Consequently, complainants argued that supplementation of the existing remedial orders to prohibit importing, selling, or otherwise dealing in the prior nozzles and related components for the prior assemblies was warranted.

On October 5, 1990, the district court's preliminary injunction expired, and on November 16, 1990, the Commission determined to provisionally accept complainants' petition to modify Commission relief. The modification proceeding was certified to the chief ALJ for designation of a presiding ALJ.

On December 17, 1990, respondents filed a motion to terminate the modification proceeding and to stay discovery pending a ruling on their motion. Respondents based their motion upon the issuance of an order by the district court on December 12, 1990, reinstating those portions of the earlier preliminary injunction that were specifically designed to prevent circumvention of the commission's limited exclusion and cease and desist orders. On December 20, 1990, complainants filed a response to respondents' motion in which they stated that they did not oppose respondents' motion to terminate. The Commission investigative attorney filed a response to the motion in which he stated that he also did not oppose termination of the modification proceeding, based primarily upon complainants' position on the matter.

The presiding ALJ held a hearing on respondents' motion to terminate on December 20, 1990. At the conclusion of the hearing, the ALJ orally granted the motion to terminate and, on January 14, 1991, issued a recommended determination (RD) to that effect. The RD holds that the reinstatement of the district court's injunction assures the integrity of the Commission's orders and effectively provides complainants with the same relief as could have been provided by modifying the Commission's remedial orders. The RD was certified to the commission pursuant to Commission interim rule 211.57(b).

After reviewing the RD, all information obtained in the modification proceeding, any written comments received pursuant to this notice, and pertinent information on the record of Inv. No. 337–TA–290, the Commission will determine whether the exclusion order and/or the tour cease and desist orders should be modified.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in interim rule 211.57 (19 CFR 211.57).

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: 202–252–1000.

WRITTEN SUBMISSIONS: In accordance with the Commission's notice of November 16, 1990 (55 FR 49438), the parties to the original investigation, interested members of the public, and other federal agencies may file written

comments on the RD within ten (10) days after publication of this notice. All such comments should be filed with the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

By order of the Commission.

Issued: February 7, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-3418 Filed 2-12-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-307]

Probable Economic Effect on U.S. Industries and Consumers of Free-Trade Agreement Between the United States and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: The Commission on its own motion has instituted an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of gathering the information necessary to provide the President with advice required under section 131(b) of the Trade Act of 1974 (19 U.S.C. 2151(b)) with respect to the probable economic effect on U.S. industries and on consumers of the removal of U.S. import duties on products of Mexico under a free-trade agreement between the United States and Mexico. The Commission anticipates receiving a request from the U.S. Trade Representative to provide such advice to the President under section 131(b) following expiration of a statutory period for Congressional consideration, unless Congress has disapproved negotiations. The Commission understands that if Congress does not disapprove negotiations the Commission may receive such a request in March and may be requested to submit its advice in June. When the request is received from the USTR, the Commission anticipates converting this investigation into an investigation under section 131(b) and using the information gathered in the course of this investigation in the section 131(b) investigation.

EFFECTIVE DATE: February 5, 1991.

FOR FURTHER INFORMATION CONTACT: James Lukes (202-252-1426) or Deborah McNay (202-252-1425), Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For information on the legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel (202-252-1091). The media should contact Lisbeth Godley, Acting Director, Office of Public Affairs (202-252-1819). For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

(1) Agriculture, Fisheries, and Forest Products, Mr. Rick Rhodes (202-252-1322)
(2) Textiles, Leather Products, and Apparel, Ms. Linda Shelton (202-252-1467)
(3) Energy and Chemicals, Ms. Cindy Foreso (202-252-1348)
(4) Minerals and Metals, Mr. David Lundy (202-252-1439)
(5) Machinery and Equipment, Mr. John Cutchin (202-252-1396)
(6) General Manufactures, Ms. Josephine Spalding (202-252-1498)
(7) Electronic Technology and Equipment, Mr. Andrew Malison (202-252-1391)

Background

The President has notified the Congress of his intention to enter into negotiations with Mexico for the purpose of negotiating a free-trade agreement. Under the so-called fast-track prodedure in U.S. law, Congress has 60 legislative days from the date of notification in which to disapprove of the President's decision to enter into such negotiations. Based on the current Congressional calendar, it is anticipated that this 60-day period will end in March. If the negotiations are not disapproved, the Commission understands that the USTR in late March will provide the Commission with a list of articles that may be considered for reduction in or elimination of duties in the course of the negotiations and formally request that the Commission provide the advice required by section 131(b) of the Trade Act of 1974. The Commission anticipates that the USTR will request that the advice be furnished to the President sometime in June. The Commission is instituting an investigation under section 332 in order that it will have adequate time to gather the necessary information. For purposes of the section 332 investigation, the Commission is assuming that the list of articles submitted by USTR will include all dutiable products listed in column 1 of the Harmonized Tariff Schedule. The Commission also anticipates that the USTR will request advice as to the probable economic effect of the modification of certain U.S. nontariff measures.

The Commission is also giving notice of the intent to hold public hearings in connection with the section 131 investigation, as provided for below.

Public Hearings and Prehearing Briefs

If a letter is received from the USTR requesting Commission advice under section 131(b) of the Trade Act of 1974, the Commission intends to hold three public hearings in connection with the section 131(b) investigation. The hearings in Phoenix, AZ on April 8, 1991 and Chicago, IL on April 10, 1991 will be held at places to be announced. The hearing in Washington, DC on April 12, 1991 will be in the Main Hearing Room of the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. Persons wishing to appear at the Phoenix and Chicago hearings must file a request with the Secretary to the Commission not later than 5:15 p.m., March 27, 1991; prehearing briefs (an original and 14 copies) for these hearing appearances should also be filed with the Secretary not later than 5:15 p.m., March 27. For the Washington, DC hearing, requests for appearance must be filed with the Secretary of the Commission not later than 5:15 p.m. March 29, 1991; prehearing briefs (an original and 14 copies) should also be filed with the Secretary not later than 5:15 p.m., March 29. Any information which the submitter wishes the Commission to treat as confidential business information must be submitted in accordance with the procedures set forth below under "posthearing briefs and other written submissions."

All persons having an interest in this matter have the right to appear at the hearing either in person or through counsel, to present information, and to be heard. Testimony and briefs should relate only to the areas that the Commission will address in its advice to the President. Because the Commission expects to provide detailed advice on relatively narrowly defined industries and product lines, testimony and briefs should focus on specific industries and products rather than broad issues of trade policy.

Requests to appear at the hearings must contain the following information:

a. A description of the article or articles on which testimony will be presented, including, if possible, the item number or numbers in the HTS covering the article or articles.

be. The name and organization of the witness or witnesses who will testify, and the name, address, telephone number, and organization of the person filing the request.

c. A statement indicating whether the testimony to be presented will be on

behalf of importers, domestic producers, consumers, or other interests.

Allotment of Time for Oral Presentation

Because all tariff line items will be considered, limitation of time for the presentation of oral testimony is in the public interest to ensure that all viewpoints are aired. Accordingly, in scheduling appearances at the hearing the time to be allotted to witnesses for the presentation of oral testimony will be limited. Individuals and individual groups are generally limited to 10 minutes for the presentation of direct testimony. Witnesses should be prepared to provide additional information in response to questions by the Commission and its staff. Submission of supplemental written materials will be allowed in all cases, and they may be submitted at the time of presentation of oral testimony.

Questioning of witnesses will be limited to members of the Commission and its staff.

Posthearing Briefs and Other Written Submissions

In lieu of, or in addition to, appearance at the public hearings, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information contained in such statements or in prehearing or posthearing briefs that a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Because the Commission intends to use the information collected in the course of the section 332 investigation in the section 131(b) investigation, the Commission requests that all such requests for confidential treatment filed in connection with the section 332 investigation contain the following consent statement: "I consent to the use of this confidential business information by the Commission in preparing its advice to the President on this matter under section 131(b) of the Trade Act of 1974." Submissions not containing this consent statement will be returned to the submitter. Any grant of confidential treatment to information received in the section 332 investigation would continue to apply to such information when it is used in the section 131(b) investigation. All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, all posthearing briefs and other written statements should be submitted at the earliest possible date, but not later than April 19, 1991. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: February 6, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–3421 Filed 2–12–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31826]

CSX Transportation, Inc.,—Trackage Rights Exemption;—Norfolk and Western Railway Co.

Norfolk and Western Railway Company (NW) has agreed to grant overhead trackage rights to CSX Transportation, Inc. (CSXT), over approximately 2 miles of rail line as follows: (1) That segment of NW's main line between a point at or near milepost V–433.5 and the connection with Elkem Metals Company at Alloy, WV (milepost V–435); and (2) that segment of NW track between Vaco Junction, WV, and the connection with CSXT's track at Deepwater, WV. The trackage rights were to become effective February 4, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

As a conditiion to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: February 7, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–3461 Filed 2–12–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31813]

Dodge City Ford and Bucklin Railroad Co.; Operation Exemption; In Ford County, KS

Dodge City Ford and Bucklin Railroad Company (DCF), a noncarrier, has filed a notice of exemption to operate approximately 25 miles of track between milepost 0.0, at the connection with the St. Louis Southwestern Railway Company (SSW) near Bucklin, and milepost 25.0, at the connection with The Atchison, Topeka and Santa Fe Railway Company (ATSF) near Dodge City, in Ford County, KS.

The line was acquired by the Ford County Historic Railroad Preservation Foundation (FCH) in 1984 after its abandonment by SSW. See Docket No. AB–39 (Sub-No. 6X), St. Louis Southwestern Railway Company—Abandonment Exemption—In Ford County, KS (not printed), served November 23, 1983. Although the Commission approved an exemption for FCH's operation of the property in Finance Docket No. 30538, Ford County Historic Railroad Preservation Foundation—Operation Exemption—In Ford County, KS (not printed), served November 16, 1984, FCH never commenced rail operations. FCH sold the property to DCF on October 17, 1989.

DCF will begin rail operations after it has secured agreements with the connecting railroads, SSW and ATSF, and after this notice has been published in the **Federal Register.**

DCF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line 50 years old or older until completion of the section 106 process of the National Historic Preservaton Act, 16 U.S.C. 470.

Any comments must be filed with the Commission and served on: Richard A. Ranney, Dodge City Ford and Bucklin Railroad Company, 818 South Second Street, Dodge City, KS 67801.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 7, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3462 Filed 2-12-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31825]

Lewis County Industrial Development Agency and Lowville and Beaver River Railroad Co.; Exemption

Lowville and Beaver River Railroad Co. (LB), and Lewis County Industrial Development Agency (LCID), a political subdivision of the State of New York, have filed a notice of exemption to transfer ownership of and leaseback for the purpose of operating a line of railroad. LB, a class III rail carrier, owns and operates a line of railroad in Lewis County, NY, between milepost 0.0, at Lowville, and milepost 10.57, at Croghan, including a 1.15-ile branch at Beaver Falls, NY. The line constitutes LB's entire rail operation.

A related notice of exemption under 49 CFR 1180.2(d)(2) for the acquisition of control of LB by five noncarrier individuals who also own another class III rail carrier has been filed in Finance Docket No. 31824.

In order to permit LB to provide economical service, to exempt the line from real estate taxes, and to make the line eligible for public rehabilitation assistance, LB will transfer ownership of the line to LCID.[1] LCID, in turn, will lease the line back to LB so it may operate the line.

Any comments must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., suite 1107, Washington, DC 20006.

LCID shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 7, 1991.

[1] LB will retain an easement so that it may provide rail common carrier service on the line. LCID is prevented by law from operating the line.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3463 Filed 2-12-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31824]

David MonteVerdi, Michael Thomas, Charles Riedmiller, Jeffrey Baxter and John Herbrand—Acquisition of Control Exemption; Lowville and Beaver River Railroad Co.

David MonteVerdi, Michael Thomas, Charles Riedmiller, Jeffrey Baxter, and John Herbrand (MonteVerdi, *et al.*) have filed a notice of exemption to acquire control, through Genesee Valley Transportation Company, Inc. (Genesee) [1] of Lowville and Beaver River Railroad Co. (LB), a class III rail carrier that owns a line of railroad in Lewis County, NY.[2] MonteVerdi *et al.*, also own Depew, Lancaster & Western Railroad Co., Inc. (Depew), a class III rail carrier that operates about 3 miles of railroad between Lancaster and Depew, NY.

The lines operated by Depew and LB do not physically connect, and MonteVerdi, *et al.*, have no plans to acquire additional rail lines for the purpose of making a connection. This transaction therefore involves the acquisition of control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., suite 1107, Washington, DC 20006.

Decided: February 7, 1991.

[1] Genesee, a noncarrier holding company, was recently formed by MonteVerdi, *et al.*, to purchase 74 percent of the stock of Lowville and Beaver River Railroad Co.

[2] LB's line extends between milepost 0.0, at Lowville, and milepost 10.57, at Croghan, and includes a 1.15-mile branch line at Beaver Falls. In Finance Docket No. 31825, LB has filed a notice of exemption under 49 CFR 1150.31(a)(1) to transfer ownership of the line to the Lewis County Industrial Development Agency, a political subdivision of the State of New York, and to continue its operations over the line.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-3464 Filed 2-12-91; 8:45 am]

BILLING CODE 7035-01-M

U.S. DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 90-0188]

United States v. American Safety Razor Company, et al., Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(a) and (b), the United States publishes below the comment it received on the proposed Final Judgment in *United States* v. *American Safety Razor Company, et al.*, Civil Action 90-0188, United States Distict Court for the Eastern District of Pennsylvania, together with the response of the United States to this comment.

Copies of the response and the public comment are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsyvlania Avenue, NW., Washington, DC and for inspection at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania 19106.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

In the United States District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. American Safety Razor Company; Ardell, Industries, Inc.; and The Jordan Company, Defendants.

Civil No. 90-0188

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment

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Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)–16(g))

Treatises

H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9, *reprinted in* 1974 U.S. Code Cong. & Admin. News 7635, 6538

S. Rep. No. 93–298, 93d Cong, 1st Sess. 6 (1973), reprinted in 1974 U.S. Code Cong. & Admin. News 6539

Cases

Sam Fox Publishing Co v. *United States,* 366 U.S. 683 (1961)

Swift & Co. v. *United States,* 276 U.S. 311 (1928)

United States v. v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619 (W.D. Ky 1985)

United States v. *Bechtel Corp.* 648 F.2d 660 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981)

United States v. *G. Heilman Brewing Co.,* 563 F. Supp. 642 (D. Del. 1983)

United States v. *Gillette Co.* 406 F. Supp. 713 (D. Mass. 1975)

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508 (W.D. Mo, 1977)

United States v. *Waste Management, Inc.* 1985–2 Trade Cas (CCH) ¶ 66,651 at 63,045 (D.D.C. 1985)

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)–16(g)) (the "APPA"), the United States hereby files its Response to Public Comments and a Stipulation amending the proposed Final Judgment against the American Safety Razor Company ("ASR"), Ardell Industries, Inc. ("Ardell"), and The Jordan Company ("Jordan"), and moves for entry of the proposed Final Judgment, as amended.

I. Introduction

This action began on January 9, 1990, when the United States filed a complaint alleging that the acquisition of Ardell by ASR violated Section 7 of the Clayton Act, 15 U.S.C. 18. The original complaint named ASR and Ardell as defendants. On August 15, 1990, the complaint was amended to add The Jordan Company as a defendant. The complaint alleges that the effect of the acquisition might be substantially to lessen competition for the manufacture and sale in the United States markets of two product categories: (1) Single edge industrial blades and (2) all types of industrial blades other than single edge industrial blades. The complaint seeks, among other relief, divestiture to prevent the acquisition's anticompetitive effects in the relevant markets.

On October 24, 1990, the United States and defendants filed a Stipulation in which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the acquisition. In accordance with the provisions of the APPA, the United States also filed a Competitive Impact Statement explaining the basis for the Complaint and for the United States' conclusion that entry of the proposed Final Judgment would be in the public interest. As a result of public comments received by the United States, the parties have agreed to amend the proposed Final Judgment as discussed on pages 13–14, *infra.* The proposed Final Judgment, as amended, would eliminate the anticompetitive effects alleged in the complaint with respect to the single edge industrial blade market by requiring: (1) Ardell to sell four backing and shelling machines and to provide the purchaser or purchasers with a perpetual, royalty-free license to use the drawings and specifications for the backers and shellers; (2) ASR to divest its right-of-first-refusal interest in Techni-Edge Manufacturing Corp. ("Techni-Edge"), a competing manufacturer of single edge industrial blades; (3) Ardell to waive any possible claim it might have against Techni-Edge based on the use of Ardell's proprietary information; (4) Ardell to terminate an existing consulting agreement with Bert Ghavami, whose family owns Techni-Edge; and (5) ASR to release Hans Rath from his obligations under an October 25, 1990 consulting agreement if Mr. Rath releases ASR from its future obligations under the agreement, and, in any event, to release Mr. Rath from any obligation to refrain from working for competing blade-making companies beyond the term of the consulting agreement.

The United States and the defendants stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the Government withdraws its consent. Entry of the proposed Final Judgment, as amended, would terminate this action, except that the Court would retain jurisdiction to construe, modify, and enforce the Final Judgment and to punish violations of the Judgment.

II. Compliance with the APPA

Upon publication of this Response in the **Federal Register**, the procedures required by the APPA will have been completed, and the Court may enter the proposed Final Judgment, as amended.

A. Stipulation, Proposed Final Judgment, And Competitive Impact Statement

The United States has caused the proposed Final Judgment, the Stipulation between the parties for entry of the proposed Final Judgment, and the Competitive Impact Statement, in the form prescribed by 15 U.S.C. 16(b), to be published in the **Federal Register**, 55 FR 47,946, November 16, 1990.[1] It also has furnished copies of these documents to all persons who have requested them.

B. Newspaper Notices

The United States has caused newspaper notices of the proposed Final Judgment and the Competitive Impact Statement to be published in The Washington Post and the Philadelphia Inquirer in accordance with the procedures set forth in 15 U.S.C. 16(c).[2]

C. Statements Regarding Communications

With the exception of communications that are excepted under the APPA, there were no written or oral communications with officers and employees of the United States by or on behalf of defendants concerning the proposed Final Judgment. Consequently, defendants did not, pursuant to 15 U.S.C. 16(g), file a report describing such communications.

D. Waiting Period, Comments, and Publication of Comments and Response

The 60-day period provided by 15 U.S.C. 16(d) for the submission of public comments expired on January 15, 1990. The United States received comments within the waiting period from Pacific Handy Cutter, Inc., Hyde Manufacturing

[1] Copies of the **Federal Register** Notices are attached to this Repsonse as Exhibit A.

[2] Copies of the affidavits of publication are attached to this Response as Exhibit B.

Co., and Victor V. Ludwig.[3] In accordance with the APPA, the United States has evaluated the comments and responds to them below. As required by 15 U.S.C. 16(b), the comments are being filed with this Response, and the comments and the Response will be published in the **Federal Register**. Counsel for the United States will inform the Court when publication has occurred.

E. Standards for Review of Consent Decrees

Under the APPA, the primary responsibility for enforcing the antitrust laws and protecting the public interest in competitive markets rests with the Department of Justice. *United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,651 at 63,045 (D.D.C. 1985). In carrying out its responsibilities, the Department has broad discretion in prosecuting alleged antitrust violations and determining appropriate relief for the settlement of cases. *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508 at 71,980 (W.D. Mo. 1977), *citing Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961) and *Swift & Co.* v. *United States*, 276 U.S. 311, 331–32 (1928). Before entering a proposed consent decree, the Court must determine that the decree is in the public interest, 15 U.S.C. 16(e),[4] but that test is limited to ensuring that the Government has met its public interest responsibilities, that is, determining that the proposed Final Judgment falls within the range of the Government's antitrust enforcement discretion. The Ninth Circuit Court of Appeals has explained these respective obligations as follows:

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General * * *. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "written the reaches of the public interest." * * * More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

United States v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.) (citations omitted), *cert. denied*, 454 U.S. 1083 (1981).

Indeed, the courts repeatedly have held that the purpose of their review of proposed antitrust consent decrees is not to determine whether this "is the best possible settlement that could have been obtained if, say, the Government had bargained a little harder," *United States* v. *G. Heileman Brewing Co.*, 563 F. Supp. 642, 647 (D. 1983), *quoting United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975), or whether this is the remedy "the court might have imposed had the matter been litigated." *United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985). Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making the public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also given appropriate recognition * * * to the fact that every consent judgment normally embodies a compromise, and that the parties each given up something which they might have won had they proceeded to trial.

United States v. *Mid-America Dairymen, Inc., supra*, ¶ 61,508 at 71,980.

In this case, the United States carefully considered the matters that are now being raised in the comments when it formulated its position with respect to this transaction, and the parties have agreed to amend the proposed Final Judgment after consideration of the comments received. We concluded, for the reasons discussed below and in the Competitive Impact Statement, that the public would be best served by the remedial action set forth in the proposed Final Judgment, as amended. If the Court finds that the United States' action represented a reasonable exercise of its antitrust enforcement responsibility and prosecutorial discretion, it may enter the proposed Final Judgment, as amended, as soon as compliance with the APPA is completed by publication of the comments and Response in the Federal Register.[5]

F. The Competitive Analysis of the United States

The Department believes that if the proposed Final Judgment, as amended, is entered, the transaction will no longer violate section 7 of the Clayton Act. The proposed Final Judgment, as amended, will in several ways promote new competition in the single edge industrial blade market, a market in which the transaction would substantially reduce competition absent such relief. As a result, the ability of a manufacturer or group of manufacturers of single edge industrial blades to exercise market power will not be enhanced as a consequence of this acquisition.

Prior to negotiations that led to the proposed Final Judgment, the United States independently concluded that the acquisition will not substantially lessen competition in the second product market alleged in the complaint, the non-single edge industrial blade market, and had intended to amend the complaint to eliminate that claim. Thus, the United States concludes that entry of the proposed Final Judgment, as amended, is in the public interest.

1. The Product is Single Edge Industrial Blades. Single edge industrial blades are one of a variety of types of industrial blades. Although the different types of industrial blades typically are produced using a similar process,[6] only single edge industrial blades are manufactured with a metal backing ("backing") and are sold with a protective paper around the edged side of the blade ("shelling"). Industrial blade companies that do not currently manufacture single edge blades can not readily do so because of the difficulty in achieving backing and shelling capability.

Single edge industrial blades are designed for cutting and scraping applications, for use either alone or inserted in tools. Tools in which single edge industrial blades are used are designed to accept only single edge blades. For most consumers of single edge industrial blades, no other type of industrial blade is an acceptable substitute, either because of their unique design or their relatively inexpensive cost. To an even greater degree there are no non-industrial blade products that are acceptable substitutes.

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[3] Copies of those comments are attached to the Response as Exhibits C, D, and E.

[4] This determination can be properly made on the basis of the Competitive Impact Statement and this Response. The procedures of 15 U.S.C. 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the Court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9, *reprinted in* 1974 U.S. Code Cong. & Admin. News 6535, 6538.

[5] The United States respectfully requests that the Court promptly enter the proposed Final Judgment, as amended. Congress expected federal courts to adopt "the least complicated and least time-consuming means possible" to determine if entry of a proposed final judgment would be in the public interest. *See* S. Rep. No. 93–298, 93d Cong. 1st Sess. 6 (1973), *reprinted in* 1974 U.S. Code Cong. & Admin. News 6539; H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8, *reprinted in* 1974 U.S. Code Cong. & Admin. News 6539.

[6] A coil strip of steel is run through a perforating punch press which perforates, but does not cut, the steel in the shape of the blade. The steel strip is then heat-treated in hardening and tempering furnaces, then fed through a grinder to sharpen the blades at the appropriate angles. The blades are broken off as they exit the grinder.

2. The Geographic Market for Single Edge Industrial Blades is Nationwide. The geographic market for single edge industrial blades is the United States because firms that produce and sell those products compete with each other for sales throughout the country.

3. The Effect of the Transaction. ASR and Ardell sell numerous types of industrial blades throughout the United States and are direct competitors in many of those product markets. In the single edge industrial blade market, there are few alternative sources of product. The HHI,[7] measured by dollar sales, exceeded 3100 before the acquisition and increased by more than about 1800 to 4900 as a result of the acquisition. A market with an HHI of 1800 is highly concentrated. The high level of concentration in that market, combined with the difficulty of entry by new manufacturers, led the Department to conclude that the acquisition would increase the likelihood that ASR, either singly or in concert with other sellers, would exercise market power, *i.e.*, the power to control price over a substantial period of time, in that market. In the market for other types of industrial blades in which ASR and Ardell compete, there is both substantially greater competition presented by additional companies and easier entry into production by new companies.

4. The Proposed Final Judgment, As Amended. Under the terms of the proposed Final Judgment, as amended, Ardell is required to sell four backing and shelling machines, the most difficult aspect of entry into the single edge industrial blade market. The sale must be made to a company that is not currently a viable manufacturer but which has the capability of becoming a viable competitor. The acquisition of four backers and shellers will provide the purchaser with sufficient capacity to compete effectively in the single edge industrial blade market. Moreover, the proposed Final Judgment, as amended, also requires ASR and Ardell to license to the purchaser the drawings and specifications for the backers and sellers, thus enabling the purchaser to build additional machines, if needed.

The proposed Final Judgment, as amended, also requires divestiture of a right-of-first-refusal ASR has to acquire Techni-Edge, which currently is a minor participant in the single edge industrial blade market. The proposed Final Judgment, as amended, eliminates uncertainty about the ownership of single edge blade-making technology practiced by Techni-Edge, which was founded by the family of Bert Ghavami, a high ranking employee of Ardell at the time Techni-Edge was founded. Ardell will terminate a consulting agreement it has with Mr. Ghavami, who until recently was President of Ardell. The provisions relating to Techni-Edge will ensure its independence from ASR and Ardell as a competitor in the single edge blade industrial blade market.

The proposed Final Judgment, as amended, also requires ASR to refrain from asserting any claim against Hans Rath arising out of four specified employment agreements or any other substantialy similar written agreement,[8] and to release Mr. Rath from any future obligations under an October 25, 1988, consulting agreement provided Mr. Rath releases ASR from its future obligations under that agreement. In any event, ASR will waive provisions in the October 25, 1988, consulting agreement that may prevent Mr. Rath from involvement in blade manufacturing beyond the four year term of the agreement. The terms relating to Mr. Rath may increase the availability to other current or potential blade manufacturers of the expertise needed to design single edge blade-making equipment.[9]

Pursuant to the proposed Final Judgment, as amended, The Jordan Company will be dismissed as a defendant. Jordan is not a necessary defendant to carry out the terms of the proposed Final Judgment, as amended.

G. Response to Comments

The United States received public comment from Victor V. Ludwig, Pacific Handy Cutter, Inc., and Hyde Manufacturing Co. ("Hyde").[10] Ludwig notes that section IX.A of the proposed Final Judgment requires ASR to waive claims against Hans Rath arising out of three specified agreements between Mr. Rath and ASR, and states that there is at least one additional written agreement between Mr. Rath and ASR not identified in the proposed Final Judgment. Because the parties intended that the proposed Final Judgment cover all such agreements, the parties have agreed to file a stipulation amending the proposed Final Judgment to include specifically the agreement identified in Mr. Ludwig's comment, as well as any other substantially similar written agreement not specifically identified.

Pacific Handy Cutter makes three points. First, that Ardell was acquired to eliminate its competition and that the appropriate relief is divestiture of the entire company. Second, that if the sale of four backers and shellers is deemed satisfactory, they should be sold to the highest bidder.[11] Third, if the proposed Final Judgment is entered, the United States should exercise its authority to approve purchasers of the backers and shellers to ensure that the purchaser is the one that best meets the standards set forth in section IV.D. of the proposed Final Judgment. Hyde states that it wishes to purchase two backers and shellers, and suggests that the proposed Final Judgment be modified to require the sale of machines to at least two purchasers to further increase competition in the market.

Under the circumstances, the single issue presented here is whether the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion. For the reasons stated above, the United States has concluded that divestiture of Ardell in its entirety is unnecessary to resolve the anticompetitive effects of the acquisition in the single edge industrial blade market and that the proposed Final Judgment, as amended, is an appropriate resolution of this litigation. The proposed Final Judgment, as amended, reflects a careful study of the market and is reasonably calculated to prevent the anticompetitive effects alleged in the complaint while imposing the least intrusive means needed. Therefore, entry of the proposed Final Judgment, as amended, is in the public interest.

In effect, Pacific Handy Cutter's comment that full divestiture be required argues that *no* settlement of

[7] "HHI" means the Herfindahl-Hirshman Index, a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2+30^2+20^2+20^2=900+900+400+400=2,600$). The HHI takes into account the relative size and distribution of the firms in the market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

[8] ASR and Hans Rath are not aware of any such unidentified agreement.

[9] Mr. Rath has been identified as one of the few people in the United States with expertise in the design of such equipment.

[10] Ludwig is counsel for Hans Rath. Both Pacific Handy Cutter and Hyde are customers for industrial blades, including single edge industrial blades. They both also compete with Ardell in the sale of tools in which industrial blades are incorporated.

[11] In its comments, Pacific Handy Cutter notes that it contacted Ardell about the availability of the equipment and was told that the equipment already had been sold. Pacific Handy Cutter is concerned that the sale was arranged prior to the proposed settlement. The Government has no reason to believe that the sale was arranged prior to the parties' agreement to enter into the proposed Final Judgment. See n. 13, *infra*.

this litigation should be permitted. Acceptance of that argument would represent an extraordinary restriction on the prosecutorial discretion of the United States. It would require this Court and the Department of Justice to undertake the substantial costs, risks, and delays of litigating to final conclusion a case of substantial complexity, despite the Department's considered judgment that an adequate remedy can be obtained without imposing such costs on the taxpayers.

We are unaware of any instance in which a court has rejected a proposed consent decree in its entirety in the course of a public interest review. Such a conclusion should not be reached absent a compelling demonstration of the inadequacy of other forms of relief, and no such demonstration has been made here.

Pacific Handy Cutter also is concerned about the method of divestiture of the four backers and shellers. The method set forth in the proposed Final Judgment, as amended, is reasonable. Section IV.D states that a proposed purchaser must be purchasing the equipment for the purpose of competing effectively in the production and sale of single edge industrial blades in the United States and that it have the ability to do so. Section IV.E excludes currently viable single edge blade manufacturers from the scope of eligible purchasers.[12]

Although a prospective purchaser of divested equipment might prefer open bidding, the purpose of the proposed Final Judgment, as amended, is not to benefit third parties, but to relieve the anticompetitive effects of ASR's acquisition of Ardell. The purpose of the divestiture is to provide for the entry of an additional, viable competitor in the market. A requirement of open bidding is unnecessary to accomplish that purpose. In fact, a negotiated sale may provide the quickest method of divestiture, thus providing quicker relief from the anticompetitive effects of Ardell's acquisition.

As to Pacific Handy Cutter's suggestion that the United States approve the sale of the backers and shellers only to the company that best meets the standards set forth in section IV.D, those standards were established to ensure that any buyer meeting them would be a sufficiently viable competitor to eliminate the anticompetive effects of Ardell's acquisition. We believe it would be inappropriate and unnecessarily instrusive, however, for the United States to select a purchaser from among several that may be qualified.[13]

Hyde has suggested that an even greater competitive effect could be achieved by requiring Ardell to split the sale of the four backers and shellers between at least two purchasers. While such a requirement would result in two, rather than one, additional competitors in the single edge blade market, as noted above, the purpose of the proposed Final Judgment, as amended, is to eliminate the anticompetitive effects of Ardell's acquisition, and we believe the sale of all four machines to one qualified purchaser would accomplish that goal. Requiring the sale of machines to multiple purchasers is unnecessary to accomplish that purpose, and could unnecessarily complicate the divestiture process.

III. Conclusion

For the reasons set forth in the Competitive Impact Statement and this Response, the Court should find, after publication of this Response in the **Federal Register**, that the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion, is in the public interest, and should be entered.

Respectfully submitted,

Richard S. Rosenberg,

Willard S. Smith,

Anne R. Spiegelman.

Attorneys, Antitrust Division, U.S. Department of Justice, Middle Atlantic Office, The Curtis Center, suite 650, 7th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel.: (215) 597-7401.

Exhibit A, the Final Judgment as originally proposed, the Competitive Impact Statement, and the Stipulation, previously were published in the **Federal Register** (55 FR 47945, November 16, 1990) and are not republished herein. Exhibit B, copies of affidavits of publication of newspaper notices of the proposed Final Judgment and Competitive Impact Statement, also are omitted from publication herein; these may be requested for inspection and copying at room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania.

Exhibit C

November 28, 1990.

Mr. Willard S. Smith,

U.S. Department of Justice, The Curtis Center, Suite 650, Independence Square West, Philadelphia, Pennsylvania 19106.

RE: 60-3421-0001, United States v. American Safety Razor Co., et al.

Dear Mr. Smith: We are in receipt of the final settlement and we vehemently object to it. We feel that the Jordan Company should be made to divest itself of the Ardell Corporation. The Jordan Company is an investment company and after puchasing American Safety Razor, it is obvious that they purchased Ardell to eliminate competition. However, if the government feels that by making Ardell sell 4 shelling and backing machines a competitive environment would be established, then the least we could expect is that the machines be sold in a free-market environment. Immediately, upon receiving your letter of October 25, 1990, I contacted Bert Ghavami and told him we were interested in the machines. I also advised Howard Strauss and Pat Cosgrove that we were interested in purchasing the 4 machines. In late November, I received a phone call from the new President of Ardell, Mr. Bill Powers, and advised him that we were interested in the equipment. That very same day I received a phone call from the Chairman of the Board of American Safety Razor, Mr. Thomas Quinn, and was advised that the equipment had already been sold. I inquired as to who purchased the equipment and was advised that this was confidential. This leads a reasonable person to believe that the agreement had been reached as to the sale of the equipment prior to the final settlement; that American Safety Razor knew all the time who they intended to sell the equipment to. Again, this would not, in my opinion, be in the spirit of the settlement. We feel that the equipment should be put up for auction and sold to the highest bidder who meets your standards.

The settlement agreement requires your approval of the purchaser. If the settlement agreement does stand, then the buyer will be evaluated under the terms as outlined in section IV, Divestitures, paragraph D. If we, or anyone else interested in purchasing the machines would better meet these standards, then you should not approve the purchaser.

To summarize our position, first, we feel that Jordan Company should be made to divest itself of Ardell Corporation. Secondly, if this cannot be accomplished, then, we feel that the equipment that you are requiring them to sell, should be sold on some type of bid basis. Thirdly, if, because of the settlement agreement you cannot use a bid or auction method to sell the equipment, then you should force the Jordan Company to sell

[12] The list of exluded companies includes The Stanley Works, which does not currently manufacture single edge industrial blades but expects to enter the market shortly.

[13] As to Pacific Handy Cutter's concern that a purchaser was selected prior to reaching the proposed Final Judgment, the sequence of events is as follows. The parties filed a Stipulation on October 24, 1990, requiring them to abide by the provisions of the Final Judgment pending its entry. Following entry of the Stipulation, and in the spirit of that agreement, Ardell later informed the United States that it had entered into negotiations to sell the four backers and shellers. On December 5, 1990, Ardell informed us that it had entered into a sales agreement with U.S. Blade Manufacturing Co., subject to entry of the Final Judgment. U.S. Blade Manufacturing Co. is a buyer acceptable to the United States. Where divestiture is required, competition is best served if it is quickly effectuated. Ardell's prompt action thus has been in the public interest.

the equipment to the company that best meets the standards outlined in Paragraph D.

We intend to pursue this matter to the fullest extent.

After you have reviewed this letter, please call me.

Sincerely,

Pacific Handy Cutter, Inc.

Robert B. Wenk,

Executive Vice President.

Exhibit D

November 30, 1990.

John J. Hughes, Esq.,

Chief of Middle Atlantic Office of Anti-Trust Division, The Curtis Center, Suite 650, West 7th & Walnut Sts., Philadelphia, PA 19108.

Re: United States of America vs. Ardell Industries, Inc., American Safety Razor Company and the Jordan Company.

Dear Mr. Hughes: Please accept this letter as an objection by Hyde Manufacturing Company to the proposed settlement in the above-captioned matter. Pursuant to Section II of the Competitive Impact Statement published on November 16, 1990 in the **Federal Register**, please file this objection together with the response of the government with the court.

As you are aware, the Hyde Manufacturing Company is active in the single edge industrial blade market. Hyde Manufacturing Company presently sells such blades and has an ongoing unsuccessful research and development project regarding the economical manufacture of shelled and backed single edge blades.

The proposed settlement contemplates the divestiture by Ardell Industries of four shelling and backing machines. The proposed settlement allows Ardell Industries, subject to the discretion of the government and approval from the court, to sell all four machines to a single purchaser. Indeed, Ardell Industries notified me that it already has entered into a sales agreement with a single unidentified purchaser for all four machines.

The settlement should not permit Ardell Industries to sell all four backing and shelling machines to a single purchaser. A sale to a single purchaser would minimize rather than enhance the competition in the single edge blade market. The government could attain greater competition by insisting on at least two distinct purchasers of the machines.

I assure you that Hyde Manufacturing Company has the managerial, operational and financial capacities to be an effective competitor in the single edge blade market. If Hyde Manufacturing Company should be allowed to bid successfully for two machines then I anticipate that Hyde Manufacturing Company could compete effectively in the immediate future with any manufacturer of single edge blades. If Ardell Industries is allowed to sell to a single purchaser then the effect on competition will be reduced from what it could have been had at least two purchasers been required.

I understand the purpose of the litigation to have been to guard against a decrease in competition in the single edge blade market. The proposed settlement does not fulfill the purpose of the litigation to the extent readily possible. The opportunity is available through a settlement to foster competition to a much greater degree simply by providing for at least two purchasers of the machines.

I trust that you are aware of Hyde Manufacturing Company's position in the industry through your research into the trade. I am ready to provide you with whatever data you might require to confirm that Hyde Manufacturing Company is capable of immediate effective competition upon acquisition of two machines.

Very truly yours,

Richard B. Hardy,

President, Hyde Manufacturing Co.

Exhibit

January 11, 1991.

John J. Hughes, Esquire,

Chief of the Middle Atlantic Office, U.S. Department of Justice, Antitrust Division, The Curtis Center, Suite 650, Independence Square West, 7th and Walnut Street, Philadelphia, Pennsylvania 19106.

Re: United States of America v. American Safety Razor Company, et al, Civil Action No.: 90–0188.

Dear Mr. Hughes: At the request of Mr. Hans M. Rath, I am writing to you concerning a proposed judgment order to be entered in the above-referenced matter, a portion of which relates to Mr. Rath. On page 13 of the order, in section IX, American Safety Razor Company (ASR) would be ordered to waive certain claims arising out of three specified agreements between Mr. Rath and ASR. It has come to my attention that there is at least one additional contract, dated February 14, 1980, a copy of which I enclose, which contains language similar to the contracts specifically identified in the order. Moreover, because of the long relationship between Mr. Rath and ASR, I am concerned that there may be other contracts of which I am not aware but which, like the 1980 contract, contain language which might give rise to the same claims which it is contemplated that ASR will waive.

I would appreciate it if paragraph A of section IX of the order could be re-worded in such fashion as to provide a more comprehensive protection for Mr. Rath, perhaps by causing ASR to waive all claims against Mr. Rath regarding patent disclosure or infringement. At a minimum, I would request that specific reference be made to the contract of February 14, 1980.

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

Victor V. Ludwig.

[FR Doc. 91–3423 Filed 2–12–91; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1322–91]

Immigration and Naturalization Service User Fee Advisory Committee; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee holding meeting: Immigration and Naturalization Service User Fee Advisory Committe.

Date and time: March 5, 1991 at 9:30 a.m.

Place: Washington Dulles Ramada Renaissance Hotel, 13869 Park Center Road (At Rte. 28 and McClearen Drive) Herndon, Virginia Telephone Number: (703) 478–2900.

Status: Open. Fifth meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act of 1952, as amended. (8 U.S.C. 1356(k)) and the Federal Advisory Committee Act (5 U.S.C. App. 2).

Agenda

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

Public participation: The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the Contact Person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the Contact Person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting by the Contact Person will be considered for discussion at the meeting.

Contact person: Elaine Schaming, Program Specialist, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, room 7123, 425 I Street, NW.,

Washington, DC 20536, Telephone Number: (202) 514–2695.

Dated: February 5, 1991.

Michael T. Lempres,

Executive Commissioner, Immigration and Naturalization Service.

[FR Doc. 91–3437 Filed 2–12–91; 8:45 am]

BILLING CODE 4410–10–M

Federal Bureau of Investigation

Bureau of Justice Statistics

Recommended Voluntary Standards for Improving the Quality of Criminal History Record Information

AGENCY: Federal Bureau of Investigation and Bureau of Justice Statistics, Department of Justice.

ACTION: Notice.

SUMMARY: This Notice contains the voluntary reporting standards for State and local law enforcement agencies to improve the quality of criminal history record information.

EFFECTIVE DATE: February 13, 1991.

FOR FURTHER INFORMATION CONTACT: Melvin D. Mercer, Jr., Chief of the Correspondence and Special Services Section, Identification Division, FBI, Washington, DC 20537–9700, telephone number (202) 324–5454.

SUPPLEMENTARY INFORMATION:

Part I. Introduction of Standards

The Anti-Drug Abuse Act of 1988 (section 6213(a) of Public Law 100–690, November 18, 1988) required the Attorney General to develop a system for immediate and accurate identification of felons who attempt to purchase one or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The Attorney General was further required to make a report to Congress describing such a system no later than one year after passage of the Act and to begin implementation of the system 30 days later.

A Task Force on Felon Identification in Firearm Sales was established by the Attorney General to study and develop a range of options that would comply with this statute. In October 1989, the Task Force completed its final report and submitted it to the Attorney General for consideration. The report set forth a variety of possible options for a system of identifying felons who attempt to purchase firearms; however, the Task Force did not recommend any specific option.

By letter dated November 20, 1989, the Attorney General advised the Congress of his recommendations based upon the report by the Task Force. In his letter, the Attorney General noted that several major obstacles had to be overcome in order to achieve the goal of immediate and accurate identification of felons. One of the obstacles cited by the Attorney General was the current state of record-keeping by local law enforcement agencies. The Attorney General concluded as follows:

> No one list of felons exists. In addition, many of the criminal history records maintained by law enforcement are either out of date or incomplete, or both. Finally, current records often contain arrest information without notification of final disposition.

To address the problems of inaccurate, incomplete, and inaccessible criminal history records, the Attorney General directed the Federal Bureau of Investigation (FBI) in conjunction with the Bureau of Justice Statistics (BJS) to develop voluntary reporting standards for State and local law enforcement. The Attorney General further directed that since the most urgent need is to identify criminals, these standards should emphasize enhanced record-keeping for all arrests and convictions made within the last five years and in the future.

During February 1990, the National Crime Information Center (NCIC) Advisory Policy Board (APB) Identification Services Subcommittee (ISS) met with representatives of the FBI, BJS, and SEARCH Group, Inc. (SGI) to discuss the Attorney General's proposal and his directive to the FBI. The subcommittee recommended that the voluntary reporting standards include the following topics: arrests, dispositions, timeliness, audits, maintenance and security. It was also agreed that the first draft of the standards be forwarded to the NCIC APB Regional Working Groups (RWG).

An initial draft of the standards and guidelines was issued on March 12, 1990, for review by the ISS, the four RWGs and by the Ad Hoc Identification Division Issues Committee of SGI. Comments and concerns received in response to the initial draft were carefully considered in preparing a revised draft of the standards for further review.

As directed by the Attorney General, to ensure that the standards take into account the burden placed on states, the revised draft standards were issued May 18, 1990, for public comment for a period of 120 days. The draft was forwarded to the NCIC APB, SGI, which has representation in all 50 states and the District of Columbia, all state identification bureaus and selected public interest groups devoted to criminal justice issues.

During June 1990, the ISS redrafted the standards and recommended the ISS draft to the NCIC ABP. The APB adopted the revised draft standards and forwarded a copy to the FBI on June 6, 1990. Additional comments were received from SGI and several states and public interest groups.

FBI and BJS representatives subsequently met to consider comments and to finalize the draft standards. The standards being promulgated are those proposed by the NCIC APB. The standards were approved by the Attorney General on December 28, 1990.

The purpose of these standards is not to supersede current regulations or to diminish the impact of existing standards and guidelines. The standards are voluntary. Their adoption by criminal history records systems nationwide should be viewed as a goal and not as a requirement.

PART II. Recommended Voluntary Standards for Improving the Quality of Criminal History Record Information

1. Every State shall maintain fingerprint impressions or copies thereof as the basic source document for each arrest (including incidents based upon a summons issued in lieu of an arrest warrant) recorded in the criminal history record system.

2. Arrest fingerprint impressions submitted to the State repository and the FBI Identification Division (ID) should be complete, but shall at least contain the following data elements: date of arrest, originating agency identification number, arrest charges, a unique tracking number (if available) and the subject's full name, date of birth, sex, race and social security number (if available).

3. Every State shall ensure that fingerprint impressions of persons arrested for serious and/or significant offenses are included in the national criminal history records system.

4. All disposition reports submitted to the State repository and the FBI ID shall contain the following: FBI number (if available), name of subject, date of birth, sex, state identifier number, social security number (if available), date of arrest, tracking number (if available), arrest offense literal, court offense literal, and agency identifier number of agency reporting arrest.

5. All final disposition reports submitted to the State repository and the FBI ID that report a conviction for an offense classified as a felony (or equivalent) within the State shall include a flag identifying the conviction as a felony.

6. States shall ensure to the maximum extent possible that arrest and/or confinement fingerprints are submitted to the State repository and, when appropriate, to the FBI ID within 24 hours; however, in the case of single-source states, State repositories shall forward fingerprints, when appropriate, to the FBI ID within two weeks of receipt.

7. States shall ensure to the maximum extent possible that final dispositions are reported to the State repository and, when appropriate, to the FBI ID within a period not to exceed 90 days after the disposition is known.

8. Every State shall ensure that annual audits of a representative sample of State and local criminal justice agencies shall be conducted by the State to verify adherence to State and Federal standards and regulations.

9. Wherever criminal history record information is collected, stored, or disseminated, each State shall institute procedures to assure the physical security of such information, to prevent unauthorized access, disclosure or dissemination, and to ensure that such information cannot be improperly modified, destroyed, accessed, changed, purged, or overlaid.

10. Every State shall accurately identify to the maximum extent feasible all State criminal history records maintained or received in the future that contain a conviction for an offense classified as a felony (or equivalent) within the State.

Dated: January 31, 1991.

Lawrence K. York,

Assistant Director, FBI Identification Division.

Dated: January 31, 1991.

Steven D. Dillingham,

Director, Bureau of Justice Statistics.

[FR Doc. 91-3422 Filed 2-12-91; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Bureau of Labor Statistics

ES-202 State Operations Review

1220-0070; BLS-3030

Biennial

State or local governments

53 responses; 424 total hours; 8 hours per response; 1 form.

The ES-202 State Operations Review is the principal source of management information on quality and State conformance to BLS specified procedures in the collection and tabulation of the Quarterly Report on Employment, Wages and Contributions. The form is used by BLS regional office staff in their biennial interview with employment security officials to assess the status of the program.

Employment and Training Administration

Preliminary Estimates of Average Employer Tax Rates

1205-0228; no forms

Annually

State or local governments

53 respondents; 14 total hours; 16 minutes per response; no forms.

The average rate collected from States is used to compare average tax rates among the States by the National Office and State agencies and, along with the current tax rate schedule, are used to certify that a State is complying with the law.

Department Management—Assistant Secretary for Administration and Management

Audit Resolution and Appeal Requirements

State or Local Governments; Businesses or other for-profit; Small Businesses or Organizations

222 respondents; 6.23 hours per response; 1,383 hours.

Audits, audit reports and reconsiderations as required by audit regulations codified at 29 CFR Part 96. The regulations apply to DOL and its affected public to resolve the issues raised in audits during the resolution process by recipients of Federal assistance.

Signed at Washington, DC this 7th day of February, 1991.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 91-3468 Filed 2-12-91; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-15]

NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 4302, Notice Number 91-07, February 4, 1991.

PREVIOUSLY ANNOUNCED DATES AND TIMES OF MEETING: February 13, 1991, 8:30 a.m. to 5 p.m.; and February 14, 1991, 8:30 a.m. to 2 p.m.

CHANGES IN THE MEETING: Dates and times changed to March 7, 1991, 8:30 a.m. to 5 p.m.; and March 8, 1991, 8:30 a.m. to 2 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. William P. Raney, Code M-8, National Aeronautics and Space Administration, Washington, DC 20546, 202-453-4165.

Dated: February 8, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-3556 Filed 2-12-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement To Assist With Presidential Design Awards

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to assist its Design Arts Program in implementing Round Three of the Presidential Design Awards. The work consists of administrative assistance to help receive and catalog the entries, conduct a jury process, and organize awards ceremonies, as well as help promote Federal design excellence and produce several printed products. Those interested in receiving the Solicitation package should reference Program Solicitation PS 91-06 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 91-06 is scheduled for release approximately March 1, 1991 with proposals due April 1, 1991.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvnaia Ave. NW., Washington, DC 20506.

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 91-3352 Filed 2-12-91; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Division of Engineering Infrastructure Development Special Emphasis Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Govenrment in the Sunshine Act.

Name: Special Emphasis Panel in the Division of Engineering Infrastructure Development.

Date and time: February 24, 1991—6:30 p.m.-10 p.m.; February 25-26, 1991—8:30 a.m.-5:30 p.m.

Place: Holiday Inn Crowne Plaza, 300 Army/Navy Drive Arlington, Virginia 22202.

Type of meeting: Closed.

Agenda: Review and evaluate Engineering Education Coalition Proposals.

Contact: Dr. Win Aung, Senior Staff Associate, Engineering Education, National Science Foundation, 1776-G DEID, Washington, DC 20550, (202-786-9631).

Dated: February 7, 1991.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 91-3347 Filed 2-12-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-277 AND 50-278]

Philadelphia Electric Co., et al.; Partial Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Philadelphia Electric Company, et. al. (the licensee) to withdraw the audit report portion of its July 11, 1989 application, as supplemented on April 20, 1990, for proposed amendments to Facility Operating Licenses DPR-44 and DPR-56 for the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in York County, Pennsylvania.

The proposed amendments involved the removal of organization charts from the Technical Specifications (TS) in accordance with the guidance provided in NRC Generic Letter 88-06, and miscellaneous administrative changes. On August 20, 1990, the Commission issued Amendment Nos. 155 and 157 to Facility Operating License Nos. DPR-44 and DPR-56 for the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, which approved the licensee's proposed changes with the exception of a proposed change that would result in audit reports being forwarded to responsible corporate officers rather than to the Executive Vice President-Nuclear. In its August 20, 1990 letter, the staff noted that review of this remaining item would continue as a separate licensing action.

On September 11, 1990, the NRC staff transmitted a request for additional information related to its review of the audit report distribution item. The staff noted that the currently approved TS allow for the forwarding of audit reports to the corporate officers responsible for the audited areas, while ensuring that the Executive Vice President-Nuclear remains informed of audit findings. The staff also noted that the proposed change was not consistent with standard TS. The currently approved Peach Bottom TS for this section of the Technical Specifications closely follow that of the Standard TS.

On November 16, 1990, the licensee submitted additional information in support of the proposed change. Subsequent to additional staff review and telephone conversations between the staff and licensee representatives, the licensee reconsidered the need for the proposed change and submitted a January 18, 1991 letter which withdrew the proposed change that would result in

audit reports being forwarded to responsible corporate officers rather than to the Executive Vice President-Nuclear.

The Commission has previously issued a notice of consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing which was published in the Federal Register on August 23, 1989 (54 FR 35107).

For further details with respect to this action, see the application for amendment dated July 11, 1989 as supplemented on April 20, 1990, and the licensee's letter dated January 18, 1991, which withdrew the audit report portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the State Library of Pennsylvania, (Regional Depository), Government Publications Section, Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 5th day of February 1991.

For the Nuclear Regulatory Commission.

Gene Y. Suh,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–3455 Filed 2–12–91; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

Pursuant to the Nuclear Waste Technical Review Board's (NWTRB) authority under section 5051 of Public Law 100–203 of the Nuclear Waste Policy Amendments Act of 1987, the NWTRB panels on Structural Geology & Geoengineering and Hydrogeology & Geochemistry will hold a joint meeting on March 6–7, 1991, with Department of Energy (DOE) representatives on site-suitability issues. The meeting, which is open to the public, will be held at the Stouffer Concourse Hotel, 3801 Quebec Street, Denver, Colorado 80207; (303) 399–7500. Sessions will begin at 8:30 a.m. and adjourn at 5 p.m., on Wednesday, March 6, and in the early afternoon on Thursday, March 7.

The panel meeting will focus on studies undertaken by the DOE to help determine as soon as possible whether the proposed site at Yucca Mountain, Nevada, is suitable for locating a permanent repository for high-level radioactive waste. Representatives of the DOE and its contractors will present a final report on the study of alternatives for the exploratory shaft facility (ESF alternatives study). They also will brief panel members on the Calico Hills risk benefit analysis (CHRBA). Additional topics of discussion will include interim reviews of the test-prioritization and the site-suitability tasks, both critical to determining early site suitability.

Transcripts of the meeting will be available on a library-loan basis from Victoria Reich, NWTRB librarian (703–235–4473) beginning March 21, 1991.

The NWTRB was established in 1987 to evaluate the scientific and technical validity of the activities undertaken by the DOE's civilian radioactive waste management program, in particular, site-characterization activities and those relating to the packaging and transport of high-level waste.

For further information contact Karyn Severson, External Affairs, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated: February 7, 1991.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 91–3405 Filed 2–12–91; 8:45 am]

BILLING CODE 6820–AM–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next meeting on Thursday, February 21, 1991, and Friday, February 22, 1991, in the DuPont Ballroom, Washington Marriott, 1221 22nd Street NW. The meeting on Thursday will begin at 9:30 a.m. and on Friday, the session will begin at 8:30 a.m.

ADDRESSES: The Commission is located at 2120 L Street NW., in suite 510, Washington, DC. The telephone number is 202/652–7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653/7220.

SUPPLEMENTARY INFORMATION: The meetings will cover issues to be included in the Commission's annual report to Congress. The public meeting on Thursday will be devoted to reviewing the Executive Summary of the annual report which contains all Commission recommendations to be forwarded to Congress next month. If the review is not completed on Thursday, it will continue in public session on Friday morning. The Commission will then go into executive session to do final editing of individual report chapters.

Information about the exact agenda can be obtained on Friday, February 15, 1991. Copies of the agenda can be mailed at that time. Please direct all requests for the agenda to the Commission's receptionist.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 91–3395 Filed 2–12–91; 8:45 am]

BILLING CODE 6820–SE–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28867; International Series Rel. No. 229; File No. SR–PSE–91–4]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Cooperative Agreements with Domestic and Foreign Self-Regulatory Organizations

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 Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The PSE has requested accelerated approval of the proposal.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to adopt new rule 14 of the Exchange's Rules of the Board of Governors to permit the Exchange to

[1] In its original submission of File No. SR–PSE–91–4, the PSE requested that the filing become effective upon filing with the Commission pursuant to section 19(b)(3)(B) of the Act (15 U.S.C. 78s(b)(3)(B) (1988)). In a subsequent letter, the PSE withdrew its request for summary effectiveness and requested that the proposed rule change be granted accelerated approval. See letter from Kenneth J. Marcus, Senior Staff Attorney, Equity Compliance, to Elizabeth Pucciarelli, Attorney, Branch of Exchange Regulation, Division of Market Regulation, SEC, dated January 31, 1991.

enter into surveillance-sharing agreements with domestic and foreign self-regulatory organizations ("SROs").[2] The exact text of the proposed rule change was attached to the rule filing as Exhibit 2 and is available at the PSE and the Commission at the address noted in Item III below.

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 III 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

Since 1989, the Commission has approved rule filings submitted from several SROs proposing the adoption of rules allowing the SRO to enter into surveillance-sharing agreements with domestic and foreign SROs. These proposals from the CBOE, the NYSE, and the Amex [3] codified the ability of an exchange to enter into such agreements for the purpose of satisfying the various surveillance functions that can arise in today's increasingly linked and globalized markets. In approving these rules, the SEC has recognized that such agreements will further the obligation of the SRO to protect investors and the public interest by "ensuring that the Exchange is able to conduct prompt investigations into possible trading violations." [4]

While the SEC has stated that it believes that the SROs have the ability to enter into such agreements without the need for a specific rule, the Commission also has stated its belief that an exchange rule clarifies the authority of an exchange to coordinate with domestic and foreign SROs in developing a surveillance system appropriate to today's increasingly linked markets.[5]

It is upon this basis that the PSE wishes to amend the PSE Rules to include the same type of provision as that adopted by these other exchanges. It is the PSE's belief that such a provision is both necessary and appropriate in the current worldwide market.

The proposed rule change to add a new PSE Rule 14 is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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. 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 the PSE. All submissions should refer to File No. SR-PSE-91-4 and should be submitted by March 6, 1991.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the PSE's proposal to enter into surveillance-sharing agreements with other domestic and foreign SROs is consistent with the requirements of the Act and the rules and requirements thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[6] In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission reiterates its prior statements that it believes U.S. national securities exchanges already have the authority to enter into surveillance-sharing agreements with foreign SROs (as well as domestic SROs), and the Commission encourages the development of such agreements.[7] Thus, while the Commission believes the PSE already has the authority to enter into such agreements, the proposed rule change will clarify the Exchange's authority to coordinate with domestic and foreign SROs in developing a surveillance system appropriate to today's increasingly linked and globalized markets. In this regard, the Commission notes that codification of the Exchange's authority to enter into bilateral surveillance agreements furthers the protection of investors and the public interest because it ensures that the Exchange has whatever authority it believes is necessary to be able to conduct prompt investigations into possible trading violations and other regulatory improprieties.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. As discussed *supra*, the Commission has approved proposals by the CBOE, NYSE, and Amex that are virtually identical to the PSE proposal.[8] The

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[2] The Commission recently has approved similar proposals by the Chicago Board Options Exchange ("CBOE"), the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex"). See Securities Exchange Act Rel. No. 28498 (October 1, 1990), 55 FR 41286 (October 10, 1990) (order approving File No. SR-CBOE-90-23); Securities Exchange Act Rel. No. 27877 (April 4, 1990), 55 FR 13344 (April 10, 1990) (order approving File No. SR-NYSE-90-14); and Securities Exchange Act Rel. No. 26436 (January 10, 1989), 54 FR 1829 (January 17, 1989) (order approving File No. SR-Amex-88-27).

[3] *Id.*

[4] Securities Exchange Act Rel. No. 28498, *supra*, note 2.

[5] See Securities Exchange Act Rel. No. 26436, *supra*, note 2.

[6] 15 U.S.C. 78f (1988).

[7] See Securities Exchange Act Rel. Nos. 28498, 27877, and 26436, *supra*, note 2.

[8] See Securities Exchange Act Rel. No. 28498 (October 1, 1990), 55 FR 41286 (October 10, 1990) (order approving File No. SR-CBOE-90-23); Securities Exchange Act Rel. No. 27877 (April 4, 1990), 55 FR 13344 (April 10, 1990) (order approving File No. SR-NYSE-90-14); and Securities Exchange Act Rel. No. 26436 (January 10, 1989), 54 FR 1829 (January 17, 1989) (order approving File No. SR-Amex-88-27). The Commission did not receive any comments in connection with these filings.

Commission believes it is appropriate to approve the proposed rule change on an accelerated basis so that the Exchange can enter into additional bilateral information-sharing agreements with foreign SROs without delay. The Commission believes, therefore, that granting accelerated approval to the proposed rule change is appropriate and consistent with the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [9] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: February 7, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3360 Filed 2-12-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28866; File No. SR-CSE-90-6]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment to Proposed Rule Change of the Cincinnati Stock Exchange, Inc., Relating to the Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

I. Introduction

On March 23, 1990, the Cincinnati Stock Exchange, Inc. ("CSE") submitted a proposed rule change to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and rule 19b-4 thereunder, and Amendment No. 1 thereto on November 14, 1990.[1] The proposed rule change modifies the CSE's time priority rules to permit a market maker to act as Dealer of the Day and thus have priority over same-priced market maker or professional agency interest entered prior in time to his or her bid or offer when the market maker is interacting with the public agency market and marketable limit orders that he or she represents as agent. The CSE intended the proposal to provide market makers with the ability to retain and execute their internal order flow at the best bid or offer, provided the public limit orders on the book have been executed at that price.

In the November Letter, the CSE requested that SR-CSE-90-6 be approved for a six-month pilot period to provide the CSE and the Commission an opportunity to determine the impact dealer preferencing will have on the market. In addition the CSE proposed that amendments be made to the rule filing regarding:

(1) Short-sale arbitrage programs; (2) payment for order flow; (3) limitation on number of issues in which a Designated Dealer can preference during the period of the pilot; and (4) length of service as dealer.[2]

Notice of the original proposed rule change was given in Securities Exchange Act Release No. 27910 (April 17, 1990), 55 FR 15311. On May 21, 1990, the Commission received one comment on the proposal from the National Association of Securities Dealers ("NASD"), which is discussed below. This order approves the rule change and grants accelerated approval of the amendment.

II. Description of Proposal and Exchange Rationale

The proposed rule change adds rule 11.9(u) and amends rule 11.9 (l) and (m) to modify the Exchange's time priority rules. The new time priority rule is designed to create incentives for a market maker/dealer to direct his or her own retail order flow to the Exchange, permitting the market maker/dealer to preference itself over other professionals with respect to order flow that the market maker/dealer is directing to the Exchange.

The CSE drafted the proposal so that, as a condition of permitting preferencing, the Dealer of the Day is required to satisfy public agency interest in the CSE's central limit book up to the size of the market maker's preferenced order before the dealer may execute the preferenced order and, to the extent that the preferenced market maker's public order matches contra public orders in the book, the trade will occur without the intervention of the market marker as principal. CSE's National Securities Trading System ("NSTS") will continue to excecute all public market orders at the national best bid or offer.

In the November Letter the CSE proposed to amend the filing in the following ways to respond to questions raised by the Commission staff:

(1) *Short-Sale Arbitrage Programs*—Designated Dealers shall be allowed to preference their customer order flow that is related to index arbitrage only on plus or zero plus ticks when the Dow Jones Industrial Average ("DJIA") declines by fifty points or more from the previous day's closing value.

(2) *Payment for Order Flow*—To separate the issue of payment for order flow from its proposed rule change, the amended rule bans direct cash payments for orders executed on the CSE by preferencing market makers on preferenced trades for the duration of the pilot period. Before engaging in preferencing, each dealer eligible for preferencing under the proposed rule will be required to submit a written representation that any order to be preferenced will not have been purchased from his customer for a direct cash payment.

(3) *Limitation on Number of Issues*—CSE will limit to sixty the number of issues that a Designated Dealer can preference during the pilot period.

In addition, the CSE clarified in the November Letter that the CSE Securities Committees current policy on voluntary withdrawal of Designated Dealer status will apply to preferencing dealers. That policy currently provides that: (i) A request for withdrawal of Designated Dealer status can be accepted only if the dealer has been active in an issue for at least sixty days, and (ii) after withdrawal, the member cannot be registerd in that particular issue again for another sixty days. The purpose of this provision is to prohibit a preferencing dealer from stepping away from his or her guarantee obligation and forcing another dealer to guarantee the preferencing dealer's customer order flow during unfavorable market conditions or at any other time.

The CSE is attempting to increase the amount of retail business transacted on the Exchange. The CSE has attempted to increase business and liquidity by developing electronic interfaces with retail order-delivery systems, and increasing the number of issues traded in NSTS through the creation of a primary Designated Dealer category of market maker by establishing them as Dealer of the Day in such issues. Designated Dealer status obligates the dealer to guarantee execution of all public agency orders up to 2,099 shares. The CSE believes, however, that the Designated Dealer category has not overcome the lack of incentive in CSE's multiple market maker environment for a market maker/dealer to direct his own retail order flow to the Exchange.[3] The

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[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 U.S.C. 30-3(a)(12) (1990).

[1] See letter Frederick Moss, Chairman of the Board of Trustees, CSE, to Richard G. Ketchum, Director, Division of Market Regulation, Securities and Exchange Commission, dated November 14, 1990 ("November Letter").

[2] See the November Letter.

[3] In the November Letter, the CSE states that:

Continued

Designated Dealer can lose all or a portion of his public orders to other maket makers who are quoting at the national best bid or offer. Therefore, the proposed rule change was the next step in the CSE's effort to attract retail order flow, enhancing liquidity and efficiency, while protecting customer orders by requiring that limit orders be satisfied before a market maker/dealer can execute same-priced customer orders and by ensuring that these orders continue to be executed at the national best bid or offer ("NBBO").

III. NASD Comment

As noted above, the Commission received one comment letter on the original proposed rule change from the NASD. The NASD expressed concern over listed securities subject to off-board trading restrictions being excluded from the Intermarket Trading System ("ITS")/CAES link, and its belief that this rule filing should be accompanied by the initiation of a re-evaluation of the justification for continued exclusion of non-19c–3 securities from the ITS/CAES link.[4] While the Commission is sensitive to the issue of whether the ITS/CAES link should be expanded to include non-19c–3 securities, off-board trading restrictions are not at issue in the proposed rule change, particularly because the CSE does not impose such restrictions. Thus, the Commission will not address the issue in the context of this rule filing.

[a]t all times, the CSE market makers and brokers are subject to being "hit" by brokers representing public orders or by professionals on or off exchange floors. In addition, public orders are guaranteed executions at the NBBO for up to 2099 shares, and market makers often display sizes in excess of that number which are subject to be taken at the literal flick of a swtich. No other exchange trader, whether he be a market maker or specialist, is so exposed or out on an electronic limb. We believe that the preferencing rule makes a small dent in this electronic competitive disadvantage will encourage well-capitalized market makers to learn the system and ultimately to provide deeper electronic markets.

[4] Although the NASD agrees with the approach of dealer preferencing, the NASD is concerned that the NASDAQ market parallels the competing dealer structure of the CSE in many respects, but NASDAQ market makers will be denied the ability to compete for listed order flow on a comparable basis as a result of the exclusion of listed securities subject to off-board trading restrictions from the ITS/CAES link. The NASD contends that this exclusion effectively extends the reach of these trading restrictions to market makers that are not exchange members, but can or do participate in the ITS/CAES link. Hence the NASD contends that its non-exchange members acting as market makers in the ITS/CAES link are unfairly discriminated against in terms of denial of access to other exchange markets through ITS, its consequent impact on intermarket competition and the ability of those market makers to obtain the best available price in the system for any security.

IV. Discussion.

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange. Specifically, the proposal is consistent with section 6(b)(5) because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposal addresses the CSE's legitimate desire to attract additional business to the exchange, while at the same time providing adequate protection for public agency orders sent to the exchange.

While clearly the notion of preferencing order flow takes the CSE one more step away from a true auction market, the CSE is a hybrid of both exchange and over-the-counter markets.[5] Furthermore, although the notion of preferencing is not an accepted feature in auction markets, it has been adopted in the OTC market. The NASD's Small Order Execution System ("SOES") allows firms to preference orders to particular market makers.[6]

The Commission finds good cause for approving those portions of the proposal that were amended by Amendment No. 1 upon release to the **Federal Register.** As stated above, the original proposed rule change establishing dealer preferencing has been published for comment in the **Federal Register,**[7] and there was only one comment received relating to an issue that is not included in the persent rule filing. The Commission believes it is appropriate to approve the original proposed rule change and the amendments thereto on a pilot basis so that the Exchange and the Commission can better analyze the effect that dealer preferencing will have on the market.

[5] CSE is unique amoung U.S. stock exchanges in that it is totally automated and utilizes a competing market maker system. Its members transmit orders, make markets, receive instant executions and reports through remote terminals or computer interfaces from around the country. There is no physical exchange floor, no crowd, no specialist system, and there are no floor brokers, clerks, or other personnel associated with exchange floor operations. The book is open on the CSE and a market maker or broker must display his best interest if he or she wants to trade.

[6] "*NASD Securities Dealers Manual,*" CCH ¶ 2460.

[7] See Securities Exchange Act Release 27910 (April 17, 1990), 55 FR 15311.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the amendments to the rule change. 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 submissions, all subsequent amendments, all written statements with respect to the original and amended 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 principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 6, 1991.

VI. Conclusion

Based on the foregoing, the Commission has concluded that the proposed rule change is consistent with the requirements of the Act and that it is appropriate to approve the proposal.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that File No. SR–CSE–90–6 and Amendment 1 thereto be, and hereby is, approved for a six-month pilot period, commencing on the date of this order.

For the Commission, by the Division of Market Regualtion, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

Dated: February 7, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–3439 Filed 2–12–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28868; File No. SR–MSE–91–04]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc. Relating to Odd-Lot Pricing Procedures

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 10, 1991, the Midwest Stock Exchange, Inc. ("MSE" 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 Exchange proposes to change Article XXXI, rule 9(c) (iv) and (v) relating to the execution of odd-lot orders, by allowing "buy" and "sell" odd-lot limit orders to be executed at the limit price after there has been a full lot transaction in the primary market *at* or below the limit price for buy limit orders and *at* or above the limit price for sell limit orders.[1] Currently, odd-lot limit orders are executed at the limit price after there has been a full lot transaction in the primary market below the limit price for buy transactions, and above the limit price for sell transactions.[2]

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

The MSE's purpose for instituting the proposed rule change is to enhance the MSE's competitive position by improving the quality of execution of odd-lot limit orders and thereby attracting additional odd-lot limit order flow.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burdens will be placed on competition as a result of the proposed rule change.

II. Self-Regulatory Organization's Statements 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written, submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR-MSE-91-4 and should be submitted by March 6, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 7, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-3442 Filed 2-12-91; 8:45 am]

BILLING CODE 8010-01-M

[1] The MSE states that the proposed rule change is based on similar odd-lot limit order pricing procedures adopted by the New York Stock Exchange ("NYSE") in the NYSE's odd-lot pilot program. See Securities Exchange Act Release Nos. 28040 (May 22, 1990), 55 FR 21999 (May 30, 1990) (File No. SR-NYSE-90-22) and 28535 (October 15, 1990), 55 FR 42668 (October 22, 1990) (File No. SR-NYSE-90-50). The Commission recently approved the NYSE's odd-lot pilot program procedures on a permanent basis. See Securities Exchange Act Release No. 28837 (January 29, 1991) (File No. SR-NYSE-91-03).

[2] No differential is charged for such transactions. See Securities Exchange Act Release No. 25966 (August 4, 1988), 53 FR 30362 (August 11, 1988) (File No. SR-MSE-88-3).

[Rel. No. 35-25253]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 7, 1991.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 27, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CNG Transmission Corporation, et al. (70-7641)

CNG Transmission Corporation ("Transmission"), 445 West Main Street, Clarksburg, West Virginia 26301, a gas pipeline subsidiary company of Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and CNG Iroquois, Inc. ("CNGI"), 445 West Main Street, Clarksburg, West Virginia 26301, a wholly owned subsidiary of Transmission, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 16, 43, 44, 45 and 87 thereunder.

A notice was issued on February 1, 1991 (HCAR No. 25250) with regard to CNGI's proposal to acquire an additional 3% partnership interest in the Iroquois Gas Transmission System L.P. ("Iroquois"), a Delaware limited partnership, from Texas Eastern Iroquois, Inc. ("Texas Eastern"), and related transactions. As of February 1, 1991, Texas Eastern sold its entire 6.4% interest in Iroquois to other partners in Iroquois, including a 6% interest to ANR Iroquois, Inc. ("ANR"), pursuant to a purchase and sale agreement between Texas Eastern and the buyers ("TEI Agreement"). Transmission and CNGI have filed another post-effective amendment to their application-declaration modifying their proposal and seeking authorization to acquire the 3% interest in Iroquois from ANR rather than Texas Eastern, and related transactions, thus requiring a renotice of their proposal.

By order dated January 9, 1991 (HCAR No. 25239), the Commission authorized, among other things, certain transactions which included: (1) The acquisition by Transmission of a 6.4% general partnership interest in Iroquois, which was formed to construct and own an interstate natural gas pipeline extending from the Canadian border to Long Island, New York; (2) the organization by Transmission of CNGI as a new wholly owned subsidiary company, and CNGI's assumption of Transmission's partnership interest in Iroquois; (3) the funding by Transmission of CNGI's investment in Iroquois through the issue and sale to Transmission of up to 1,200 shares of CNGI common stock, $10,000 par value, and/or the making of open account advances to CNGI through June 30, 1992, in such amounts that the aggregate outstanding equity contributions made by Transmission will not at any one time exceed $12 million; and (4) the providing of guarantees and indemnities by Transmission on CNGI's behalf up to $12 million at any one time.

Transmission and CNGI now propose that CNGI purchase an additional 3% partnership interest in Iroquois from ANR, and that CNGI make an additional equity investment in Iroquois of up to $13 million through June 30, 1993, with the aggregate amount of authorized equity investment in Iroquois by CNGI to be up to $25 million. The additional 3% interest in Iroquois will be acquired from ANR pursuant to a purchase and sale agreement ("ANR Agreement") whereby, subject to Commission authorization, CNGI will pay ANR at closing: (1) $1,870,650, which equals 3% of the total equity contributions in Iroquois as of December 31, 1990; (2) the amount of any contributions to Iroquois made after February 1, 1991, with respect to the 3% interest being transferred, plus interest at the prime rate of Manufacturers Hanover Trust Company ("Prime Rate") for the period from the date the contribution is made until repayment of the same to ANR on the closing date; (3) approximately $452,198, which equals an agreed amount of deferred revenues attributable to (1) above; and (4) interest at the Prime Rate on $2,322,848, the sum of (1) and (3) above, from March 1, 1991 to the closing date under the ANR Agreement. If the closing date under the ANR Agreement has not occurred by August 1, 1991, the ANR Agreement will terminate. Under the TEI Agreement, ANR is permitted to delay payment to Texas Eastern for one-half of the 6% interest in Iroquois being acquired from Texas Eastern until the earlier of the closing date of the sale of the 3% interest under the ANR Agreement or August 1, 1991.

In addition, CNGI proposes to obtain, from time-to-time through June 30, 1993, the additional funds from Transmission through (1) the issue and sale to Transmission of CNGI common stock, $10,000 par value, which CNGI may purchase from Transmission, hold as treasury shares, and resell to Transmission, and (2) open account advances in such amounts that the aggregate outstanding amount obtained from Transmission from the sale of CNGI common stock or through advances will not at any one time exceed $25 million. Transmission further proposes, through June 30, 1993, to indemnify third parties on CNGI's behalf and to guarantee the performance of CNGI's obligations in amounts not to exceed $25 million at any one time.

Transmission and CNGI state that the acquisition by CNGI of the additional 3% partnership interest in Iroquois is an acquisition of an interest in a company organized to participate in activities involving the transportation of natural gas and is deemed by Transmission and CNGI to be reasonably incidental or economically necessary to appropriate to the operation of the gas utility companies of the Consolidated system within the meaning of section 2(a) of the Gas Related Activities Act of 1990, Public Law No. 101–572 (1990).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–3441 Filed 2–12–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17990; 812–7667]

Western Life Insurance Company, et al.

February 7, 1991.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Western Life Insurance Company ("Western"), Variable Account D of Western Life Insurance Company ("Variable Account"), and AMEV Investors, Inc.

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of mortality and expense risk charges from the assets of the Variable Account under certain flexible premium deferred variable annuity contracts.

FILING DATE: The application was filed on December 26, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on March 4, 1991 and should be accompanied by proof of service on 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 Fifth Street, NW., Washington, DC 20549. Applicants, 500 Bielenberg Drive, Woodbury, Minnesota 55125.

FOR FURTHER INFORMATION CONTACT: L. Bryce Stovell, Staff Attorney, at (202) 504–2272, or Nancy M. Rappa, Senior Attorney, at (202) 272–2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

Applicants' Representations

1. Western was organized under Minnesota law as a stock life insurance company and is the depositor, for purposes of the 1940 Act, of the Variable Account. The Variable Account was organized under Minnesota law as an

insurance company separate account and is registered under the 1940 Act as a unit investment trust. AMEV Series Funds, Inc. (the "Fund") is the underlying investment medium for the Variable Account and is registered under the 1940 Act as an open-end management investment company. AMEV Investors, Inc., a registered broker-dealer, is the Variable Account's principal underwriter.

2. Applicants intend to offer to the public certain flexible premium deferred variable annuity contracts (the "Contracts"). Holders of these Contracts will direct Contract payments to one of several sub-accounts of the Variable Account. These payments then will be invested by the sub-accounts into redeemable shares of one of the corresponding portfolios of the Fund, thereby making such redeemable shares the Variable Account's principal assets.

3. Western will assume certain risks, described below, in connection with its sale of the Contracts. Accordingly, Western proposes to compensate itself for assuming these risks by deducting from the assets of the Variable Account a daily asset charge for mortality and expense risks.

4. Western will assume several mortality risks under the Contracts. First, Western will assume a mortality risk by its contractual obligation to pay a death benefit in a lump sum (which may also be taken in the form of an annuity option) upon the death of an annuitant or Contract owner prior to the annuity date. The lump sum death benefit payable is the greater of: (a) The total value of the Contract's fixed accumulation account and variable accumulation account, or (b) the excess of the full amount of all net purchase payments over any previous partial surrenders, including surrenders effected to pay contingent deferred sales charges ("surrender charges"). Second, Western assumes a mortality risk arising from its agreement not to impose upon the aforementioned death benefit any surrender charge if the death occurs before age 75. Third, Western assumes an additional mortality risk by its contractual obligation to continue to make annuity payments for the entire life of the annuitant under annuity options involving life contingencies. The payment option tables contained in the Contracts are based on the annuity mortality 1983 Table a, and these payment option tables are guaranteed for the life of the Contracts.

5. In addition to mortality risks, Western will assume an expense risk because the administrative charges may be insufficient to cover actual administrative expenses. The administrative charges to be assessed will be an annual administrative charge of $35 per Contract per year (which will be waived under certain circumstances set forth in the application), and a daily asset charge, during both the accumulation and annuity periods, for administrative expenses at an annual effective rate of .3% per year. Western guarantees that it will not raise these administrative charges for the duration of the Contracts except as set forth in the application. Applicants also represent that they do not expect that the total revenues from the administrative charges will exceed the expected costs of administering the contracts, on average, excluding costs which properly are categorized as distribution expenses.

6. In order to compensate itself for assuming these risks, Western will assess the Variable Account with a daily charge for mortality and expense risks at an aggregate rate of 1.25% per annum. Approximately .8% is allocated to cover the mortality risks and approximately .45% is allocated to cover the expense risks.

7. Applicants state that they have reviewed publicly available information regarding products of other companies taking into consideration such factors as guaranteed minimum death benefits, guaranteed annuity purchase rates, minimum initial and subsequent purchase payments, other contract charges, the manner in which charges are imposed, market sector, investment options under the Contracts, and availability to individual qualified and non-tax-qualified plans. Based upon this review, Applicants have concluded that the mortality and expense risk charge proposed here is within the range of industry practice for comparable annuity contracts.

8. Applicants will maintain at their principal office a memorandum setting forth in detail the variable annuity products analyzed and the methodology, and results of, Applicants' comparative review. Applicants will make this memorandum available to the SEC and its staff upon request.

9. No front-end sales charge will be imposed when purchase payments are applied under the Contracts. However, a surrender charge will be assessed against certain full or partial surrenders. This charge will be 7% in the first year and then will grade down evenly at annual intervals to 0% after seven years from the date of the payment in question.

10. The surrender charge may be insufficient to cover all costs relating to the distribution of the Contracts. If a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by this charge. In such circumstances, a portion of the mortality and expense risk charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, Western has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Variable Account and Contract owners.

11. The basis of the conclusion regarding financing arrangements that is stated above is set forth in a memorandum which will be maintained by Western at its principal office and will be made available to the SEC and its staff upon request.

12. Western also represents that the Variable Account will invest only in an underlying mutual fund which undertakes, in the event it should adopt any plan under Rule 12b–1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–3440 Filed 2–12–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Transportation Personnel Training and Qualifications Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Transportation Personnel Training and Qualifications Advisory Committee.

DATES: The meeting will be held on February 28, 1991, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in conference rooms 6246–8 of the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Office of Rulemaking (ARM–1), 800 Independence

Avenue, SW., Washington, DC 20591, telephone (202) 267–9683.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Air Transportation Personnel Training and Qualifications Advisory Committee to be held on February 28, 1991, at the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC 20590. The agenda for this meeting will include progress reports from the Pilot Training Subcommittee, Air Carrier Working Group, General Aviation Working Group, Ab Initio Working Group, and Cabin Safety and Operations Subcommittee.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Because of increased security in Federal buildings, members of the public who wish to attend are advised to notify the FAA in advance of their plans. Furthermore, it is recommended that attendees arrive in sufficient time to be cleared through building security.

Issued in Washington, DC, on February 8, 1991.

John S. Kern,

Executive Director, Air Transportation Personnel Training and Qualifications Advisory Committee.

[FR Doc. 91–3414 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Fresno County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Fresno County, California.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Schultz, District Engineer, Federal Highway Administration, P.O. 1915, Sacramento, California 95812–1915, Telephone: (916) 551.1140.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve a 19.2-mile section of Route 180 from Fowler Avenue to Cove Avenue in Fresno County, California (post miles 64.6 to 83.8). Route 180 is a principal arterial that runs roughly east-west across the northern half of Fresno County, serving traffic between the west side of the San Joaquin Valley and Sequoia and Kings Canyon National Parks.

Alternatives being studied include:

1. *Improvements to existing alignment.* A number of design configurations will be considered for the existing alignment, including two lanes plus left-turn lanes; a four-lane undivided highway; a four-lane divided conventional highway; a four-lane divided expressway, and a four-lane expressway with two lanes initially.

2. *New alignment.* A new alignment, about one-quarter mile north of existing Route 180 would connect the urban portion of Route 180 to Centerville. At Centerville, the new alignment would connect with existing Route 180 prior to crossing the Kings River. The same design configurations noted in #1 would be considered for the new alignment.

3. *No build.* This alternative would provide no improvements.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting will be held on March 1, 1991. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: February 7, 1991.

John R. Schultz,

District Engineer, Sacramento, California.

[FR Doc. 91–3398 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–22–M

National Motor Carrier Advisory Committee; Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee (NMCAC) will hold its next meeting on February 27 and 28, 1991, in Sacramento, California at the California Trucking Association, 1251 Beacon Boulevard, West Sacramento, California. The meeting will be from 8 a.m. to 4 p.m. on each day. The focus of the meeting is on motor carrier productivity, including longer combination vehicles. There will also be presentations on uniform truck accident data, long-term financing, uniformity and fuel monitoring status. The meeting is open to the public.

Also, the Professional Truck Driver Institute of America (PTDIA) will hold a public forum on training drivers of doubles, longer combination vehicles and other vehicles that require special endorsement. This meeting is prompted by a recommendation from the National Transportation Safety Board that PTDIA develops standards for training such as it has done for operators of tractor trailers. It will be held on February 26, 1991, at the same location as the NMCAC meeting (see above) and is opened to all persons attending the NMCAC Sacramento meeting. For agenda details contact PTDIA at 916–686–5146.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas J. McKelvey, Federal Highway Administation, HIA–20, room 3104, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1861. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal holidays.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: February 7, 1991.

T.D. Larson,

Administrator.

[FR Doc. 91–3452 Filed 2–12–91; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 4–91]

Treasury Notes of February 15, 1994, Series R–1994

Washington, January 31, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $12,500,000,000 of United States Code securities, designated Treasury Notes of February 15, 1994, Series R–1994 (CUSIP No. 912827 ZW 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 15, 1991, and will accrue interest from that date, payable on a semiannual basis on August 15, 1991, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sales Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Tuesday, February 5, 1991, prior to 12:00 noon, Eastern Standard time, for noncompetitive tenders and prior to 1:00 p.m., Eastern Standard time, for competitive tenders. Non-competitive tenders as defined below will be considered timely if postmarked no later than Monday, February 4, 1991, and received no later than Friday, February 15, 1991.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100,000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage

allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Friday, February 15, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 13, 1991. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 91-3553 Filed 2-11-91; 10:30 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 5-91]

Treasury Notes of February 15, 2001, Series A-2001

Washington, January 31, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $11,000,000,000 of United States securities, designated Treasury Notes of February 15, 2001, Series A-2001 (CUSIP No. 912827 ZX 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 15, 1991, and will accrue interest from that date, payable on a semiannual basis on August 15, 1991, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 2001, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, Wednesday, February 6, 1991, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 5, 1991, and received no later than Friday, February 15, 1991.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100,000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred. e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Pulic Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5 must be made or completed on or before Friday, February 15, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 13, 1991. When payment has been submitteed with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future seminnual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attanchment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to

this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—CUSIP Numbers and Designations for the Principal Components and Interest Components of Treasury Notes of February 15, 2001, Series A–2001, CUSIP No. 912827 ZX 3.

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series A–2001 due February 15, 2001, CUSIP No. 912820 AZ 0.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
Aug. 15, 1991	BJ 8
Feb. 15, 1992	BK 5
Aug. 15, 1992	BL 3
Feb. 15, 1993	BM 1
Aug. 15, 1993	BN 9
Feb. 15, 1994	BP 4
Aug. 15, 1994	BQ 2
Feb. 15, 1995	BR 0
Aug. 15, 1995	BS 8
Feb. 15, 1996	BT 6
Aug. 15, 1996	BU 3
Feb. 15, 1997	BV 1
Aug. 15, 1997	BW 9
Feb. 15, 1998	BX 7
Aug. 15, 1998	BY 5
Feb. 15, 1999	BZ 2
Aug. 15, 1999	CA 6
Feb. 15, 2000	CB 4
Aug. 15, 2000	CC 2
Feb. 15, 2001	CD 0

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 91-3554 Filed 2-11-91; 10:30 am]
BILLING CODE 4810-40-C

[Department Circular—Public Debt Series—No. 6-91]

Treasury Bonds of February 2021

Washington, January 31, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $11,000,000,000 of United States securities, designated Treasury Bonds of February 2021 (CUSIP No. 912810 EH 7), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated February 15, 1991, and will accrue interest from that date, payable on a semiannual basis on August 15, 1991, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 2021, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Thursday, February 7, 1991, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 6, 1991, and received no later than Friday, February 15, 1991.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be

accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Friday, February 15, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 13, 1991. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of February 15, 2021, CUSIP No. 912810 EH 7

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2021 due February 15, 2021, CUSIP No. 912803 AV 5.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
Aug. 15, 1991	BJ 8
Feb. 15, 1992	BK 5
Aug. 15, 1992	BL 3
Feb. 15, 1993	BM 1
Aug. 15, 1993	BN 9
Feb. 15, 1994	BP 4
Aug. 15, 1994	BQ 2
Feb. 15, 1995	BR 0

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833
Aug. 15, 1995	BS 8
Feb. 15, 1996	BT 6
Aug. 15, 1996	BU 3
Feb. 15, 1997	BV 1
Aug. 15, 1997	BW 9
Feb. 15, 1998	BX 7
Aug. 15, 1998	BY 5
Feb. 15, 1999	BZ 2
Aug. 15, 1999	CA 6
Feb. 15, 2000	CB 4
Aug. 15, 2000	CC 2
Feb. 15, 2001	CD 0
Aug. 15, 2001	CE 8
Feb. 15, 2002	CF 5
Aug. 15, 2002	CG 3
Feb. 15, 2003	CH 1
Aug. 15, 2003	CJ 7
Feb. 15, 2004	CK 4
Aug. 15, 2004	CL 2
Feb. 15, 2005	CM 0
Aug. 15, 2005	CN 8
Feb. 15, 2006	CP 3
Aug. 15, 2006	CQ 1
Feb. 15, 2007	CR 9
Aug. 15, 2007	CS 7
Feb. 15, 2008	CT 5
Aug. 15, 2008	CU 2

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833
Feb. 15, 2009	CV 0
Aug. 15, 2009	CW 8
Feb. 15, 2010	CX 6
Aug. 15, 2010	CY 4
Feb. 15, 2011	CZ 1
Aug. 15, 2011	DA 5
Feb. 15, 2012	DB 3
Aug. 15, 2012	DC 1
Feb. 15, 2013	DD 9
Aug. 15, 2013	DE 7
Feb. 15, 2014	DF 4
Aug. 15, 2014	DG 2
Feb. 15, 2015	DH 0
Aug. 15, 2015	JT 8
Feb. 15, 2016	KG 4
Aug. 15, 2016	KJ 8
Feb. 15, 2017	KL 3
Aug. 15, 2017	KN 9
Feb. 15, 2018	KQ 2
Aug. 15, 2018	KS 8
Feb. 15, 2019	KU 3
Aug. 15, 2019	KW 9
Feb. 15, 2020	KY 5
Aug. 15, 2020	LA 6
Feb. 15, 2021	LC 2

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. [illegible]-3555 Filed 2-11-91; 10:30 am]
BILLING CODE 4810-40-C

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 15, 1991.

Dated: February 7, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate DAS for Information Resources Policies and Oversight.

Extension

1. Veterans Benefits Administration.
2. Vocational Training Application for VA Pensioners (Chapter 15, Title 38, U.S.C.).
3. VA Form 28–8966.
4. The form is used by veterans in receipt of VA pension benefits to apply for vocational training benefits. The information is used by VA to determine if the veteran's eligibility for and entitlement to the benefit.
5. On occasion.
6. Individuals or households.
7. 2,500 responses.
8. 1/5 hour.
9. Not applicable.

[FR Doc. 91–3409 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 15, 1991.

Dated: February 7, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate DAS for Information Resources Policies and Oversight.

Reinstatement

1. Veterans Benefits Administration.
2. Notice of Intention to Foreclose.
3. VA Form 26–6851.
4. The form is used by holders of GI (guaranteed/insured) loans to notify VA of their intention to foreclose. The information is used to coordinate the actions of VA and the holder so that all legal requirements regarding foreclosure and claim payment are met.
5. On occasion.
6. Businesses or other for-profit; Small businesses or organizations.
7. 39,050 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 91–3410 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 15, 1991.

Dated: February 7, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate DAS for Information Resources Policies and Oversight.

Revision

1. Veterans Benefits Administration.
2. Application and Enrollment Certification for Individualized Tutorial Assistance.
3. VA Form 22–1990t.
4. The form is used by students who are receiving VA educational assistance and who require tutorial assistance to overcome a deficiency in one or more courses. The information is used to process claims for tutorial assistance allowance.
5. On occasion.
6. Individuals or households; Businesses or other for-profit; Non-profit institutions.
7. 6,000 responses.
8. ½ hour.
9. Not applicable.

[FR Doc. 91–3411 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 15, 1991.

Dated: February 7, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate DAS for Information Resources Policies and Oversight.

Reinstatement

1. Veterans Benefits Administration.
2. Insurance Deduction Application.
3. VA Form 26–888.
4. The form is used by the insured to authorize VA to make deductions fron benefit payments to pay premiums, loans and/or liens on his/her insurance. The information is used to process the insured's request.
5. On occasion.
6. Individuals or households.
7. 3,732 responses.
8. ⅙ hour.
9. Not Applicable.

[FR Doc. 91–3412 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 15, 1991.

Dated: February 7, 1991.

By the direction of the Secretary.

Frank E. Lalley,

Associate DAS for Information Resources Policies and Oversight.

Reinstatement

1. Veterans Benefits Administration.
2. Application for Change of Permanent Plan—Medical.
3. VA Form 29–1549.
4. The form is used by the insured to apply for a change of insurance plan from a higher reserve value to one with a lower reserve value. The information is used to determine eligibility of the applicant for the purpose of the change.
5. On occasion.
6. Individuals or households.
7. 28 responses.
8. ½ hour.
9. Not Applicable.

[FR Doc. 91–3413 Filed 2–12–91; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 30
Wednesday, February 13, 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 RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 19, 1991.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW. Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 22, 1991, Board meeting.
2. Labor Department briefing on audit plans for 1991.
3. Thrift Savings Plan activity report by the Executive Director.
4. Review of completed audit reports
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture Process"
   "Pension and Welfare Benefits Administration Review of Thrift Savings Plan System Enhancement Methodology"
   "Pension and Welfare Benefits Administration Review of USDA/OFM/ National Finance Center Backup, Recovery, and Contingency Planning for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of National Finance Center Access Control and Security Over Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of National Finance Center Software Change Controls for Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of the Office of Fiannce and Management National Finance Center Billing Process for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan users Documentation at the National Finance Center"
5. Review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660.

Dated: February 8, 1991.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 91–3540 Filed 2–8–91; 8:45 am]

BILLING CODE 6760–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, February 20, 1991.

PLACE: Board Room Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first two items are open to the public. The last item is closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

5281B Railroad Accident Report: Derailment of Southeastern Transportation Authority Commuter Train 61, Philadelphia, Pennsylvania, March 7, 1990.

5404 Proposed Position Papers: Selected Highway Safety Issues. (Calendared by Chairman Kolstad.)

5436 Opinion and Order: Administrator V. Green, Docket SE–9611; disposition of respondent's appeal. (Calendared by Member Lauber.)

NEWS MEDIA CONTACT: Alan Pollock, 382–6600.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: February 8, 1991.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 91–3552 Filed 2–11–91; 12:36 pm]

BILLING CODE 7533–01–M

Federal Register

Wednesday
February 13, 1991

Part II

Department of Education

Cooperative Demonstration Program (Building Trades); Notice of Final Priorities; Inviting Applications for New Awards for Fiscal Year 1991; Notices

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education; Cooperative Demonstration Program (Building Trades)

AGENCY: Department of Education.

ACTION: Notice of final priorities, required activities, selection criteria, and additional factor for grants to be made in fiscal year 1991.

SUMMARY: The Secretary of Education establishes priorities for a grant competition (for awards to be made in fiscal year 1991 using funds appropriated in fiscal year 1990) under the Cooperative Demonstration Program authorized by the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2301 *et seq.* (1988). Under the absolute priority, all funds under this competition (approximately $9 million) will be reserved for applications proposing to develop model demonstration centers serving two or more States that would create new training opportunities or expand or improve existing training activities in the building trades. Within the same competition, under a competitive priority, additional points will be awarded to applications proposing to develop centers that focus wholly or primarily on the masonry trades. To be eligible for these additional points, the proposed centers must involve cooperation between the private sector and public agencies and must be based on successful training programs in these trades. The Secretary also requires applicants to submit certain written assurances, described under the "Activities" section of this notice, as part of their applications for this program, and prohibits the use of Federal funds received under this program to cover the costs of equipment used for project activities. Additionally, the Secretary requires a full-time project director for each project funded. Finally, the Secretary will use new selection criteria in evaluating applications submitted for this competition only, and will use an additional factor in selecting applications for funding to ensure that projects are distributed geographically throughout the Nation.

EFFECTIVE DATE: The provisions in this notice takes effect either April 1, 1991, or later if the Congress takes certain adjournments. If you want to know the effective date, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Richard F. DiCola, Program Improvement Branch, Division of National Programs, Office of Vocational and Adult Education (room 4512, Switzer Building), 400 Maryland Avenue SW., Washington, DC 20202–7242. Telephone (202) 732–2362. TDD (202) 732–2235.

SUPPLEMENTARY INFORMATION:

Program Information

Labor market demand in the building trades is often insufficient in a single State to support extensive State or local training activities. A regional approach (serving two or more States) to that training could facilitate pre-job and apprenticeship training, improve existing specialized craft training, and improve the access of women, minorities, and the economically disadvantaged to these trades. The development of model regional demonstration centers, based on successful training programs in the building trades and creating new training opportunities or expanding or improving existing training activities, could help meet the need for workers in these trades—trades that are frequently in the small business arena and that tend to be cyclical in nature. Additionally, the development of model regional demonstration centers could serve as a catalyst for private contributions to this critical training effort.

Congressional committee reports have indicated a desire that some of the funds appropriated for the Cooperative Demonstration Program be used to support the development of model regional training centers that would supplement existing training activities in specialized crafts, including the masonry trades. (S. Rep. No. 127, 101st Cong., 1st Sess. 269 (1989). H.R. Rep. No. 172, 101st Cong., 1st Sess. 157 (1989).) In order to provide for the effective use of the funds appropriated for the program, centers should be focused on the masonry trades or other building trades.

Training in the building trades can be conducted most effectively with the active involvement and cooperation of both the private sector and public agencies. Effective partnerships between the private sector and public agencies are an important aspect of the Cooperative Demonstration Program, which is designed, in part, to demonstrate ways in which public agencies and the private sector can work together to assist students to attain the advanced level of skills needed to make the transition from school to work.

On June 14, 1990, the Secretary published a notice of proposed priorities, required activities, selection criteria, and additional factor for the Cooperative Demonstration Program (Building Trades) in the **Federal Register** (55 FR 24198).

There are several changes between the proposed notice and this final notice.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, required activities, selection criteria, and additional factor, fifteen parties submitted comments on the proposed notice. An analysis of the comments follows:

Fulfilling Congressional Intent

Comments: Seven commenters asserted that using a competitive preference for applications emphasizing masonry trades (rather than an absolute preference) might not result in the obligation of the full $4,000,000 for centers emphasizing the masonry trades, as intended by Congress.

Discussion: The decision to establish in a single competition an absolute preference for projects in the building trades with a competitive preference given for projects in the masonry trades was made to ensure the funding of high quality projects. The Secretary believes that an expanded pool of applicants competing for scarce Federal dollars in a particular area will enhance the quality of the projects funded. Further, in view of the relatively few awards estimated to be made under this competition, earning ten additional points for meeting the competitive priority is likely to give a significant competitive edge to applicants for projects in the masonry trades whose applications are of sufficient quality to score well on the selection criteria. The Secretary believes that this approach should ensure that at least $4,000,000 of the available funds are used for centers emphasizing the masonry trades, so long as there are a sufficient number of qualified applications for such centers.

Changes: None.

Need for Workers in the Masonry Trades

Comments: Four commenters questioned why the Secretary was proposing a competition in the area of the masonry trades. One of the commenters recommended that the Department survey current and forecasted need for craftsmen in various areas of the country.

Discussion: As indicated under Program Information, congressional committee reports on the fiscal year 1990 appropriations bills have indicated a desire that some of the funds appropriated for the Cooperative

Demonstration Program be used to support the development of model regional training centers that would supplement existing training activities for skilled tradesmen, including the masonry trades. Although the House report states only that ". . . the mason and bricklaying trade is one occupational group which might benefit from such an approach . . .," the Senate report indicates that funds should be ". . . made available for the purpose of supporting model regional training centers which will supplement local training activities in the masonry trade."

Changes: None.

Competitive Preference Should be Given Only to Applications That Focus Wholly on the Masonry Trades

Comments: Two commenters suggested changing the language of the competitive preference so that competitive preference would only be given to applications for centers that focus wholly on the masonry trades.

Discussion: As proposed, the language of the competitive preference permits the Secretary to award up to ten points for the masonry components of applications, regardless of whether the application focuses exclusively on masonry trade or includes non-masonry building trades as well. Upon further review the Secretary agrees that this proposed language could have led to the awarding of the maximum number of points to applications that include only minimal masonry trades components. Since the competitive preference is intended to award extra points to applications that focus exclusively or principally on the masonry trades, the Secretary agrees that this language should be clarified.

However, the Secretary believes it would be unwise and unreasonably inflexible to restrict eligibility for the competitive preference only to applications that focus exclusively on the masonry trades.

Changes: The language of the competitive preference has been changed to clarify that only applications for centers that focus wholly or primarily on the masonry trades are eligible to receive any of the additional ten points for this priority.

Projects Should Serve Two or More States

Comments: Three commenters questioned the requirement for the regional demonstration projects funded under the program to serve two or more States, pointing out that jurisdictional battles and inter-State rivalries would make effective coordination virtually impossible or might inhibit some States from submitting applications to the program. One commenter suggested, as an alternative to regional projects, expanding the number of trades involved in the projects.

Discussion: The requirement that regional demonstration projects funded under the program serve two or more States was not intended to imply that a formal partnership between States would be required. While a formal partnership would probably satisfy the requirement to serve two or more States, an application could also satisfy the requirement by describing the activities that would be carried on in two or more States. Several examples of activities that might satisfy the requirement to serve two or more States include:

(a) Expanding student recruitment and placement activities into another State;

(b) Conducting an inservice staff development workshop at the model regional demonstration center site for administrators and instructional staff from several States; or

(c) Travelling to a State or States other than the one in which the center is located to provide technical assistance to administrators and instructional staff in replicating training activities.

Since the Cooperative Demonstration Program is a national program, the results of projects funded under the program should be replicable in more than one locality or State. The Secretary believes, therefore, that the requirement for centers to serve two or more States is reasonable.

Regarding the expansion of the numbers and types of trades that might be considered in this competition, the Secretary believes that establishing an absolute preference for projects in the building trades with a competitive preference for projects in the masonry trades focuses the use of limited resources on areas that present great potential for new jobs.

Changes: None.

Requirement for Written Assurances

Comments: Two commenters asserted that requiring public agencies to provide written assurances could give State and local agencies unreasonable powers of approval or disapproval over training programs designed by the private sector and that this requirement would undermine Congress' desire to involve the private sector in vocational education. Another commenter did not understand the role of a public agency or educational institution in projects.

Discussion: Section 411 of the Perkins Act authorized the Secretary to fund projects under the Cooperative Demonstration Program that are "* * * examples of successful cooperation between the private sector and public agencies in vocational education." The required cooperation is less likely to come about if an applicant has not already ensured the support and participation of both the public and private sector elements prior to submitting an application. Written assurances from both types of entities provide evidence that contact has been made and that involvement and cooperation in the planning and operation of project activities will occur.

The requirement for written assurances has never been construed as giving one type of entity the power of approval or disapproval over an activity or program developed or conducted by another. It may be helpful, however, to offer the following as examples of the types of acceptable "written assurances" that the private sector might reasonably request and receive from the public sector:

(a) Letters from individuals employed by public agencies agreeing to serve on project advisory committees;

(b) Documentation that ensures funding from the public agency;

(c) Agreements concerning the use of public agency facilities, equipment, and other resources that might be important to project activities; or

(d) Offers to help promote replication of the project in other areas.

As the examples imply, the role of the cooperating entities may range from very limited individual consultant-type activities to full and equal partnerships between the private and public sector representatives. It should be noted, however, that although a minimal level of cooperation will be sufficient to establish application eligibility, the extent of public and private sector involvement and cooperation will be reflected in a particular application's score under the selection criterion entitled "Public and Private Sector Involvement." Given the various types and levels of cooperation that might be considered to fulfill the requirement for cooperation between the public agencies and the private sector, the Secretary believes that the requirement for applicants to provide written assurances that involvement and cooperation will occur is both reasonable and necessary.

Changes: None.

Selection Criteria

Comments: Two commenters suggested that requiring applications to address each individual criterion might be burdensome. One commenter indicated that the criteria for program design, need, plan of operation, quality

of personnel, and budget and cost effectiveness should be evaluated together to ensure that only projects that take a holistic approach to training are funded. Another commenter asked that applicants be allowed some flexibility in pursuing the overall program goals reflected in the selection criteria.

Discussion: The decision to separate rather than aggregate certain individual section criteria is based largely on the Department's experience in the development and use of selection criteria to evaluate applications. Although it might work to the advantage of some applicants to have their applications evaluated using fewer, more comprehensive criteria, most applicants probably find it easier and more beneficial to address several, more discrete individual criteria. Additionally, the use of eight individual criteria for this competition will make it easier for reviewers to evaluate the applications as well as for applicants to understand the reasons why their applications were or were not funded and to use this information in improving their applications for future competitions. The Secretary believes that the benefits of using several discrete individual selection criteria outweigh the advantages of employing fewer, more comprehensive criteria.

Regarding the flexibility applicants have in addressing the selection criteria, applicants that do not address all of the factors for each criterion significantly reduce their chances of being funded.

Changes: None.

Matching Requirement

Comments: One commenter suggested that the Department of Education require grantees to match at least 30 percent of the Federal funds awarded. Further, the commenter suggested that the match include a significant percentage in actual dollars with the balance composed of in-kind services.

Discussion: Section 411(b)(2) of the Perkins Act requires grantees under the Cooperative Demonstration Program to provide at least 25 percent of the total cost of the project. Regarding the form of the match, section 411(b)(2) provides that the non-Federal "* * * share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued." The Secretary does not have authority to change this statutory provision.

Changes: None.

Screening Students To Be Trained

Comments: One commenter expressed a concern for how prospective center trainees would be screened to determine their desire to benefit from project activities.

Discussion: Information regarding student recruitment and screening procedures and the services, such as counseling, that a project would provide in order to motivate participants so that they receive the maximum benefits of the services offered would be part of an applicant's plan of operation for the project. Moreover, in addressing the "Plan of Operation" criterion, applicants must indicate how project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition. The Secretary does not believe, however, that it is necessary to specify how a project should screen students.

Changes: None.

Requirements for Facilitating Pre-Job and Apprenticeship Training, Improving Existing Specialized Craft Training, and Improving Access of Target Populations

Comments: One commenter contended that projects should not be limited to facilitating pre-job or apprenticeship training, to improving existing specialized craft training, and to improving the access of women, minorities, and the economically disadvantaged to the building trades. The commenter suggested these requirements would limit the levels and nature of the training and the target populations that could receive the training. The commenter believed that these requirements should be a part of the requirement to create new training opportunities or expand or improve existing training activities and not separate additional project components.

Discussion: The requirements of the absolute preference should be viewed as minimal conditions for establishing applicant eligibility and not as strict limitations on the types of related activities that projects may propose. Although an application must address each of the requirements of the absolute preference, applicants may propose additional activities that build on these minimal conditions. Prospective applicants should understand, however, that the requirements specified in the absolute preference must be addressed and that proposing to conduct activities that are unrelated to the minimal requirements reflected in the absolute preference may disqualify an application or cause the application to be reviewed unfavorably under the criteria for evaluating applications. For example, although one of the requirements specifies that projects must facilitate pre-job and apprenticeship training, applicants may wish additionally to include a project component for persons who are already employed. Similarly, staff development that is needed to implement student training would be considered an allowable activity (although staff development proposed as a component that is unrelated to student training would not be funded). Additionally, applicants may want to propose activities that, in addition to improving access for women, minorities, and the economically disadvantaged, would improve access for other populations as well.

Changes: The language of four of the components of the absolute preference has been changed to indicate that they may be considered to be a part of expanding or improving existing training activities rather than separate and additional project components. Similar language in the selection criterion "Program Design" has also been changed.

Projects Must Serve as Catalysts for Private Contributions

Comments: One commenter asked that the notice clarify the requirement that projects be designed so that they will serve as catalysts for private contributions. Specifically, the commenter wanted the notice to state that this requirement does not preclude the participation of existing training programs financed through collective bargaining.

Discussion: The requirement that projects be designed to serve as catalysts for private contributions to training efforts in the building trades is not intended to preclude the participation of existing programs funded through collective bargaining. Nor does the Secretary view the requirement as precluding the participation of existing programs financed through collective bargaining. Because existing programs funded through collective bargaining are already, in a sense, supported by private contributions, the goal of any applicant with a program funded through collective bargaining should be to expand training opportunities by seeking additional sources of funds from the private sector beyond what the applicant already funds itself.

Changes: None.

Prohibition of Using Federal Funds for Equipment

Comments: One commenter argued against the proposal to prohibit the use of Federal funds to cover the costs of equipment used for project activities, stating that the nature of the training

and the establishment of new centers will require the purchase of certain start-up equipment to be used in training and in managing the program.

Discussion: The Secretary does not believe that prohibiting the use of Federal funds to purchase or lease equipment is inconsistent with the priority to develop model regional demonstration centers. Since the primary purpose of this competition is to demonstrate successful training programs, the most efficient use of these funds is to promote training that will help students secure jobs or apprenticeships. If Federal funds were to be used to purchase or lease equipment, the intended purpose of the competition would be diminished. This priority notice will help ensure that the funds available are used where they are most needed—to train students.

Additionally, one of the responsibilities of the partnership under this priority notice is to address training needs by sharing resources and searching for ways to improve training on a long-term basis. Purchasing or leasing equipment is an ongoing commitment and responsibility that is best met by the local partnership rather than the Federal Government.

Finally, projects funded under the Cooperative Demonstration Program must be capable of wide replication. If Federal funds are used to purchase or lease equipment, the possibilities for replication become somewhat limited. The Secretary believes it is therefore necessary to prohibit the use of Federal funds for equipment purchases or leases if project replication is to be more widely possible and if there is to be improved accountability for the use of Federal funds for the direct training of students.

Changes: None.

Geographic Distribution

Comments: One commenter stated that the additional factor for geographic distribution would be more appropriate as a specific requirement under the criteria for evaluating applications.

Discussion: The use of the additional factor for geographic distribution is proposed only in the event that the applications the panels rate most highly are not equitably distributed throughout the nation. Since more than one panel will be used to review the applications, no one panel will be able to evaluate whether an equitable geographic distribution has been achieved. That decision is best left to the Secretary.

Changes: None.

Requirement for a Full-Time Project Director

Comments: One commenter said that the Secretary should not require a full-time project director, but instead allow some flexibility in the extent to which high level personnel should be assigned to projects.

Discussion: The magnitude of the projects to be funded under this competition is such that a single key (i.e., "high level") person should be assigned to direct day-to-day project activities full-time. This person should be the primary contact for field inquiries about the project as well as for communications between the grantee and the Department's grants and program offices. Although this individual may have another position title within the applicant's agency, organization, or institution, for the purposes of this grant the person who directs the day-to-day project activities should be considered the "Project Director."

Changes: None.

Provide a Common Definition for the Term "Building Trades"

Comments: One commenter suggested that the Secretary seek a common definition for the term "building trades," noting the national scope of the program. The commenter also indicated that there is no apparent reason for the competition to be based on definitions that could change from State to State and that different State definitions might be narrower than those used by persons in the building trades.

Discussion: Seeking a common definition of the term "building trades" would require research and consensus building that is beyond the scope of this competition. Any definition that might arise from those activities would probably be based on the "lowest common denominator," would restrict or conflict with many State-level definitions, and might not be as inclusive as those actually involved in the building trades might expect.

State-level definitions of the trades that would be included in the area of the building trades readily exist. For the purposes of seeking State interest, support, and possible funding for replication, it is important that applicants propose to develop centers that focus on training for trades that are compatible with the State vocational education agency's definitions for those trades.

For purposes of clarification, the Secretary notes that the use of the term "building trades" may not be uniform from State to State and that the U.S. Department of Education's publication entitled "A Classification of Instructional Programs (CIP)" uses the term "construction trades." For the purpose of providing a written assurance from the State Directors of Vocational Education in the States to be served by the proposed model regional demonstration center, the terms "building trades" and "construction trades" may be used synonymously.

Changes: None.

Clarify the Term "Masonry Trades"

Comments: One commenter asked that the term "masonry trades" be clarified to make sure that it includes relevant categories such as brick, block, stone, and concrete work.

Discussion: The Secretary agrees that the term "masonry trades" should be clarified, but is unwilling to establish a narrow definition along the lines of the types of materials with which masons customarily work. In order to distinguish applications that might be eligible for the competitive preference from those that would not be eligible, however, applicants may wish to present some evidence that the building trade or trades on which they are proposing to focus are either masonry trades or non-masonry trades. Examples of evidence that might be considered in support of an application's eligibility for the competitive preference include:

(a) A written assurance form the State Directors of Vocational Education in the States to be served by the proposed model regional demonstration center that the building trades in which training is to be provided are masonry trades. This assurance may be contained in the same documentation from the State Directors of Vocational Education in support of an application's eligibility for the absolute preference for centers focusing on training in the building trades;

(b) A citation from some standard reference material, such as the U.S. Department of Education's publication entitled "A Classification of Instructional Program (CIP)", that the building trades in which training is to be provided are masonry trades; or

(c) Other evidence provided by the applicant that would support its contention that the building trades in which training is to be provided are masonry trades.

Changes: None.

Requirement for Letters of Commitment From Employers

Comments: One commenter suggested that the requirement for applicants to provide letters from employers

promising to hire training completers is too stringent.

Discussion: The selection criterion entitled "Need" requires applicants to provide evidence that the vocational training to be provided will result in trainees becoming employed in jobs or apprenticeships related to the training received during the project. The criterion further indicates that documentation that would be accepted in support of this criterion includes letters of commitment from employers to hire training completers. The Secretary recognizes that the precise content of these letters may vary, however, and that, while some letters may be construed as legally enforceable contracts, others may include conditions concerning placement, such as the availability of a job opening in an area related to training. Other letters may simply indicate that the employer will make every effort to hire training completers without implying that some kind of contractual commitment is involved. Reviewers will make judgments regarding the content of these letters and assign points accordingly.

Given the importance of relating training to jobs that will be available upon the completion of training, the Secretary views the submission of documentation regarding the likelihood of job placement as essential to project success.

Changes: None.

Priority

Absolute Preference: In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary establishes an absolute preference for the fiscal year 1991 grant competition under the Cooperative Demonstration Program for projects that develop model regional demonstration centers that are based on successful local training programs in the building trades, and that will:

(a) Serve two or more States;

(b) Create new training opportunities or expand or improve existing training activities that include:

(1) Facilitating pre-job and apprenticeship training;

(2) Improving existing specialized craft training;

(3) Improving the access of women, minorities, and the economically disadvantaged to the building trades; and

(4) Serving as a catalyst for private contributions to training efforts in the building trades;

(c) Involve cooperation between the private sector (including employers, consortia of employers, labor organizations, building trade councils, and other private agencies, organizations, and institutions) and public agencies (including State and local educational agencies, public postsecondary educational institutions, public institutions of higher education, and other public agencies, organizations, and institutions);

(d) Expend no Federal funds received under this program for equipment, as defined in 34 CFR 74.132 and 34 CFR 80.32; and

(e) Be based on successful training programs in the building trades, as evidenced by empirical data on the performance of training program participants and placement of participants in jobs or apprenticeships related to the training they received during the program

Note: Under 34 CFR 75.105(c)(3), the Secretary funds under this competition only applications that meet the absolute priority. Applications that do not meet the absolute priority are ineligible and will not be considered.

Competitive Preference: Among applications that meet the absolute preference, the Secretary also gives competitive preference to applications for centers that focus wholly or primarily on the masonry trades.

Under 34 CFR 75.105(c)(2)(i), the Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program.

Activities

Because of the complexity of the demonstration centers that are to be established under the absolute priority, the Secretary requires that each project funded have a full-time project director. In support of the priority, an applicant also is required to submit, as part of its application, a written assurance from the State Directors of Vocational Education in the States to be served by the proposed model regional demonstration center that the skilled trade (or trades) in which training is to be provided is a building trade (or trades), as defined by those States.

An applicant also is required to submit, as part of its application, written assurances from each public agency and each private sector entity involved in the project (other than the applicant) indicating that they will participate in the planning and operation of the proposed project as described in the application.

Note: Applications that do not meet these requirements are ineligible and will not be considered.

Criteria for Evaluating Applications

For the fiscal year 1991 grant competition under the Cooperative Demonstration Program (Building Trades), the Secretary will use the following selection criteria and assign points to the selection criteria as indicated:

(a) *Program Design.* (10 points) The Secretary reviews each application to determine the extent to which the proposed center:

(1) Is based on successful training programs in the building trades, as evidenced by empirical data on:

(i) Performance of training program participants; and

(ii) Placement of participants in jobs or apprenticeships related to the training they received;

(2) Is designed to:

(i) Demonstrate replicable activities;

(ii) Create new training opportunities or expand or improve existing training activities that include:

(A) Facilitating pre-job and apprenticeship training;

(B) Improving existing specialized craft training;

(C) Improving the access of women, minorities, and the economically disadvantaged to the building trade(s) in which training is to be provided; and

(D) Serving as a catalyst for private contributions to training efforts in this area; and

(iii) Serve as a model for other similar efforts to provide skills training in the future.

(b) *Need.* (15 points) The Secretary reviews each application to determine the need for and the soundness of the rationale for developing a center, including:

(1) A clear description of a regional labor shortage in the building trades area or areas on which the proposed center will focus;

(2) A description of the ongoing and planned training activities in the building trades in the region relative to the need;

(3) Evidence that demonstrates the vocational training to be provided through the proposed center is designed to meet current and projected regional occupational needs; and

(4) Evidence that vocational training to be provided will result in trainees becoming employed in jobs or apprenticeships related to the training received during the project. Acceptable documentation includes letters of commitment from employers to hire training completers.

(c) *Plan of Operation.* (20 points) The Secretary reviews each application to

determine the quality of the plan of operation for the project, including:

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) The extent to which the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(5) The extent to which the applicant ensures that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Quality of Key Personnel.* (15 points) (1) The Secretary reviews each application to determine the sufficiency and qualifications of key personnel the applicant plans to use on the project, including:

(i) The provision for and qualifications of a full-time project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(1) (i) and (ii) will commit to the project; and

(iv) How well the applicant, as part of its nondiscriminatory employment practices, ensures that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition;

(2) To determine personnel qualifications under paragraphs (d)(1) (i) and (ii), the Secretary considers:

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and Cost Effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which:

(1) the budget is cost effective and adequate to support the project activities, reflects an appropriate allocation of costs between Federal and non-Federal sources; and

(2) The budget contains costs that are reasonable in relation to the objectives of the project.

(f) *Evaluation Plan.* (15 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which:

(1) The plan includes activities during the formative stages of the project to help guide and improve the project, as well as summative evaluation that includes recommendations for replicating project activities and results; and

(2) The plan includes, at a minimum, a description of the participant data to be collected based on the project objectives; tracking and follow-up of progress by all project participants throughout the project period; and outcome measures to be used for each objective.

(g) *Public and Private Sector Involvement.* (10 points) The Secretary reviews each application to determine the involvement and cooperation of the public and private sectors in the project, including:

(1) Clear identification of the public and private sector entities involved in the project;

(2) Public and private sector involvement and cooperation in the planning of the project;

(3) Public and private sector involvement and cooperation in the operation of the project; and

(4) Adequate and appropriate levels of public and private sector involvement and cooperation.

(h) *Dissemination.* (10 points) The Secretary reviews each application for information to determine the effectiveness of the plan for disseminating information about the project and demonstrating project activities and results, including:

(1) High quality in the design of the dessemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(2) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating project activities;

(4) Provisions for assisting others to adopt and successfully implement the project or methods and techniques used by the project; and

(5) Provisions for publicizing the findings of the project at the local, State, and national levels.

(Approved under OMB Control No. 1830–0013)

Additional Factor

(a) In making awards under this competition, the Secretary considers, in addition to the selection criteria, whether the most highly rated applications are equitably distributed throughout the Nation.

(b) The Secretary may select other applications for funding if doing so would help improve the geographical distribution of projects funded under this program.

Authority: 20 U.S.C. 2411.

Dated: January 17, 1991.

Ted Sanders,

Acting Secretary of Education.

[FR Doc. 91–3403 Filed 2–12–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.199C]

Cooperative Demonstration Program (Building Trades); Inviting Applications for New Awards for Fiscal Year (FY) 1991

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program, applicable regulations governing the program, and the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor published in this issue of the **Federal Register**, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide financial assistance through grants to develop model regional demonstration centers serving two or more States that supplement local training activities in the building trades.

Deadline for Transmittal of Applications: April 15, 1991.

Deadline for Intergovernmental Review: June 17, 1991.

Available Funds: $9,412,000.

Estimated Range of Awards: $500,000 to $1,500,000.

Estimated Average Size of Awards: $1,045,556.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State

and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)); part 86 (Drug-Free Schools and Campuses); and (b) The regulations for this program in 34 CFR part 412 with certain exceptions as noted in the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor published in this issue of the Federal Register.

Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the priority in the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor for this competition published in this issue of the Federal Register.

Under 34 CFR 75.105(c)(3), the Secretary funds under this competition only applications that meet this absolute priority.

Under 34 CFR 75.105(c)(2)(i), the Secretary gives preference to applications that meet the competitive priority in the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor for this competition published in this issue of the Federal Register.

Under 34 CFR 75.105(c)(2)(i), the Secretary awards up to 10 points to an application that meets this competitive priority in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program.

Selection Criteria: For the Fiscal Year 1991 grant competition (for awards to be made in fiscal year 1991 using fiscal year 1990 funds) under the Cooperative Demonstration Program (Building Trades), the Secretary uses the selection criteria in the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor for this competition published in this issue of the Federal Register.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the Federal Register on September 17, 1990, pages 38210–38211.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.199C, U.S. Department of Education, room 4161, 400 Maryland Avenue SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.199C, Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.199C, room #3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Services.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

This notice has two appendices. Appendix A is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug Free Workplace Requirements (ED 80–0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90, (Replaces GCS–009 REV. 12/88).

Note: Ed GCS–80–0014 is intended for the use of grantees and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying

Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a complete application form has been received.

Appendix B contains questions and answers to assist potential applicants.

FOR FURTHER INFORMATION CONTACT: Richard F. DiCola, Program Improvement Branch, Division of National Programs, Office of Vocational and Adult Education (room 4512, Switzer Building) 400 Maryland Avenue SW., Washington, DC 20202–7242. Telephone (202) 732–2362. TDD (202) 732–2235.

Authority: 20 U.S.C. 2411.

Dated: January 29, 1991.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000-01-M

Appendix A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

U.S.Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84.199C

TITLE: Cooperative Demonstration Program (Building Trades)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - —"New" means a new assistance award.
   - —"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - —"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. CDP (BT)	84.199C	$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8. Cooperative Demonstration Program (Building Trades)	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Part II—Budget Information

Instructions for the SF–424A

General Instructions: This form is designed so that application can be made for funds from the Cooperative Demonstration Program (Building Trades) (CFDA No. 84.199C). For the Cooperative Demonstration Program (Building Trades) (CFDA No. 84.199C), sections A, B, and C should include budget estimates for the entire project period.

Note: Sections D and E need not be completed to apply for this program.

All applications should contain a breakdown by the object class categories shown in Section B, Lines 6a through 6j.

Section A. Budget Summary, Line 1, Columns (a) through (g)—Enter on Line 1 the catalog program title in Column (a) and the catalog program number in Column (b). Leave Columns (c) and (d) blank. Enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the entire project period.

Note: Grant recipients under the Cooperative Demonstration Program (Building Trades) (CFDA No. 84.199C) are required to provide not less than 25 percent of the total cost of the demonstration project conducted under this program. In other words, the amount shown on Line 1, Column (f) must be at least 25 percent of the amount shown on Line 1, Column (g).

Note: Lines 2, 3, 4, and 5 of section A need not be completed to apply for this program.

Section B. Budget Categories. Lines 6a through 6j—Fill in the total requirements for Federal funds by object class categories for the entire project period in Column (1).

Note: Columns (2), (3), (4), and (5) of section B need not be completed to apply for this program.

Line 6a—Personnel: Show salaries and wages to be paid to personnel employed in the project. Fees and expenses for consultants must be included in Line 6f.

Line 6b—Fringe Benefits: Include contributions for Social Security, employee insurance, pension plans, etc. Leave blank if fringe benefits to personnel are treated as part of the indirect cost rate.

Line 6c—Travel: Indicate the amount requested for travel of employees.

Line 6d—Equipment: Leave this line blank. The Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor for this competition published in this issue of the **Federal Register** prohibits the use of Federal funds received under this program to cover the costs of equipment used for project activities.

Line 6e—Supplies: Include the cost of consumable supplies to be used in this project. Applicants should consult the definitions of "equipment" and "supplies" provided in 34 CFR 74.132 and 34 CFR 80.3, as appropriate, of the Education Department General Administrative Regulations (EDGAR) to determine what funds can be requested in this budget category.

Line 6f—Contractual: Show the amount to be used for: (a) Procurement contracts (except those which belong on other lines such as supplies listed above); and (b) subgrants or payments for consultants and secondary recipient organizations such as affiliates, cooperating institutions, delegate agencies, etc.

Line 6g—Construction: Leave this line blank. Construction expenses are not allowable under the Cooperative Demonstration Program (Building Trades) (CFDA No. 84.199C).

Line 6h—Other: Indicate all direct costs not clearly covered by Lines 6a through 6g. If there are trainee costs or stripends, enter the total cost of these expenses. The maximum allowance for stipends may be the larger of either the minimum wage prescribed by State or local law or the minimum hourly wage set by the Fair Labor Standard Act per contact hour.

Line 6i—Total Direct Charges: Show the total of Lines 6a through 6h.

Line 6j—Indirect Charges: Show the amount of indirect cost to be charged to the project.

Line 6k—Totals: Enter the total of the amounts on Line 6i and 6j.

Line 7—Program Income: Unless program income, as defined and explained in Subpart F—Grant-Related Income of 34 CFR part 74 is anticipated, leave this line blank.

Section C. Non-Federal resources.

Line 8—Enter any amounts of non-Federal resources that will be used on this grant. If any in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the catalog program title.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agency should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter the totals of Columns (b), (c), and (d).

Note: The amount shown on Line 8, Column (e), should be the same as the figure shown on section A, Line 1, Column (f).

Note: Lines 9, 10, 11, and 12 of section C need not be completed to apply for this program.

Section F. Other Budget Information. Prepare a detailed Budget Narrative that explains, justifies, and/or clarifies the budget figures shown in Sections A, B, and C.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in the Notice of Final Priority, Required Activities, Selection Criteria, and Additional Factor for this competition published in this issue of the **Federal Register**; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Please limit the Application Narrative to no more than 30 double-spaced, typed pages (on one side only).

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for

reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1830–0013, Washington, DC 20503.

(Information collection approved under OMB control number 1830–0013. Expiration date: 10/92)

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OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter ____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Current Government-wide policy is that only an original and two copies need be submitted. However, an original and four copies will be greatly appreciated. The binding of applications is optional. At least one copy should be left unbound to facilitate any necessary reproduction. Applicants should not use foldouts, photographs, audio-visuals, or other materials that are hard-to-duplicate.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any question with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. How long should an application be?

A. The Department of Education is making a concerted effort to reduce the volume of paperwork in discretionary program applications. The scope and complexity of projects is too variable to establish firm limits on length. Your application should provide enough information to allow the review panel to evaluate the significance of the project against the criteria of the competition. We recommend that you address all of the selection criteria in an "Application Narrative" of no more than thirty pages in length. Supporting documentation may be included in appendices to the Application Narrative. Some examples:

(1) Staff qualification. These should be brief. They should include the person's title and role in the proposed project and contain only information about his or her qualifications that are relevant to the proposed project. Qualifications of consultants and advisory council members should be provided and be similarly brief.

(2) Assurance of participation of an agency other than the applicant if such participation is critical to the project.

(3) Copies of evaluation instruments proposed to be used in the project in instances where such instruments are not in general use.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. How should my application be organized?

A. The application narrative should be organized to follow the exact sequence of the components in the selection criteria pertaining to the specific program competition for which the application is prepared. In each instance, a table of contents and a one-page abstract summarizing the objectives, activities, project participants, and expected outcomes of the proposed project generally enhance the review of the application.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed (i.e., travel for data collection, etc.). Because we may request the principal investigator or director of funded projects to attend an annual staff development meeting, you may also wish to include a trip or two to Washington, DC, in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) Carl D. Perkins Vocational Education Act, Public Law 98–524.

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85.

(3) Office of Vocational and Adult Education, Department of Education, part 412 (Cooperative Demonstration Program).

[FR Doc. 91–3404 Filed 2–12–91; 8:45 am]
BILLING CODE 4000–01–M

federal register

Wednesday
February 13, 1991

Part III

Environmental Protection Agency

40 CFR Parts 51 and 52

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AH-FRL-3820-7, Docket No. A-88-04]

RIN 2060-AC43

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The "Guideline on Air Quality Models (Revised)", EPA-450/2-78-027R (1986), and supplement A (1987), hereinafter referred to as the "Guideline", list air quality models for estimating ambient air concentrations due to sources of air pollutants. The Guideline is presently incorporated by reference into the prevention of significant deterioration (PSD) regulations under the Clean Air Act at 40 CFR 51.166 and 52.21. EPA here proposes to augment that Guideline with several new modeling techniques. The purpose is to provide models for situations where specific procedures were not previously available and to improve several previously adopted techniques. In addition, revisions are proposed that make the guidance and model requirements consistent with regulatory programs that have been formalized or changed since the last major Guideline revision in 1986 (51 FR 32176). EPA is proposing to establish these additions and changes as supplement B to the Guideline. EPA is also proposing to amend 40 CFR 51.166 and 52.21 to incorporate supplement B, and to amend 40 CFR 51.46, 51.63, 51.112, 51.117, 51.150, and 51.160 to codify the Guideline as the basis by which air quality models are to be used for demonstrations associated with SIP (State Implementation Plan) revisions, AQMA (Air Quality Maintenance Area) analyses, regional classifications for episode planning, and new source review [1] in general (not just PSD). The proposal, in part, is based on public comments received at the Fourth Conference on Air Quality Modeling, the purpose of which was to advise the public on these new techniques and to facilitate further technical review. Adoption of the new modeling techniques should significantly improve the technical basis for impact assessment of air pollution sources.

DATES: A public hearing on the proposed changes will be held March 19, 1991 (Tuesday), from 9 a.m. to 5 p.m. As needed to allow for presentation of all verbal comments, the hearing may be extended to noon of the next day. The period for comment on these proposed changes closes May 6, 1991.

ADDRESSES: *Comments:* Written comments should be submitted (in duplicate if possible) to: Air Docket (LE-131), room M-1500, Waterside Mall, attention: Docket A-88-04, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (also see "Public Hearing").

Copies of supplement B (draft) to the "Guideline on Air Quality Models (Revised)" may be obtained by writing or calling Joseph A. Tikvart, Source Receptor Analysis Branch, MD-14, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, phone (919) 541-5561. Supplement B (draft) is also available to registered users of the Support Center for Regulatory Air Models Bulletin Board System by downloading the appropriate file. To register or access this electronic bulletin board, users with a personal computer should dial (919) 541-5742.

Public Hearing: GSA Auditorium, GSA National Capitol Region Building, 7th and D Streets SW., Washington, DC.

Docket: Copies of reports referenced herein, public statements and comments made in relation to the Fourth Conference on Air Quality Modeling, and public comments made on this Notice of proposed rulemaking are maintained at Docket A-88-04. The docket is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the address above. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Joseph A. Tikvart, Chief, Source Receptor Analysis Branch, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541-5561 or (FTS) 629-5561.

SUPPLEMENTARY INFORMATION:

Background

The "Guideline on Air Quality Models" ("Guideline") was originally published in April 1978. It was incorporated by reference in the regulations for the Prevention of Significant Deterioration of Air Quality in June 1978 (43 FR 26380). The purpose of the Guideline is to promote consistency in the use of modeling within the air management process. Such consistency is fostered by sections 110(a)(2), 165(e), 172 (a) and (b), 173, 301(a)(1) and 320 of the 1977 Clean Air Act Amendments,[2] 42 U.S.C. 7410(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7620, respectively. The Guideline provides model users with a common basis for estimating pollution concentrations, assessing control strategies and specifying emission limits.

In December 1984, EPA proposed revising the Guideline to incorporate knowledge concerning modeling analyses that had been developed since the original guidance was issued. Final revisions to the Guideline were promulgated in September 1986 (51 FR 32176) and, as a result of public comment, changes concerning four additional modeling techniques were simultaneously proposed. They were: (1) addition of a specific version of the Rough Terrain Diffusion Model (RTDM), (2) modification of the downwash algorithm in the Industrial Source Complex (ISC) model, (3) addition to the Offshore and Coastal Dispersion (OCD) model to EPA's list of preferred models, and (4) addition of the AVACTA II model as an alternative model in the Guideline. In January 1988, EPA promulgated the four techniques as Supplement A to the Guideline (53 FR 392). The "Guideline on Air Quality Models (Revised)" (1986) and supplement A (1987) have been incorporated by reference into the PSD regulations at 40 CFR 51.166 and 52.21.

Codification of the Guideline in 40 CFR parts 51 and 52 has heretofore been for purposes of compliance with PSD regulations. However, as stated in the Introduction, the Guideline describes "air quality modeling techniques that should be applied to State Implementation Plan (SIP) revisions for existing sources and to new source review * * *", and this has always been EPA policy. Use of air quality models for such purposes is required at 51.112 (Demonstration of Adequacy) and at 51.117 (Additional Provisions for Lead). Use of air quality models is also required: For Air Quality Maintenance Area (AQMA) analyses at 51.46 (Projection of Air Quality Concentrations); for classification of regions for episode plans at 51.150 (Prevention of Air Pollution Emergency Episodes); and for new source review at

[1] New source review includes that of modified sources.

[2] On November 15, 1990, the Clean Air Act Amendments of 1990 ("Amendments"), Public Law 101-549, were enacted. As amended, the Clean Air Act provides continued authority for the revisions to the Guideline and the Code of Federal Regulations contained in this proposal. That authority includes but is not limited to, the following provisions, some of which may have been modified by the Amendments: Clean Air Act sections 110(a)(2), 165(e), 172 (a) and (c), 173, 301(a), and 320.

51.160 (Review of New Sources and Modifications). EPA believes that its proposed incorporation by reference of the Guideline into these provisions is consistent with the authority granted by sections 110(a)(2), 165(e), 172 (a) and (b), 173, 301(a)(1) and 320 of the 1977 Clean Air Act Amendments (see footnote 2), 42 U.S.C. 7410(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7620, respectively.

To support the process of developing and revising the Guideline during the period 1977–1988, the First, Second and Third Conferences on Air Quality Modeling were held as required by section 320 of the Clean Air Act to help standardize modeling procedures. These modeling conferences provided EPA with comments on the Guideline and associated revisions, thereby facilitating introduction of improved modeling techniques into the regulatory process.

In October 1988, the Fourth Conference on Air Quality Modeling was held. Its purpose was to advise the public on new modeling techniques and to solicit comments to guide EPA's consideration of any rulemaking needed to further revise the Guideline. The new models provide techniques for situations where specific procedures had not previously been available, and also improve several previously adopted techniques. These new techniques and the guidance discussed at the modeling conference are:

Complex Terrain Dispersion Model,

Ozone precursor point source modeling,

Mobile source modeling at signalized intersections,

Emissions and dispersion modeling system for airports,

Long-range transport models,

Models for estimating visibility impact of specific sources,

Model for shoreline dispersion,

Valley stagnation,

On-site meteorological program guidance,

Method for evaluating models,

General screening techniques,

Regional scale models,

Modeling techniques for air pathway analyses.

In general, EPA solicited comments on (1) whether the techniques are sound, (2) whether they should be adopted for regulatory application, and (3) whether limitations on use, including data base requirements, should be specified.

All comments presented at the fourth modeling conference and/or submitted to Docket A–88–04 are encompassed in Docket Items II–D, II–E, and II–G. Also, a verbatim transcript of the conference proceedings is available as Docket Item II–G–3a and b. EPA has summarized these comments, developed responses, and drawn conclusions on appropriate actions for this Notice of Proposed Rulemaking in the document "Summary of Public Comments and EPA Responses on the Fourth Conference on Air Quality Modeling—October 1988" (Docket Item II–O–1).

The following are hereby proposed as models or analysis procedures recommended for inclusion in the Guideline: Complex Terrain Dispersion Model (refined model, accompanied by CTSCREEN and modifications in the use of other screening models); CAL3QHC (carbon monoxide estimates at signalized intersections); modeling for air pathway analysis of toxic/hazardous pollutants (consistent multimedia use of ISC and other models); EDMS (modeling system for airports); on-site meteorological program guidance (expansion of current guidance); general screening techniques and VISCREEN (updates and computerization of current screening techniques); method for evaluating models (enhancement of current guidance). For the most part, these models and analysis procedures are designed for operation on or to be compatible with a personal computer.

The following are being proposed for addition to Appendix B of the Guideline with an indication that they are available for application in the unique circumstances to which they apply on a case-by-case basis: Shoreline Dispersion Model (sea/lake breeze fumigation) and WYNDvalley (valley stagnation). Two models falling in a similar category that are already in appendix B are: MESOPUFF–II (long-range transport) and PLUVUE–II (visibility).

Besides adding new techniques, EPA is also proposing to clarify and update portions of the Guideline to make it consistent with current regulatory programs that have been established through other Agency activities.

Specified proposed actions on models, analysis procedures, and Guidelines modifications are discussed in the following section. Codes, user's guides, and other documents or guidance pertinent to specific modeling techniques are identified as individual Docket Items. These models and other changes will be adopted in the Guidelines on Air Quality Models (Revised) through supplement B (Draft) (Docket Item III–B–1); see the **ADDRESSES** Section of this notice for general availability. Of the techniques considered at the fourth modeling conference, only two are not being proposed for further action at this time; they are point source modeling for ozone precursors and regional scale models.

Proposed Action

A. Complex Terrain Models

1. Refined Model

The Complex Terrain Dispersion Model (CTDM) (Docket Item II–I–1b) is the result of a major development and evaluation effort. It should fill a significant void in the Guideline by providing a refined technique for determining pollutant concentrations due to plume impingement on the windward side of terrain features during stable and neutral atmospheric conditions. Public comments generally support EPA's view that the model is technically sound, represents the best theoretical approach, and should be adopted for regulatory application as a refined model.

One concern had been the ability to estimate concentrations during unstable conditions. Public comments discussed several ways of coping with this matter, but in the meantime, EPA has elected to deal directly with the problem by augmenting CTDM with a module for unstable conditions based on current scientific theory. The new model is known as CTDMPLUS and has undergone sensitivity analysis and evaluation (Docket Items II–I–30, II–I–31). The user's guide documenting the scientific assumptions, input and operating requirements, model options and defaults, and the code is available as EPA–600/8–89/041 (NTIS No. PB 89–181424).

Other concerns related to limitations of the model or its data base requirements. Based on those comments, EPA is limiting application of CTDMPLUS to the windward side of terrain features and makes no attempt at this time to recommend techniques for lee side effects or other complex terrain phenomena. However, CTDMPLUS is applicable to all terrain receptors above stack height; thus, for applications of this model the "intermediate-terrain" problem that has bothered many users of complex terrain models is eliminated. (Other regulatory models in the Guideline are currently recommended for receptors at or below stack height).

With regard to data base requirements, commenters would like these to be set forth as specifically as possible. However, due to the intense data requirements of the model (Docket Items II–I–1c–d) and limited experience with its use for regulatory applications, these specifications must remain somewhat general in the Guideline. Meteorological inputs to CTDMPLUS should be based on multi-level wind speed and direction data obtained up to

representative plume height; SODAR data may be appropriate. Direct turbulence measurements and vertical potential temperature gradient should be obtained for at least three measurement levels with the topmost level as close to plume height as practical; generally, data up to 150m above stack base on an instrumented tower should be adequate. Elements of the on-site meteorological measurement program, and development of a receptor network, should be developed on a case-by-case basis with the concurrence of the EPA Regional Office.

2. Screening Techniques

EPA has also received varied comment on the advisability of establishing a screening technique derived from CTDM; such a model would have a better scientific basis than currently available screening techniques. Some commenters recognize the desirability of such a technique, while others express concerns about the actual need and difficulty of establishing a standard set of meteorological conditions for the screening technique. EPA has elected a screening technique entitled CTSCREEN, EPA–600/8–90/XXX (Docket Item II–J–7). This technique is essentially CTDMPLUS with a predetermined range of meteorological conditions that are thought to bracket the highest concentrations for most source-terrain configurations. The preparation of this technique is justified by the improved scientific basis derived from the CTDMPLUS code. It will be allowed as an alternate screening technique.

3. Sensitivity Analysis

Adoption of a new model can affect the design concentrations on which emission limits are based, thus, sensitivity analyses for CTDMPLUS as a refined model were conducted (Docket Item II–I–28a–l). These analyses compared design concentrations from CTDMPLUS to those from available complex terrain screening techniques for a variety of source-terrain configurations. The expectation was that the screening techniques would provide generally higher design concentrations than CTDMPLUS; by intent, the screening techniques should be more conservative than this refined technique which has also been established as the most accurate of all complex terrain techniques considered (Docket Item II–I–2 and II–I–3). This expectation was satisfied in most cases so that CTDMPLUS provides less stringent and more appropriate emission limitations than previously possible with the conservative screening techniques in use. The degree of conservatism, though, among the screening models was not always consistent within the present hierarchical structure of such techniques. The addition of CTSCREEN further complicates the situation and, in combination with findings of the sensitivity analyses, places in doubt the merits of such a hierarchical structure. Thus, the structure will be dropped so that any acceptable screening technique may be used consistent with the needs, resources, and available data of the user.

In a few cases, the screening techniques (RTDM more so than other models) have the potential to provide less stringent design concentrations than does CTDMPLUS and may not be acting effectively as conservative screening techniques. However, for several reasons the limited findings cited here are not thought to be a significant enough matter to justify any further changes in the use of these models. For instance: (1) Recent evaluations with the current version of RTDM-default show the model to provide conservative estimates compared to measured data; (2) the experience with CTDMPLUS in relation to screening models is insufficient to draw conclusions with any confidence; (3) the extent to which RTDM might underestimate concentrations is not unequivocally delineated in the various analyses; (4) estimates lower than those of CTDMPLUS occasionally occur with other screening models, although rarely; and (5) since RTDM is the most refined of the screening models, it is expected to provide the most realistic of the conservative estimates and occasional crossover to lower estimates than those derived from CTDMPLUS might not indicate significant inaccuracy. Nevertheless, screening models should generally function as conservative estimators of ambient concentrations, and EPA seeks public comment on limited exceptions like those noted here. As additional information becomes available and experience with CTDMPLUS is gained over the next few years, it may be necessary to further consider this matter.

4. Conclusion

EPA is proposing to identify CTDMPLUS in chapter 5 of the Guideline as a recommended refined model for complex terrain with a minimum set of requirements for data used in the model. More detailed elements of the meteorological measurement program and the selection of receptor sites are to be developed on a case-by-case basis with concurrence of the EPA Regional Office. The model will be included in appendix A of the Guideline. CTSCREEN will be added as an acceptable technique in chapter 5. The hierarchical structure of acceptable screening techniques is proposed to be dropped, allowing discretion of the user and the EPA Regional Office or reviewing authority as to which technique is most useful for a given application.

B. Mobile Source Modeling at Signalized Intersections

Public comment indicates concern that current guidance on modeling carbon monoxide concentrations for intersections (Worksheet 2 of the "Guideline for Air Quality Maintenance Planning and Analysis", Volume 9, EPA–450/4–75–001) is difficult to use, outdated, and cannot adequately model over-capacity situations. In response, EPA developed a program to review traffic and emissions components of intersection models and has consulted with the Federal Highway Administration (FHWA) on such analyses. A plan for conducting these analyses and developing an improved intersection model was presented at the fourth modeling conference. Public comments supported the need for an improved modeling technique and more specifically the program that EPA proposed.

As a result of this program, EPA has completed development of the CAL3QHC intersection model which has improved traffic and emissions components; it incorporates CALINE3 which is the recommended Guideline dispersion model for roadway sources. Documentation for the code and user's guide is available as Docket Item II–J–8. CAL3QHC and a related screening technique appear to be suitable to replace Worksheet 2 for refined analyses and the Hot Spot Guidelines for screening analyses in estimating CO concentrations. Since this is the first public view of the complete model, no restrictions on use were identified in the public comments other than restrictions to roadways at intersections. EPA has also prepared "Guideline for Modeling Carbon Monoxide from Roadway Intersections" (Docket Item II–J–9) and solicits comments regarding it.

Performance evaluation of CAL3QHC (Docket Item II–I–32) indicates that this is among the most accurate of several models tested for signalized intersections. A sensitivity analysis (Docket Item II–I–29) was also performed to determine the impact of CAL3QHC on design concentrations relative to the other available techniques. Contrary to expectations, it

was found that CAL3QHC produced higher estimates and the need for more stringent controls than did Worksheet 2 and some other techniques for the intersection scenarios considered. This indicates that EPA's existing guidance on modeling for roadway intersections up until this time may tend to lead to underestimates of highest ambient concentrations.

Conclusion: EPA is proposing to include CAL3QHC and a related screening technique as the recommended models for roadway intersections in Section 6.2 of the Guideline. They would replace Worksheet 2 for refined analyses and the Hot Spot Guidelines for screening analyses. CALINE3 remains the recommended dispersion model in appendix A for roadways.

C. Emissions and Dispersion Modeling System for Airports

The Federal Aviation Administration and the U.S. Air Force have jointly developed the Emissions and Dispersion Modeling System (EDMS) to provide an integrated assessment of pollution from multiple sources (e.g., aircraft, motor vehicles, and power plants) at airports and air bases. These agencies have requested that EPA adopt this modeling system to fill the void in the Guideline which does not contain any models or recommendations oriented specifically to these operations. While the emissions components of EDMS are a unique new application, the dispersion components are consistent with models already recommended in the Guideline and contained in appendix A. A user's guide and code for the EDMS model are contained in Docket Item II–I–8.

The public comments on this model were mixed and appeared to confuse the identified model with an earlier version. Nevertheless, given the apparent need for such a model and the fact that dispersion components are consistent with techniques already recommended in the Guideline, EPA believes that EDMS should be considered for inclusion in appendix A of the Guideline. However, it is appropriate to restrict the regulatory application of EDMS to those impact assessments which contain or have as a major focus changes in aircraft operations which will result in a significant change in emission and pollutant concentration patterns. For example, if a combustion unit at an airport requires a PSD permit by itself, independent of aircraft operations or mobile source peripheral to, but off airport property, then a model recommended in the Guideline for these specific applications should be used in such an analysis.

Conclusion: EPA is proposing to include EDMS as the recommended model for, but limited to, airport operations as identified in section 7.2.8 of the Guideline. The model will be included in appendix A of the Guideline.

D. Modeling for Air Pathway Analyses

At the fourth modeling conference, EPA sought comment on techniques for developing air pathway analyses of toxic and hazardous waste pollutants. Modeling for these pollutants is done across a number of the EPA offices with varying levels of detail in the analysis performed. While the public comments did not give as much attention to this matter as had been expected, there was general support for uniform modeling guidance and standardized models both through direct availability of models and through improved guidance in specific areas. The comments have already been satisfied in part, since ISC is the model that serves as the basis for most air pathway analyses of continuous pollutant emissions. In addition, the "Workbook of Screening Techniques for Assessing Impacts of Toxic Air Pollutants", EPA–450/4–88–009 (NTIS No. PB 89–134340) provides the basis for obtaining preliminary estimates of short-term concentrations due to a wide range of toxic/hazardous pollutant release scenarios. Also, DEGADIS 2.1 is available as a refined model for treating releases of heavier-than-air gases over time periods of limited duration, EPA–450/4–89–019 (NTIS No. PB 90–213893).

Conclusion: EPA proposes to amend sections of the Guideline appropriate to air toxics to discuss several items. For instance, the ISC model will be identified in section 7.2.7 and in appendix A as the recommended air quality model for analyses of toxics/hazardous pollutants, especially those that involve continuous releases. Screening techniques contained in the "Workbook of Screening Techniques for Assessing Impacts of Toxic Air Pollutants" will be identified as available for air toxics analyses. References in section 12 will be expanded to identify guidance developed by other EPA programs which, in general, heavily rely on the ISC model, and to provide more information on toxic chemical properties. In addition, DEGADIS 2.1 will be added to appendix B as a refined model for dense gases that may be used, as appropriate, on a case-by-case basis.

E. On-Site Meteorological Program Guidance

The use of on-site meteorological data to support air quality impact analyses has grown steadily over recent years. EPA has published a document titled "On-site Meteorological Program Guidance for Regulatory Modeling Applications", EPA–450/4–87–013 (Docket Item II–I–17). The purpose of this document is to supplement the limited guidance on this subject currently in chapter 9 of the Guideline. It also consolidates into a single document specific guidance on the collection and use of on-site meteorological data for air quality modeling analyses. This document had undergone extensive external peer review by State agencies, meteorological instrument manufacturers, and other Federal agencies prior to the fourth modeling conference.

Also, in response to the need for consistency in the processing of on-site meteorological data, EPA has developed a Meteorological Processor for Regulatory Models (MPRM), EPA–600/3–88/043 (Docket Item II–I–18). This computer algorithm is designed to process on-site meteorological data following the procedures recommended in the on-site meteorological program guidance document, and produces output necessary to run the EPA regulatory dispersion models. It is designed to provide considerable flexibility to users in terms of input data formats, and may be easily expanded to accommodate the data requirements of future models.

Public comments generally supported the basis for and adoption of the on-site meteorological guidance document and MPRM in the Guideline. In addition, a variety of minor technical points were made about both. EPA has assessed these technical points individually and finds it unnecessary or inappropriate (as documented in the response to comments document) to act on most of them for this proposal. However, EPA agrees with comments suggesting a revised stability classification scheme. EPA developed a scheme and conducted a sensitivity analysis (Docket Item II–J–12). The scheme is included in an addendum (Docket Item II–J–14) to the guidance document, the Guideline and MPRM.

Conclusion: EPA proposes to reference the document "On-Site Meteorological Program Guidance for Regulatory Modeling Applications" in section 9.3.3 as the primary source of supplementary guidance on the collection and use of on-site meteorological data. The hierarchy of stability classification schemes in that document will be changed to the preferred scheme that is based on solar radiation and temperature difference measurements, but the use of other

techniques prior to a year following promulgation will be exempt from this provision. As part of incorporation of the on-site guidance document, MPRM will be identified as the standard processor of on-site meteorological data input for regulatory model applications.

F. General Screening Techniques

The Guideline references Volume 10(R), EPA–450/4–77–001, as the basis of recommended screening techniques for stationary point sources. This document has been revised to incorporate additions to the technical approach and changes so that the techniques may easily be executed on a personal microcomputer. The revised document is "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources", EPA–450/4–88–010 (Docket Item II–I–20), including an addendum (Docket Item II–I–20a). The Guideline also references a visibility workbook, EPA–450/4–80–031. A revision of the document, "Workbook for Plume Visual Impact Screening and Analysis", EPA–450/4–88–015 (Docket Item II–I–13), has been prepared to reflect current technical information and experience. This revised document contains procedures and a visibility model that can be used for screening purposes to estimate visibility impairment from specific sources. Both of these revised documents were discussed at the fourth modeling conference.

Comments on the two sets of screening techniques were mixed, although EPA believes that these new personal computer based techniques are an improvement over the existing hand-calculation techniques. EPA has addressed a variety of criticisms and suggested changes in the response to comments document, where it is noted that many of these comments are either inappropriate or misinterpret the intent and basis of the guidance. Therefore, since there has been time for the public to gain additional experience with these techniques, their attributes will be more apparent and their basis relative to prior screening techniques better understood. These computerized techniques are not intended to be inherently different or more conservative, but are instead meant to better organize and ease the computational burden.

Conclusion: EPA proposes to identify "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources" with the SCREEN model as the recommended screening technique in section 4.2 of the Guideline. It also proposes to identify "Workbook for Plume Visual Impact Screening and Analysis" with the VISCREEN model as the recommended screening technique for visibility assessments in section 7.2.4.

G. Method for Evaluating Models

The Guideline refers to "Interim Procedures for Evaluating Air Quality Models", EPA–450/4–84–023 as the basis for determining which of two or more models is most appropriate for a given application. However, EPA has recently refined these methods and advanced the statistical methodology for determining which model is better suited to a particular situation. With this newer methodology, it is feasible to combine results from different averaging periods and different data bases into a probabilistic framework. This methodology is described in an EPA report titled "Protocol for Determining the Best Performing Model" (Docket Item II–I–19) with an appendix that provides examples of a protocol comparing the performance of two rural air quality models. The method is now also documented in a user's guide (Docket Item II–I–33).

The public comments were cautious in their support of this improved methodology. Concerns primarily addressed flexibility of the techniques and limitations in experience with their use. Nevertheless, EPA believes that these techniques may be exercised with great flexibility: The example presented is not intended to be the only set of statistical comparisons. When used with this built-in flexibility, these techniques should enhance the ability to assess the relative merits of the available models for a given application.

Conclusion: EPA proposes to include the "Protocol for Determining the Best Performing Model" as an adjunct to the "Interim Procedures" when the use of an alternative model is being justified for a site specific application. This analysis procedure will be referenced in sections 3.2 and 10.1 of the Guideline.

H. Alternate Models in Appendix B

At the Fourth Conference on Air Quality Modeling, EPA identified four additional models that have unique applications for which there is currently no recommended model. Those models (and their applications) are: Shoreline Dispersion Model (SDM) (sea/lake breeze fumigation), WYNDvalley (valley stagnation), MESOPUFF–II (long-range transport), and PLUVUE–II (visibility). Actually no one long range transport model was specifically referenced, but from the limited statistical data available MESOPUFF–II appears to be the most accurate of the models identified in EPA's performance evaluation. MESOPUFF–II is also the model for which EPA prepared an example protocol.

The public comments on these four models were mixed, but no fatal flaws were identified. However, there was general comment directed toward these models with which EPA basically agrees: that is, the performance evaluation of these models may be of limited utility due to sparse data bases. As a result, information on the performance of these models is either inadequate to justify recommending generic use or the evaluation has identified limitations which need to be further investigated before a recommendation may be issued. Information on the user's guides, codes and accuracy of these models beyond that information already in the Guideline follows:

SDM

User's Guide to SDM—A Shoreline Dispersion Model, EPA–450/4–88–017 (Docket Item II–I–15).

Analysis and Evaluation of Statistical Coastal Fumigation Models, EPA–450/4–87–002 (Docket Item II–I–14).

WYNDvalley

A User's Guide to WYNDvalley 3.11 (Docket Item II–I–16a–c).

MESOPUFF II

Evaluation of Short-Term, Long Range Transport Models, Volumes 1 and 2, EPA–450/4–86–016a and 016b (Docket Item II–I–9a and 9b).

Review of Short-Term Long Range Transport Models (Docket Item II–I–10).

A Modeling Protocol for Applying MESOPUFF–II to Long Range Transport Problems (Docket II–I–11).

Also see the Guideline.

PLUVUE II

See the Guideline.

Even with the limitations identified above and in the public comments, EPA finds that these models fill a unique void in available modeling applications and that they may be at least as accurate, under appropriate conditions, as other available techniques.

Conclusion: EPA is proposing to add SDM and WYNDvalley to appendix B of the Guideline. In addition, these models along with MESOPUFF–II and PLUVUE–II will be identified as models available for unique applications on a case-by-case basis in the following respective sections of the Guideline, sections 8.2.9, 8.2.10, 7.2.6, and 7.2.4.

I. Supplementary Changes

Besides the addition of new models, EPA is also proposing revisions to make

the Guideline consistent with regulatory programs that have been formalized or changed since the last major Guideline revision in 1986 (51 FR 32176).

In addition to minor wording changes, the following procedural changes/additions to the Guideline are worthy of note:

1. A recommendation for consultation with the Regional Office on complex issues concerning VOC/NO_x point source remodeling (section 6.2.1);

2. Clarification of modeling requirements applicable to prevention of significant deterioration for NO_2 (section 6.2.3);

3. Changing references to particulate matter, i.e., PM–10 replacing TSP (sections 7.2.2 and 11.2.3);

4. Clarification on the use of emissions data for NAAQS analyses associated with prevention of significant deterioration (PSD) compliance demonstrations (Table 9–2), in particular, estimating emissions in a manner which more closely reflects the allowable rather than the actual emissions for background sources[3];

5. Deletion of the ERTAQ and MPSDM models from Appendix B at the request of the model developer since these models will no longer be supported and they have not been widely used;

6. Updates to the Offshore and Coastal Dispersion (OCD) model to reflect recent improvements prepared by the Minerals Management Service which has funded development of this model (appendix A);

7. Updates to the Urban Airshed Model and to EKMA (OZIPP) to include the latest chemical mechanism (CB–4) and to reflect improved and updated guidance (section 6.2.1 and appendix A).

The CB–4 mechanism is being substituted because it is a clearly superior technique. It has been the subject of scientific and evaluation studies (Docket Item II–I–27) and the scientific community has generally found this chemical mechanism to be technically sound and to accurately represent detailed smog chamber findings (Docket Item II–I–26). Also, results from a study of St. Louis, where comparison between estimates and observations for CB–4 vs. CB–2 is possible, indicate more accurate ozone estimates and less underprediction with CB–4 (Docket Item II–I–34).

EPA has also reviewed the definition of model calibration in section 8.2.11 of the Guideline to determine if unacceptable practices are clearly and precisely identified and prohibited. This was done in response to a report by the General Accounting Office that addressed, in part, the consistent use of air quality models in regulatory decisions (Docket Item II–F–1). Upon review, EPA has found the Guideline to be clear and appropriately definitive; it states in part that "model calibration is unacceptable". Past experience has indicated that this guidance is unambiguous; further detail applied to prohibiting calibration of these complex mathematical tools could confuse and create the appearance of "loopholes". No further action on calibration or changes to section 8.2.11 are here proposed.

This Notice also proposes to amend 40 CFR part 51 to give regulatory status to long-standing EPA policy regarding the use of air quality models for purposes of control strategy development, AQMA analyses, classification of regions for episode plans, and new source review, thereby clarifying and codifying that the Guideline is applicable for those purposes. In addition to explicit reference to regulatory modeling in section 166 (as well as § 52.21), the introduction to the Guideline makes clear that its "air quality modeling techniques * * * should be applied to State Implementation Plan (SIP) revisions for existing sources and to new source reviews * * *". Therefore, because use of air quality models is required in §§ 51.46 (Projection of Air Quality Concentrations) for projections associated with AQMA analyses, 51.112 (Demonstration of Adequacy) for SIP revisions, 51.117 (Additional Provisions for Lead) for analysis of lead concentrations, 51.150 (Prevention of Air Pollution Emergency Episodes) for classification of regions for episode planning, and 51.160 (Review of New Sources and Modifications) for new source review, this amendment to 40 CFR part 51 will serve to close a gap not addressed in previous rulemakings. Note that with respect to the proposed revision of 40 CFR 51.160, it is intended that the Guideline apply to the entire subpart, including but not limited to new and modified source review under §§ 51.165 (a) and (b) and 51.166(l).

J. Public Comments on Other Topics

At the Fourth Conference on Air Quality Modeling, EPA solicited comments on (1) the technical validity of a screening technique for point sources of ozone precursors and (2) the usefulness of regional scale models to regulatory programs. Public comments on the screening technique found them inappropriate, too conservative, and requiring further research and testing. Based on these comments, EPA does not intend to propose these screening techniques for inclusion in the Guideline at this time.

With regard to regional scale models, commenters supported the need for and use of these models. However, it was felt that they are too computationally complex and costly in terms of computer and human resources to include in the Guideline at this time. EPA agrees that further testing and experience with these models is needed for regulatory application, and no recommendations on their use are being made at this time.

In addition, a variety of public comments were provided on subjects for which EPA did not seek input; most prominent were the variable emissions for SO_2 and the Industrial Source Complex (ISC) model. Commenters urged use of the expected exceedances method for estimating SO_2 concentrations and an expanded use of the multi-point rollback method (46 FR 58101, November 30, 1981). However, EPA does not intend to modify general provisions of the Guideline to include these methods. With the current deterministic form of the SO_2 NAAQS, the expected exceedances method would provide no assurance that the NAAQS would be attained and maintained. Also, EPA does not generally endorse multi-point rollback and has limited its use to a few cases for a single source type. Also, comments on ISC identified operating problems and concerns about limitations of the model. EPA has corrected the problems and is actively working to keep the model current. There is an ancillary ongoing program to upgrade the model to make it easier to use and maintain.

Other comments considered: (1) Issues which have been addressed elsewhere in EPA policy memoranda outside the scope of the Guideline; (2) issues that were previously resolved in prior Guideline revisions subjected to public comment; (3) narrow technical issues which are premature to address; and (4) issues upon which EPA has already acted, e.g., implementation of an electronic bulletin board. For obvious reasons, EPA plans no further action on these matters, as discussed in the response to comments document.

E.O. 12291

Under Executive Order 12291, EPA must decide whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Administrator finds this proposed rule not major because it will not have an

[3] This clarification does not apply when calculating increment consumption under the PSD program, since the regulations applicable to that analysis require, as appropriate, actual (vs. allowable) emissions. See 49 CFR 52.21(b)(13)(ii); 45 FR 52717–52719, August 7, 1980.

annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation will result in no significant environmental or energy impacts. Thus, no Regulatory Impact Analysis was conducted.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached proposed rule will not have a significant impact on a substantial number of small entities. This rule merely updates existing technical requirements for air quality modeling analyses required by other Clean Air Act programs (e.g., prevention of significant deterioration, new source review, SIP revisions) and imposes no new regulatory burdens.

Economic Impact Assessment

The requirement for performing an economic impact assessment in section 317 of the Act, 42 U.S.C. 7617, does not apply to this proposed action since the revisions included do not constitute a substantial change in the regulatory burden imposed by the regulation.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq.* EPA has submitted this regulation to the OMB for review under Executive Order 12291 and their written comments on the revisions and any EPA responses have been placed in the docket for this proceeding.

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 52

Air pollution control, Lead, Nitrogen dioxide, Ozone, Sulfur oxides.

Authority: This Notice of Proposed Rulemaking is issued under the authority granted by sections 110(a)(2), 165(e), 172 (a) & (b), 173, 301(a)(1) and 320 of the 1977 Clean Air Act Amendments, 42 U.S.C. 7410(a)(2), 7475(e), 7502 (a) & (b), 7503, 7601(a)(1) and 7620, respectively (see Footnote 2 under "**SUPPLEMENTARY INFORMATION**").

Dated: February 5, 1991.

William K. Reilly,

Administrator.

It is proposed to amend part 51, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 is revised to read as follows:

Authority: 42 U.S.C. 7410(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7620.

2. Section 51.46 is amended by revising paragraph (b) and removing paragraph (c) to read as follows:

§ 51.46 AQMA analysis: Projection of air quality concentrations.

* * * * *

Such concentrations shall be projected using techniques consistent with the requirements in § 51.112(a).

§ 51.63 [Amended]

3. In § 51.63, paragraph (a) is amended by removing "51.46,".

4. In § 51.112, paragraph (a) is amended by removing the second sentence and adding paragraphs (a)(1) and (a)(2) to read as follows:

§ 51.112 Demonstration of adequacy.

(a) * * *

(1) The adequacy of a control strategy shall be demonstrated by means of applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1986), supplement A (1987) and supplement B (1990), which are incorporated by reference. The Guideline and its Supplements (EPA Publication No. 450/2–78–027R) are for sale from the U.S. Department of Commerce, National Technical Information Service, 5825 Port Royal Road, Springfield, VA 22161. They are also available for inspection at the Office of the Federal Register, room 8301, 1100 L Street NW., Washington, DC. These materials are incorporated as they exist on the date of approval and a notice of any change will be published in the **Federal Register.**

(2) Where an air quality model specified in the "Guideline on Air Quality Models (Revised)" (1986), supplement A (1987) and supplement B (1990) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures and set forth in § 51.102.

* * * * *

§ 51.117 [Amended]

5. In § 51.117, paragraph (c)(1) is amended by adding the phrase ", consistent with requirements contained in § 51.112(a)" immediately after "* * * if desired". Paragraph (c)(2) is amended by adding the phrase ", consistent with requirements contained in § 51.112(a)" immediately after "* * * for demonstration of attainment". Paragraph (c)(3) is amended by adding the phrase ", consistent with requirements contained in § 51.112(a)" immediately after "* * * for the demonstration of attainment".

§ 51.150 [Amended]

6. In § 51.150, paragraph (e) is amended by adding the phrase ", consistent with the requirements contained in § 51.112(a)" immediately after "* * * of this section" in the first sentence, and by removing the second sentence.

7. In § 51.160, is amended by adding paragraphs (f)(1) and (f)(2) to read as follows:

§ 51.160 Legally enforceable procedures.

* * * * *

(f) * * *

(1) All applications of air quality modeling involved in this subpart shall be based on the applicable models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1986), supplement A (1987) and supplement B (1990), which are incorporated by reference. The Guideline and its Supplements (EPA Publication No. 450/2–78–027R) are for sale from the U.S. Department of Commerce, National Technical Information Service, 5825 Port Royal Road, Springfield, VA, 22161. They are also available for inspection at the Office of the **Federal Register**, room 8301, 1100 L Street, NW., Washington, DC. These materials are incorporated as they exist on the date of approval and a notice of any change will be published in the **Federal Register.**

(2) Where an air quality model specified in the "Guideline on Air Quality Models (Revised)" (1986),

supplement A (1987) and supplement B (1990) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in § 51.102.

§ 51.166 [Amended]

8. In § 51.166, paragraph (l)(1) and (l)(2) are amended by removing "and supplement A (1987)" and by adding ", supplement A (1987) and supplement B (1990)".

It is proposed to amend part 52, chapter I of title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7642.

§ 52.21 [Amended]

2. In § 52.21, paragraph (l)(1) and (l)(2) are amended by removing "and supplement A (1987)" and by adding ", supplement A (1987) and supplement B (1990)".

[FR Doc. 91–3448 Filed 2–12–91; 8:45 am]

BILLING CODE 6560–50–M

federal register

Wednesday
February 13, 1991

Part IV

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL-3904-5/EPA/OSW-FR-91-005]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule with request for comments.

SUMMARY: On March 29, 1990, the Environmental Protection Agency (EPA) promulgated revisions to the toxicity characteristic, one of several characteristics used to identify waste regulated as hazardous under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Since the promulgation of the Toxicity Characteristic (TC), the Agency has received information that the rule's immediate application may cause certain used chlorofluorocarbon (CFC) refrigerants to be subject to hazardous waste regulations because they exhibit the TC. EPA is concerned that subjecting used CFC refrigerants to Subtitle C regulations will promote continued or increased venting, increasing the levels of ozone-depleting substances in the stratosphere. As a result of this new information and to allow time for gathering additional information and giving all relevant facts careful consideration, the Agency is promulgating today's interim final rule to suspend the TC rule for used refrigerants which exhibit the toxicity characteristic and which are recycled. The exemption only applies if the refrigerants are reclaimed for reuse. At the same time, the Agency is seeking public comment on the merits of this suspension.

DATES: *Effective Date:* February 5, 1991. *Comment Date:* Comments must be submitted on or before April 1, 1991.

ADDRESSES: The public must send an original and two copies of their comments to: RCRA Docket Information Center (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Place the docket number F-91-CFIF-FFFFF on your comments. The EPA RCRA docket is located at: EPA RCRA Docket (room M2427), 401 M Street SW., Washington, DC 20406.

The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials. Call (202) 475-9327 for appointments. Copies of docket materials cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424-9346 toll free, or (703) 920-9810 in the Washington, DC, metropolitan area. For information on specific aspects of this notice, contact Becky Cuthbertson, Regulatory Development Branch, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION:

Outline of Today's Notice

I. Background
- A. Refrigeration System Operations
- B. RCRA Applicability
- C. Previous EPA Actions on Refrigerants
- D. Regulations under the Clean Air Act

II. Application of Existing Regulatory Framework
- A. Definition of Solid Waste
- B. Refrigerant Handlers' RCRA Requirements

III. Issues Arising from the TC Rule
- A. Impacts on Recycling Markets
- B. Impacts on an Orderly CFC Phaseout and Transition to CFC Substitutes
- C. Environmental Concerns
- D. Time Considerations

IV. Suspension of TC Requirements
- A. Eligible Refrigerants
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VII. References

I. Background

A. Refrigeration System Operations

Vapor compression refrigeration systems typically use CFC refrigerants as the working fluid. The most common refrigerants include CFC-11, 12, 114, 502 and HCFC-22. These cycles are closed systems, relying on the ability to continually compress and evaporate the refrigerants to provide the proper heat transfer for cooling.

CFC-11 is typically a liquid at room temperature, but because its boiling point is around 75 °F, it volatilizes easily. An infrequently used refrigerant, CFC-113, also has a high boiling point (117 °F). However, the other more common refrigerants, such as CFC-12 and HCFC-22, have very low boiling points (−21 and −41 degrees F respectively), which cause them to immediately volatilize; therefore, they are not likely to leach from wastes into groundwater in any measurable quantities.

Refrigerants, as the working fluid of a mechanical cooling process, are not deliberately vented or removed from the system, unless the systems are being tested, serviced, maintained, retired, or retrofitted to use new CFC alternatives. In order to service the refrigeration hardware, the closed refrigeration loop must be opened. Because of the rapid volatilization of CFC refrigerants when they are released from the closed refrigerant system, traditional service and maintenance procedures involved venting the refrigerant. However, because of environmental concern regarding ozone depletion, recent international regulations phasing out production of CFCs, (see London Amendments to the Montreal Protocol) and increased price and decreased CFC availability, service technicians are beginning to capture and reuse refrigerant.

B. RCRA Applicability

RCRA regulations apply to materials that are solid wastes (including solids, liquids, semi-solids, and contained gases), as that term is defined in 40 CFR 261.2. Used Refrigerants are considered spent materials, and if reclaimed, are solid wastes under 40 CFR 261.2(c)(3). However, a limited subset of used refrigerant, i.e., those which are used or reused without prior reclamation, are not subject to regulation under the RCRA hazardous waste program (see 40 CFR 261.2(e)(1)(ii)).

On March 29, 1990 (55 FR 11798), EPA promulgated the Toxicity Characteristic to replace the EP toxicity characteristic. (The TC went into effect September 25, 1990.) The Toxicity Characteristic is used to identify solid wastes which are identified as hazardous based on the presence of constituents that may leach from the waste. The TC expanded the range of wastes subject to subtitle C (hazardous waste) controls, because a number of constituents not regulated under the EP toxicity characteristic, which it replaced, were included in the TC.

Two of the new TC constituents may be present in certain used refrigerants (e.g., those containing CFC-11) and are likely to leach from the waste at levels that may cause the used refrigerants to be subject to the federal hazardous waste regulations. The two constituents which are of concern in CFC-11 are carbon tetrachloride, which is present in used CFC-11 refrigerant at levels of 25-115 mg/l, and chloroform, present in used CFC-11 refrigerant at levels of 6-52 mg/l. (The TC regulatory level for

carbon tetrachloride is 0.5 mg/l, and for chloroform, it is 6.0 mg/l.) These contaminants are present in low levels in the manufacturing raw feedstock required to produce CFC–11 and are left over in used CFC–11 and remain as residuals in used CFC–11. Thus when the refrigerant is removed from the refrigeration system, it may contain carbon tetrachloride and/or chloroform at levels that cause it to exhibit the characteristic of toxicity. See the data provided in the August 29, 1990 letter from C.A. McCain of E.I. DuPont de Nemours and Co., to Ms. Lena Nirk of EPA, available for public viewing in the docket for this notice.

For the data on CFC–11 provided in the docket, there is no documentation of the analytical methods or quality control/quality assurance procedures used. We also do not have data on other CFC refrigerants, e.g., CFC–113. EPA solicits comments on whether other data are available that can be used to determine whether used CFC refrigerants are TC hazardous. EPA also solicits comment on whether the suspension should be extended to hydrofluorocarbon (HFC) refrigerants, which are being used as refrigerants (for example, in mobile air conditioning systems); EPA has no data at all on whether HFCs would exhibit any hazardous waste characteristics when removed from refrigeration systems.

C. Previous EPA Actions on Refrigerants

The issue of RCRA applicability to refrigerants being recycled has been discussed previously; see the July 28, 1989 **Federal Register** notice (54 FR 31335) describing the status of recycled refrigerants under the 1989 Federal hazardous waste regulations. Under the regulations in place from 1980 to 1990, recycled refrigerants were unlikely to be Federally regulated as hazardous wastes because they would not have exhibited any of the characteristics of hazardous waste, nor did they fit any of the hazardous waste listing descriptions. However, as discussed above, the TC regulation promulgated on March 29, 1990, which added new constituents to the Toxicity Characteristic, may change the RCRA regulatory status of those recycled refrigerants containing carbon tetrachloride or other Toxicity Characteristic constituents.

No commenters on the original Toxicity Characteristic proposal raised the issue of possible negative impacts on recycling of used refrigerants if they were to become regulated as hazardous wastes. One reason this may have occurred is that at the time of the original TC proposal (June 13, 1986; see 51 FR 21648) most refrigerants were being vented and recycling was not feasible.

EPA has taken a related action under the Clean Air Act by issuing an Advanced Notice of Proposed Rulemaking (ANPRM) on May 1, 1990 (55 FR 18258) to develop a national CFC and halon recycling program. Some commenters on that notice raised concerns about RCRA applicability to recycled refrigerants and described potential disruption of recycling markets if refrigerant is managed as a hazardous waste under RCRA. However, the commenters did not specifically mention the Toxicity Characteristic.

D. Regulations under the Clean Air Act

The recently enacted amendments to the Clean Air Act require EPA, by 1992, to issue regulations regarding the use and disposal of certain CFCs in appliances and industrial process refrigeration units. The regulations must include requirements to maximize recapture and recycling and ensure safe disposal. The amendments, as a general rule, also prohibit venting of certain CFCs to the environment.

The new Clean Air Act authority is the Agency's best available tool to limit CFC emissions. The Clean Air Act authority enables the Agency to regulate the handling, recycling, reuse and disposal of CFCs by refrigerant recyclers, service technicians and equipment owners and manufacturers. When EPA proposes and finalizes a prohibition on venting chlorofluorocarbons under the Clean Air Act, and the prohibition becomes effective, the Agency will reconsider the issue of RCRA applicability to used CFC refrigerants being recycled.

II. Application of Existing Regulatory Framework

A. Definition of Solid Waste

One of the first questions that arises in determining RCRA applicability to refrigeration system maintenance and repair is whether a material is a solid waste. The hazardous waste regulations of RCRA Subtitle C apply to materials that are "solid wastes," which are defined in RCRA section 1004(27) as

> * * * discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities * * *

Contained gases thus clearly are solid wastes under RCRA, whereas uncontained gases not associated with solid waste management units are outside of RCRA.

As stated in the July 28, 1989 **Federal Register** (54 FR 31336), EPA's regulations classify the used refrigerants as spent materials that are solid wastes when reclaimed. (The refrigerants must be collected as a contained gas under this scenario.) See 40 CFR 261.2(c)(3). If the waste also exhibits a characteristic of a hazardous waste, it is a hazardous waste in addition to being a solid waste. Thus, the equipment servicer who must remove the chlorofluorocarbon refrigerants in order to service the equipment must decide whether to vent them (and thus avoid hazardous waste regulatory requirements) or collect them and possibly be required to manage them as hazardous wastes. EPA is concerned that, if the refrigerants are regulated as hazardous wastes, most servicers will vent the material rather than collect it for recycling.

B. Refrigerant Handlers' RCRA Requirements

This section presents the hazardous waste requirements for handlers of used CFC refrigerants being reclaimed, if those used CFC refrigerants were to be classified as hazardous wastes because they exhibit the Toxicity Characteristic. The requirements described here are suspended by today's action (discussed further in section IV of this notice).

Currently, the owners of refrigeration equipment using CFC refrigerant as the heat transfer fluid are considered hazardous waste generators if the used CFC refrigerant exhibits the characteristic of Toxicity, and if they collect the used CFC refrigerant for reclamation or disposal. In addition, parties who repair or maintain the refrigeration equipment under contract with the equipment owners would be "co-generators" if their actions produced hazardous waste, or caused it to be subject to regulation (see 45 FR 72026, October 30, 1990). Parties co-generating hazardous waste must arrange among themselves who is to take responsibility for managing the hazardous waste, although all parties remain potentially liable for hazardous waste mismanagement.

As of September 25, 1990, generators who generate more than 1000 kg of hazardous waste per month must manage their TC hazardous wastes according to the requirements in 40 CFR parts 261 and 262 and other relevant parts of the hazardous waste regulations. For generators of 100–1000 kg of hazardous waste per month, the effective date for managing TC hazardous wastes according to the hazardous waste requirements is March 29, 1991. (Generators of less than 100 kg

hazardous waste per month are conditionally exempt from hazardous waste management standards.)

In a scenario in which the refrigeration equipment servicer collects the CFC refrigerant and transports it from a large quantity generator's site for recycling, that servicer acts as a transporter (in addition to being a co-generator) and must comply with the requirements in 40 CFR part 263 if the used CFC refrigerant exhibits a hazardous waste characteristic. Transporters may hold hazardous wastes at "transfer facilities" for up to ten days, consistent with activities undertaken in the normal course of transportation, without needing a RCRA storage permit.

As of September 25, 1990, the recycling facility accepting CFC refrigerants that are hazardous wastes from large quantity generators (greater than 1000 kg/month) must meet the definition of a "designated facility," which requires that the facility either has a permit or interim status, or meets certain other conditions as a recycling facility (see 40 CFR 260.10 for the definition of designated facility).

III. Issues Arising From the TC Rule

A. Impacts on Recycling Markets

EPA has received information since promulgation of the TC indicating that certain companies currently recycling CFC refrigerants may stop doing so if they must manage the CFC refrigerants as hazardous wastes. See Items No. 2–7 in the public docket for this notice. These companies and other groups generally cite the cost and complexity of the hazardous waste regulations, along with specific RCRA requirements such as manifesting, and other requirements that may be imposed at the local level as a result of the hazardous waste requirements (i.e., rezoning refrigerant distribution centers as hazardous waste transfer stations), as reasons that recycling will diminish or cease. Although EPA is still evaluating the merits of the arguments presented by the parties submitting this information, EPA is concerned that some of the results suggested may cause serious environmental harm, the nature and significance of which EPA did not explore during the TC rulemaking. EPA is concerned that the increased requirements associated with regulating refrigerants as hazardous wastes will result in increased venting. EPA has not considered the feasibility of administrative options to reduce the impacts on recycling of these materials under current RCRA regulations. Therefore, EPA is suspending application of the rule in order to have time to evaluate these issues.

In order to evaluate these issues, EPA is soliciting public comment on whether handling used CFC refrigerants as a hazardous waste is causing or will cause a decrease in current recycling rates, and whether the decrease (if any) is or will be occurring for the reasons these parties put forward, or for other reasons.

To assess the potential impacts of the hazardous waste regulations on used CFC refrigerant recycling, EPA will consider information on the universe of used CFC refrigerant handlers (numbers of facilities reclaiming, number of facilities that use the CFC–11 and other refrigerants and would be classified as generators if the CFC refrigerants were hazardous wastes, and how many transporters there are currently). Finally, EPA is soliciting comment on whether the concerns can be redressed by phased compliance rather than exemption, and on whether alternative approaches (such as streamlined permitting, or reduced manifesting requirements) could be used to reduce any adverse recycling impact of RCRA regulations.

Under RCRA, there is a requirement to obtain a permit prior to beginning construction of a new hazardous waste management facility (if the facility did not manage hazardous wastes prior to the effective date of regulations for those hazardous wastes—see 40 CFR 270.10(f)). This requirement exists for facilities that intend to treat, store, or dispose of hazardous wastes from generators other than conditionally exempt small quantity generators. (In the case of used CFC refrigerants, if such facilities had begun storing and reclaiming used CFC refrigerants prior to September 25, 1990, and met certain other requirements, they would be able to obtain "interim status" and would have been able to continue storing and reclaiming after September 25. However, it appears that few parties were aware of the TC's potential application to used CFC refrigerants.) EPA believes that this requirement may act as a deterrent to firms contemplating entering the CFC reclamation market after the effective date of the TC rules. EPA notes that the preceding discussion applies only to the facilities actually conducting the reclamation or reprocessing of the refrigerants, and not to all refrigeration equipment owners who have used refrigerants that can be reclaimed.

In addition to potential requirements on reclaimed refrigerants, other factors may be influencing the reclamation/reprocessing firms' decision to enter the CFC refrigerant recycling market. Because of the ease with which equipment servicers can vent, as opposed to collect, used CFC refrigerants, and the low cost and ready availability of refrigerant, recycling has not been common in the past. (Equipment design, including the ability to attach devices to collect the refrigerant, may also influence the equipment servicer's decision.) In order to increase recycling rates, the refrigeration industry must contend with both the need to change the equipment servicers' behavior, and the need to change some equipment design.

However, the recent (July 1989) implementation of Phase I of the Montreal Protocol reduces CFC supplies by over 20%, resulting in price increases. In addition, a tax on chemicals that deplete the ozone layer further increases the price and provides incentives to collect used CFC for recycling; this tax is scheduled to increase yearly.[1] The current price of CFCs are at the margin at which recycling becomes economically feasible. If used refrigerant is regulated as a RCRA hazardous waste, the cost of recycling is likely to increase enough to make recycling economically less attractive. Since venting is not currently prohibited, venting is likely to continue to occur until the economics of recycling improve, or regulations prohibiting the venting go into effect.

B. Impacts on an Orderly CFC Phaseout and Transition to CFC Substitutes

The Agency is concerned that if recycling is not practiced due to the increased costs of recycling that results from handling the used CFC refrigerants as RCRA hazardous wastes, industry may begin using other, more environmentally costly practices. These practices could include premature retirement of CFC-using equipment or retrofitting that equipment to work with alternatives. A premature retrofit to an alternative that has not yet been completely evaluated may result in the wrong refrigerant choice, leading to negative environmental impacts. The Agency is currently evaluating the toxicity, global warming potential, energy efficiency, safety, flammability, ozone depletion and materials compatibility of various alternative refrigerants. Many of the results will not be available until 1991–1994, and thus, information is not currently available to completely identify alternatives which

[1] EPA analysis indicates that the cost of recycling is approximately $2 per weighted kilogram of CFC (see the Advance Notice of Proposed Rulemaking dated May 1, 1990, 55 FR 18259).

satisfy all environmental, health, and safety concerns. For instance, a premature selection of an alternative that is less energy efficient would result in increases in carbon dioxide and other air pollutants which may cause increases in global warming.

Recycling CFCs provides the opportunity for industry to postpone or even avoid entirely the need to retire prematurely or retrofit equipment. The Agency estimates that a recycling program in the major air conditioning and refrigeration sectors, fully implemented by the early 1990's, could result in a net saving of over 159,000 metric tons of CFCs by the year 2000. Complying with RCRA regulations may increase venting of CFC refrigerants, and thus increase the cost of the Agency's CFC phaseout regulations. The Agency discussed the potential for increasing the costs of a recycling program if there are delays in its implementation in an advance notice of proposed rulemaking published on May 1, 1990 (55 FR 18256).

C. Environmental Concerns

In the ANPRM of May 1, 1990 (55 FR 18256), the Agency described the human health and environmental risks of CFCs. An EPA analysis shows that chlorine levels will continue to increase from current levels of 3.0 to about 4.0 parts per billion (ppb) despite a phaseout in production of controlled substances by the year 2000. The Antarctic ozone hole was discovered at chlorine levels of approximately 2.5 ppb; natural chlorine levels are .7 ppb. Earlier reductions in CFCs before 2000 would reduce the environmental risks (described below) even as chlorine levels continue to increase over the next decade.

The largest environmental impact from emissions of CFCs comes from the chlorine's ability to deplete the ozone layer, and thereby increasing the amount of ultraviolet radiation reaching the earth's surface. EPA believes that an increase in UV radiation will result in increased deaths from skin cancer, increased incidence of cataracts, reduction in the function of the body's immune system, and damage to crops. CFCs are also suspected greenhouse gases.

Recycling provides an opportunity to delay or reduce the increase in chlorine levels. Indeed, estimates based on preliminary EPA analysis of a proposed recycling program indicate that one-third of all CFCs could be recycled by the turn of the century. Recycling may reduce the peak rate of chlorine loading to the stratosphere.

The Agency is currently investigating the impact that recycled CFCs may have on the ozone layer. Since these chemicals are difficult to destroy, it is likely that they will be eventually released although at a later point in time.[2] EPA is investigating the impact of their eventual release on peak chlorine concentrations. Recent scientific evidence suggests that a reduction of the peak chlorine concentrations may more than proportionally reduce ozone depletion.[3] It is likely that delayed or reduced release of CFCs due to recycling over the next 30 to 40 years will lower the peak of chlorine concentration.

The Agency is promulgating today's interim final rule with the belief that this action will encourage used refrigerant recycling. EPA is interested in hearing from commenters who have evidence on the effect of this exemption. EPA is also interested in evidence of harmful environmental or health effects other than those discussed in this rulemaking. Because EPA is attempting to balance the potential environmental harm caused by disruption to emerging refrigerant recycling markets against the potential environmental harm caused by removing this wastestream from RCRA subtitle C regulatory control, EPA is asking for commenters to provide any available information to aid in evaluating the human health and environmental effects of these actions.

D. Time Considerations

Of paramount concern to the Agency is mitigating the potential for significant adverse health and environmental impacts, as discussed above, while investigating these issues further. Under the Clean Air Act amendments, a prohibition on venting must become effective by July 1, 1992. Thus because of the potential seriousness of the risks posed by CFC refrigerant venting, EPA believes that immediate action to temporarily postpone the RCRA regulation of these materials pending further investigation is warranted to mitigate the potential health and environmental effects. EPA is exercising its authority under the good cause exemptions in sections 553(b)(3) and 553(d)(3) of the Administrative Procedure Act to immediately suspend the requirements imposed as a result of the TC for CFC refrigerants being recycled. EPA believes that, without the immediate suspension, recycling of CFC refrigerants may decrease substantially, with potentially serious impacts on stratospheric ozone levels that are contrary to the public's best interest.

[2] The Agency is assessing the possibility that such chemicals could either be destroyed or transformed into other chemicals at a later date, thus diminishing their eventual impact on the ozone layer.

[3] U.S. Environmental Protection Agency. "Analysis of Environmental Implications of the Future Growth in Demand for Partially Halogenated Chlorinated Compounds", EPA 400/190001, January 1990.

IV. Suspension of TC Requirements

A. Eligible Refrigerants

The refrigerants that are eligible for this exemption are those chlorofluorocarbons that are recycled and that were used as the heat transfer fluid in a refrigeration cycle in totally enclosed heat transfer equipment. These chlorofluorocarbons include CFC–11, CFC–113, and the other chlorofluorocarbon refrigerants, including HCFCs. Examples of the equipment in which these chlorofluorocarbons may be used include mobile air conditioning systems (e.g., those used in mass transit vehicles), mobile refrigeration (refrigerated trucks and rail cars), and commercial and industrial air conditioning and refrigeration systems. The requirements imposed by the TC are suspended for such refrigerants by today's interim final action. The spent CFCs that are being reclaimed will not be regulated as a Federal hazardous waste as a result of today's action (unless a future determination to do so is made). Thus, the hazardous waste regulatory requirements for generators, transporters, and recyclers of used chlorofluorocarbons that are being reclaimed (discussed in section II.B. of this notice) are suspended, effective February 5, 1991.

B. Rationale for Suspension

As a result of the new information provided in this notice, and to allow adequate time to collect additional data and give careful consideration to all the relevant issues and regulatory options, the Agency is today promulgating an interim final rule that suspends the TC rule for handlers of used CFC refrigerants being recycled. The suspension will allow time for individuals to submit comments on the various issues raised in this proposal, and it will allow the Agency time to consider all information concerning these operations. Had the Agency been aware of this issue during the comment period on the TC proposal, the Agency would have carefully considered the impacts and consequences of the TC and determined the appropriate action at that time. Faced with new information concerning the potential adverse environmental impacts caused by the TC, EPA weighed the benefits of

the rule as applied to CFC refrigerants against the potential public health consequences of applying the rule to CFC refrigerants in the interim while EPA considers the new information. In this case, due to the environmental and health consequences from ozone depletion, EPA believes that the public interest may be better served by suspending the rule to evaluate the consequences. EPA solicits public comment on its decision to suspend the TC regulation for used CFC refrigerants being reclaimed.

V. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

EPA considers this rule to be part of the TC rule, and thus also a HSWA rule. As a result, EPA will implement the provisions of today's rule in authorized States until their programs are modified to adopt the final toxicity characteristic and the modification is approved by EPA. Implementation of today's rule beyond the date of a State's receiving final authorization for the toxicity characteristic depends upon actions taken by the State, as discussed below. EPA will implement the provisions of today's rule in unauthorized States.

Today's rule suspends the requirements imposed in the final Toxicity Characteristic regulation (see 55 FR 11798, March 29, 1990) for certain CFC refrigerants being recycled. The Toxicity Characteristic was promulgated pursuant to a HSWA provision and must be adopted by States which intend to retain final authorization. However, today's rule provides for a standard which is narrower in scope than would be imposed in the final Toxicity Characteristic for certain CFC refrigerants which may fail the characteristic and are recycled. In order to promote recycling operations, today's rule provides that these wastes would not be hazardous wastes under the Federal regulations, and States would not be required to mandate their management as such in order to retain their RCRA authorization. However, Section 3009 of RCRA provides that States may impose requirements that are broader in scope or more stringent than those imposed under Federal regulations. States, whether using RCRA authorities (e.g., authorities under State law where States have received final authorization to implement the toxicity characteristic provisions in lieu of their implementation by EPA), or other State authorities under other statutes, may impose hazardous waste requirements on such operations, or may require other more stringent conditions upon management of these wastes.

VI. Additional Information

A. Executive Order 12291—Regulatory Impacts

Under Executive Order 12291, EPA must determine whether a regulation is "major," and therefore subject to the requirement of a Regulatory Impact Analysis. The overall effect of today's rule would be to suspend requirements imposed by the final Toxicity Characteristic rule for certain CFC refrigerant recycling operations. There are no sampling or analysis requirements in today's rule. The net effect of this rule is to extend cost savings to certain segments of the potentially regulated community. Consequently, no regulatory impact analysis is required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

The suspension of the Toxicity Characteristic requirements for certain limited CFC recycling activities in this rule is deregulatory in nature and thus will only provide beneficial opportunities for entities that may be affected by the rule. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

There are no reporting, notification, or recordkeeping (information) provisions in this rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

VII. References

Copies of the following documents are available for viewing only in the OSW docket room:

1. August 29, 1990 letter from C.A. McCain of E.I. du Pont de Nemours & Company to Lena Nirk of EPA.
2. September 24, 1990 letter from Kevin J. Fay of the Alliance for Responsible CFC Policy to Sylvia Lowrance of EPA.
3. September 24, 1990 letter from Gerald Hapka of du Pont to Steve Cochran of EPA.
4. September 4, 1990 letter from Lorraine Segala-Long of Omega Recovery Services to Steve Seidel and Jean Lupinacci of EPA.
5. September 4, 1990 letter from William Chaisson of the Air Conditioning Contractors of America to Sylvia Lowrance of EPA.
6. September 24, 1990 letter from James Patrick Leonard of National Refrigerants to Sylvia Lowrance of EPA.
7. September 24, 1990 letter from James Patrick Leonard of United Refrigeration Inc. to Sylvia Lowrance of EPA.

8. Properties—du Pont Freon® Refrigerants (August 1986).

9. Scientific Assessment of Stratospheric Ozone: 1989 (July 14, 1989).

10. Status of Used Refrigerants under 40 CFR 261.2—Memorandum to the Docket from Michael Petruska, Acting Chief, Waste Characterization Branch (October 18, 1990).

11. October 12, 1990 letter from Harold J. See of C.F.C. Inc. to EPA's Asbestos and Small Business Ombudsman.

12. September 7, 1990 information from du Pont on Used CFC Refrigerants.

13. U.S. Environmental Protection Agency. "Analysis of Environmental Implications of the Future Growth in Demand for Partially Halogenated Chlorinated Compounds." EPA 400/190001, January, 1990.

List of Subjects in 40 CFR Part 261

Administrative practice and procedure, Air pollution control, Hazardous materials transportation, Hazardous substances, Hazardous waste, Natural resources, Penalties, Recycling, Waste treatment and disposal.

Dated: February 5, 1991.

William K. Reilly,

Administrator.

For the reasons set forth in the preamble, title 40, chapter 1 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.4 is amended by adding paragraph (b)(12) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

* * * * *

[FR Doc. 91-3449 Filed 2-12-91; 8:45 am]

BILLING CODE 6560-50

federal register

Wednesday
February 13, 1991

Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1991.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of February 1, 1991, of nine deferrals contained in two special messages for FY 1991. These messages were transmitted to Congress on October 4, 1990 and January 9, 1991.

Rescissions

As of the date of this report, no rescission proposals were pending before the Congress.

Deferrals (Table A and Attachment A)

As of February 1, 1991, $7,433.2 million in budget authority was being deferred from obligation. Attachment A shows the history and status of each deferral reported during FY 1991.

Information from Special Messages

The special message containing information on deferrals covered by this cumulative report is printed in the **Federal Register** cited below:

55 FR 41436, Thursday, October 11, 1990.
56 FR 1704, Wednesday, January 6, 1991.

Richard G. Darman,
Director.

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TABLE A

STATUS OF FY 1991 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President.....	9,238.1
Routine Executive releases through February 1, 1991	-1,804.9
Overturned by the Congress.....	0
Currently before the Congress.....	7,433.2

Attachments

ATTACHMENT A
Status of FY 1991 Deferrals - As of February 1, 1991
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 02-1-91
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund.....	D91-1	149,319		10-04-90					
	D91-1A		1,943,510	01-09-91	197,653				1,895,176
Foreign military financing.....	D91-8	4,820,649		01-09-91	1,595,195				3,225,454
Peacekeeping operations.....	D91-9	5,177		01-09-91					5,177
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D91-2	135,955		10-04-90					135,955
Cooperative work.....	D91-3	273,468		10-04-90					
	D91-3A		235,572	01-09-91					509,040
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense.....	D91-4	1,186		10-04-90					1,186

ATTACHMENT A
Status of FY 1991 Deferrals - As of February 1, 1991
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 02-1-91
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D91-5	7,127		10-04-90					7,127
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive....	D91-6	14,529		10-04-90					
	D91-6A		44,507	01-09-91	12,098				46,938
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D91-7	538,659		10-04-90					
	D91-7A		1,068,473	01-09-91					1,607,132
TOTAL, DEFERRALS.....		5,946,070	3,292,062		1,804,946	0		0	7,433,186

[FR Doc. 91–3578 Filed 2–12–91; 8:45 am]
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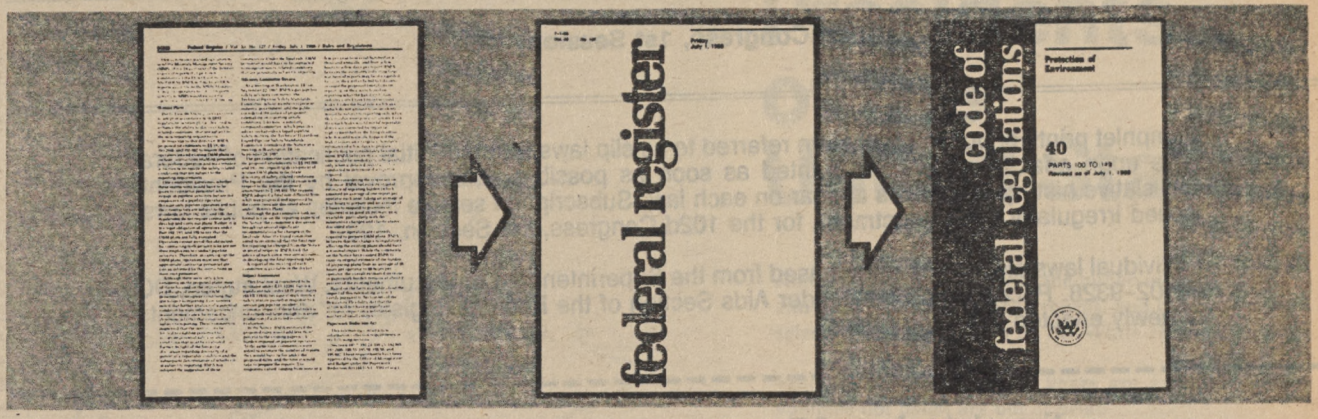

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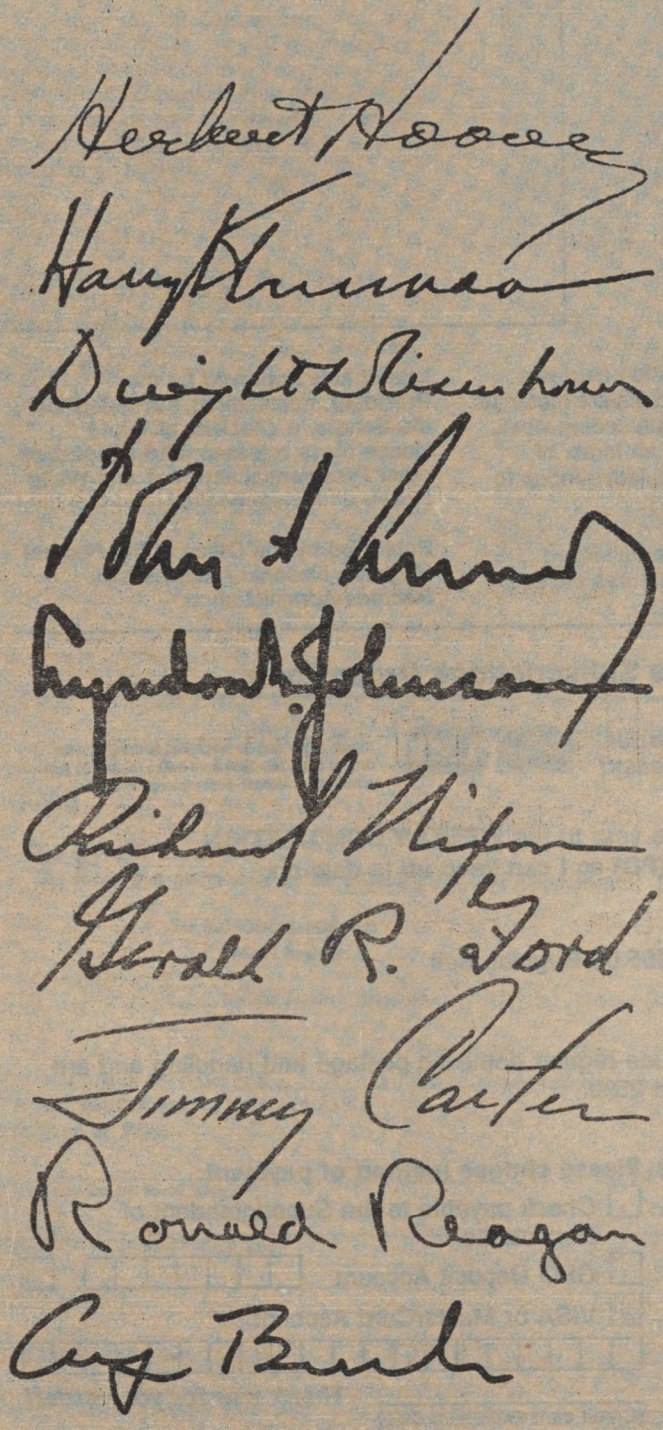

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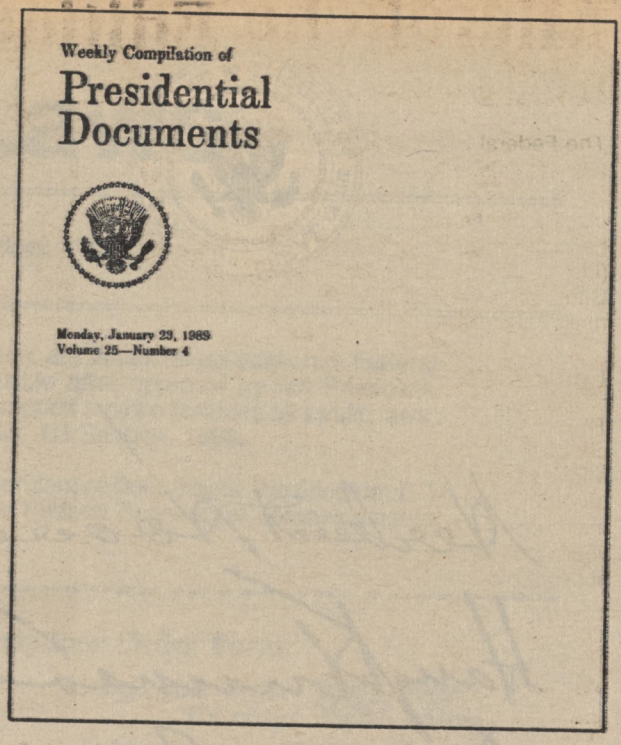

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